

335 Phil. 306

SECOND DIVISION

[**G.R. No. 110391, February 07, 1997**]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DOLORES DE LEON Y MISAJON, ACCUSED-APPELLANT.
D E C I S I O N**

ROMERO, J.:

Appellant Dolores de Leon was charged with violation of Article 38 (a) of Presidential Decree 1412 in relation to Article 15 (b) and (c) of the Labor Code in an information which reads:

"That in or about and during the period comprised between July 6, 1992 and September 30, 1992, inclusive, in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment in Jeddah/Saudi Arabia, did then and there wilfully and unlawfully for a fee, recruit and promise employment/job placement in said country to Roberto Porio y Silva, Ambrosio Miler y dela Cruz, Rafael Laurente y Enriquez, Olimpia Guillena y Daliopac, Cipriano Perez y Bongoy, Charlene Tatlonghari y Sota, Elvira Banta y Puno, Purita Joaquin y Flores, Loretta Tatlonghari y Toboro, Joseph Chavez y Cater, Analiza Tatlonghari y Toboro, Jaime Indaya y Lambozon, Manuel Cabusao y Parungao, Edgardo Alagao y dela Cruz, Raymunda Miguellles y Balaba, Desiree dela Cruz y Laconsay, Felicidad Galvez y Ducusin, Exequiel Miguellles y Cirunay, Rosenda Jose y Perez, Guillermo Lampa y Tansueco, Edmar Alagao y dela Cruz, Rommel Lozano y Cortez, Rodante Sunico y Galvez and Romeo Porio y Silva, without first having secured the required license or authority from the Department of Labor and Employment."

The prosecution's evidence shows that:

Appellant is a former overseas contract worker placed by All Seasons Manpower for employment as a midwife in Kuwait from 1989 to September 1991 and as a nursing aide in Jeddah from February 1992 to June 1992.

On August 14, 1992, appellant went to the house of Mr. Tatlonghari and offered him and his daughter-in-law, Charlene Tatlonghari, placement in Jeddah, Saudi Arabia. Although Charlene already had a pending application in another agency, she still submitted her bio-data to appellant.

On August 15, 1992, appellant told Charlene that she would be hired as a clerk with a monthly salary of US\$450.00. On August 16, 1992, Charlene withdrew her passport from the other agency and gave it to appellant together with P1,000.00, which was P400.00 short of the amount required

by appellant allegedly for travel tax. No receipt was issued but appellant promised Charlene's departure on August 28, 1992.^[1]

The scheduled departure was postponed as were the succeeding schedules, prompting Charlene and the other applicants to go to All Seasons Manpower in Makati. They saw appellant there and she advised them to attend a seminar at the Philippine Overseas Employment Agency (POEA). However, they were warned not to talk with anyone in the said government agency. Subsequently, she learned that appellant was arrested in one of the lodging houses in Sta. Cruz, Manila where all the applications and other documents were found beneath the bed. When she saw appellant at the police station, appellant told Charlene not to join the other accusers who caused her arrest.^[2]

Rodante Sunico, a food server at Jollibee along Rizal Avenue, Manila met appellant on August 15, 1992. Appellant was introduced as a recruiter who had already sent five workers to the Middle East. Sunico gave appellant his bio-data and other documents after she promised him that he would be included as a nurse in the second batch of workers for Saudi Arabia.

On August 21, 1992, Sunico went to the house of Mr. Tatlonghari where he gave appellant the amount of P5,400.00 allegedly for processing his passport and payment of travel tax.^[3] Sunico was not issued a receipt but appellant required him to come back on the eve of his scheduled departure on August 28, 1992. This "departure" was, however, postponed several times. Later, Sunico learned from Charlene Tatlonghari that appellant was arrested and detained by the police. Sunico confronted appellant who promised to settle the obligation but failed.^[4] whereupon he went to All Seasons Manpower in Makati where he was told that the said agency did not know appellant.

Guillermo Lampa, a tricycle driver, was recruited by appellant on August 4, 1992. He was offered a janitorial job in Jeddah, Saudi Arabia with a monthly salary of US\$300.00. Lampa and his wife gave appellant P1,000.00 for medical expenses and another P1,000.00 for a joint account with his wife. No receipt was issued by appellant but she promised him that he would leave in two weeks' time and that All Seasons Manpower would pay for his plane ticket.^[5] Lampa never left as promised and on September 27, 1992, he learned that appellant had been arrested. At police headquarters, appellant promised to refund Lampa's money but failed to do so.

Manuel Cabusao, a carpenter, met appellant through one Desiree de la Cruz. Also present then were his brother Leonardo Cabusao, Guillermo Lampa, Rommel Losano, Joseph Chavez and Analiza Tatlonghari. Appellant offered him a janitorial job in a hospital in Saudi Arabia with a monthly salary of US\$300.00. He gave appellant P2,700.00 for the processing of the travel documents. No receipt was issued by appellant allegedly because the amount involved was small and because the amount he should have paid

was P5,000.00. Appellant scheduled his departure on September 11, 1992 but postponed the same. He then started looking for appellant until he learned that she was staying in a hotel in Bambang, Jose Abad Santos, Tondo, Manila. He relayed the information to his co-applicants who sought the help of the Barangay Chairman in arresting appellant.^[6] During the preliminary investigation, appellant promised to refund the amount he paid, but failed to do so.

Joseph Chavez, a bakery caretaker in Bambang Market, met appellant on September 6, 1992 through the wife of his co-applicant Guillermo Lampa. Appellant represented herself as a recruiter of All Seasons Manpower in Makati and offered him a janitorial job in Bahrain because two applicants were rejected. He gave appellant P6,500.00 supposedly for medical, processing and placement fees. Appellant did not issue a receipt because she was in a hurry. His departure was scheduled on September 22, 1992 and when nothing happened, he waited for appellant. Later, he learned that she had been arrested by barangay officials. Like the other applicants, he executed a sworn statement.^[7]

Roberto Porio, an electrician, went to the house of appellant on July 9, 1992 in the belief that appellant, as alleged owner of All Seasons Manpower in Makati, was recruiting workers for abroad. He applied as nursing aide and gave appellant his NBI clearance, passport, pictures and P2,300.00.^[8] Since he trusted appellant, he did not ask her for a receipt. Thereafter, appellant disappeared.

On September 27, 1992, he saw appellant at police headquarters where she promised to refund his money. He executed an affidavit stating the circumstances of the illegal recruitment.

The prosecution also presented POEA records, duly identified by Visitacion Carreon, POEA Senior Officer, showing that All Seasons Manpower International Services is a licensed placement agency.^[9] However, appellant's name was not among the list of personnel submitted by said agency to the POEA.

On April 28, 1993, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, judgment is hereby rendered finding the accused Dolores de Leon guilty of the crime of Illegal Recruitment in large scale and hereby sentences her to suffer the penalty of life imprisonment and to pay a fine of P100,000.00, and further, for the said accused to indemnify the complainants as follows -

1. To Rodante Sunico the sum of P5,400.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;

2. To Charlene Tatlonghari the sum of P1,000.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;
3. To Guillermo Lampa the sum of P2,000.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;
4. To Manuel Cabusao the sum of P2,700.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;
5. To Joseph Chavez the sum of P6,500.00 with interest at the legal rate from October 22, 1992 until the same is fully paid; and
6. To Roberto Porio the sum of P2,300.00 with interest at the legal rate from October 22, 1992 until the same is fully paid.

Costs against the accused.

SO ORDERED."^[10]

Appellant now questions the said decision of the trial court saying that it erred in not acquitting her of the offense charged on the ground that her guilt was not proved beyond reasonable doubt. Appellant asserts that it was not she but her suitor, Rolando Clemente, who received the payments from the complaining witnesses. She explained further that all she did was to accompany them to All Seasons Manpower in an effort to help them find jobs abroad.

We find appellant's contentions unworthy of belief.

In *People v. Benemerito*,^[11] we said "Illegal recruitment is defined in Article 38 of the Labor Code, as amended, as follows:

ART. 38. Illegal Recruitment. - - (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment or any law enforcement officer may initiate complaints under this Article.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Article 13(b) of the same Code defines "recruitment and placement" as: "any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, that any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement."

To prove illegal recruitment, only two elements need be shown: (1) the person charged with the crime must have undertaken recruitment activities; and (2) the said person does not have a license or authority to do so.

A license is a document issued by the Department of Labor and Employment (DOLE) authorizing a person or entity to operate a private employment agency, while an authority is a document issued by the DOLE authorizing a person or association to engage in recruitment and placement activities as a private recruitment agency.^[12]

Large scale illegal recruitment is punishable by life imprisonment and a fine of P100,000.00 under Article 39(a) of the Labor Code.^[13]

In the instant case, appellant clearly committed large scale illegal recruitment as she recruited at least three persons, giving them the impression that she had the capability of sending them abroad for assured jobs in Saudi Arabia, and collecting various amounts allegedly for processing and placement fees without license or authority to do so.

Against the prosecution's overwhelming evidence, appellant could only offer a bare denial and an obviously concocted story that it was her suitor who actually recruited the various complainants and not she. This suitor was never presented to corroborate her statements, nor were other evidence presented to cast even an iota of doubt on the testimony of the prosecution's witnesses.

After a thorough and painstaking review, the Court is satisfied that there is nothing in the records to signify that the trial court ignored or misappreciated substantial facts as would warrant a reversal of its findings and conclusions.^[14]

As we declared in *People v. Naparan, Jr.*:^[15]

"Nitong mga nakaraang buwan, ang pansin ng sambayanan ay natuon sa mga krimen na karumaldumal na katulad ng pagpatay at pagsasamantala sa ating mga kababaihan. Wari ay nakaligtaan natin ang mga salarin na di nahuhuli sa mga mamamatay tao. Sila rin ay nagsasamantala sa mga inosente at walang malay. Ang kaibhan nga lamang ay ang kanilang biktima ay yaong ating mga kababayan na nangangarap na mangibang bayan upang sila ay mahango sa karalitaan sampu ng kanilang pamilya.

Sa masidhi nilang hangarin, halos hindi nagdadalawang-isip kapag may balanang nangangako na ipadadala sila sa mga bayang nakaririwasa kung

silang ay magbabayad ng sapat na salapi. Upang mapaniwala sila, ang mga may masasamang tangka ay nagpapanggap na sila ay malakas at may koneksyon sa mga Embahada ng mga bayang ito. Hindi lamang madudulas ang kanilang dila. Umaasta silang maykaya. Naroong sabihin na nakatira sila sa otel o pook ng mayayaman. Kapag nakikipagkita sa kanilang kliyente ay magara ang suot at nakakotse. Anupat ang mga pobrang nangangarap ay gagawin ang lahat ng makakaya upang makapagbayad ng hinihinging pamasaha sa eroplano.

Kadalasan ay nangungutang sila o ang mga magulang nila sa 'sinco-seis;' o dili kaya'y nagsasangla ng lupain o nagbibili ng mga ari-ariang gaya ng kalabaw. Kanila namang nahihimok ang kamaganakan nila na tumulong sapagkat nangangakong magpapadala ng higit na maraming kuwarta na pambayad sa kanilang utang o dili kaya ay pampaaral sa mga nakababatang kapatid.

Sa oras na nakapagbitiw ng salapi ang biktima, ang manlilinlang ay dagling nawawala na parang bula. Sapagkat karamihan sa kanila ay 'illegal recruiter' at walang lisensya sa Philippine Overseas Employment Administration (POEA), hindi na matutunton ang kanilang bakas.

Totoong napakarami na ang ating kaawa-awang kababayan na napagsamantalahan na ng gayon. Nakalulungkot na kahit na magbabala ang pamahalaan at ang mga opisinang kinauukulan, hindi rin dinidinggin ng mga nais na mapabuti ang kalagayan nila sa buhay sa pamamagitan ng pangigingbang bayan.

Napapanahon nang iparating sa mga salarin na iyan na hindi pahihintulutan ng pamahalaan ang gayong malawakang pangloloko sa mga maralita na masasabing ang kasalanan lamang ay 'naghangad ng kagitna, isang salop ang nawala." Kami ay maaasahang magpataw ng akma at nauukol na parusa na bilanggo habang buhay at multa sa halagang Isang Daang Libong Piso (P100,000.00) sa katulad ng nasasakdal sa kasong itong nakasalang sa Kataastaasang Hukuman ngayon. Umaasa kaming ito ay magsisilbing halimbawa sa mga walang awa nating kababayan na patuloy ang gawang panlilinlang sa kanilang kapwa Pilipino."

WHEREFORE, the judgment of the trial court finding Dolores de Leon **GUILTY** beyond reasonable doubt of the crime of illegal recruitment in large scale is hereby **AFFIRMED**.
SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] TSN, December 7, 1992, pp. 17-20.

[2] TSN, Ibid., pp. 21-22 and 24.

- [3] TSN, December 7, 1993, pp. 4-5.
- [4] TSN, Ibid., pp. 7-8.
- [5] TSN, December 14, 1993, pp. 3-6.
- [6] TSN, Ibid., pp. 12-15.
- [7] TSN, December 14, 1992, pp. 21-24, 27.
- [8] TSN, January 25, 1993, pp. 3-5.
- [9] TSN, December 9, 1992, p. 2.
- [10] Rollo, p. 23.
- [11] G.R. No. 120389, November 21, 1996.
- [12] Art. 13(d) and (f), Labor Code, as amended.
- [13] People v. de Leon, 225 SCRA 651, 662 (1993).
- [14] People v. Pabalan, G.R. Nos. 115390, 117119-21, September 30, 1996.
- [15] 225 SCRA 714 (1993).



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