

336 Phil. 493

SECOND DIVISION

[G.R. No. 109779, March 13, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NESTOR
MANOZCA Y ALMARIO, ACCUSED-APPELLANT.**

DECISION

REGALADO, J.:

The cynical note that a sucker is born every minute may well be the working code of illegal recruiters. For, despite official efforts and extensive media coverage, many gullible souls still fall prey to these human vultures and their obsession for material gain. With the second highest penalty in criminal justice as the punitive deterrent, a vigilant citizenry may hopefully be spared from what happened in the case at bar.

Accused-appellant Nestor Mañozca y Almario was charged in the Regional Trial Court, Branch 88, Quezon City with the crime of illegal recruitment in large scale in violation of Article 38(a) in relation to Article 39(b) of the Labor Code, as amended by Presidential Decree No. 2018; and with two (2) counts of estafa punished under Article 315, paragraph(2)(a), of the Revised Penal Code.

The indictments therefor respectively allege as follows:

Criminal Case No. 90-13962

“That during the period comprised from February, 1989 to March, 1989 in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, without any authority of law and for a fee, did then and there willfully, unlawfully and feloniously recruit and promise employment/job placement abroad to the following persons: FERDINAND TUAZON y AQUINO, ARNULFO CAAMPUED y CAMBA and NORLITO HULAR y TUMBADO without first securing the required license or authority from the Department of Labor and Employment in violation of the aforesaid law.”^[1]

Criminal Case No. 90-13963

“That on or about the period comprised from February, 1989 to March, 1989 in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, wilfully and unlawfully and feloniously defraud NORLITO HULAR y TUMBADO in the following manner, to wit: the said accused by means of false manifestations and

fraudulent representations executed prior to or simultaneously with the commission of the fraud he made to the said complainant to the effect that he had the power and capacity to obtain a visa and other travel papers for abroad if given the necessary amount to meet the requirements therefor, including the service fee and by means of other deceits of similar import induced and succeeded in inducing the said complainant to give and deliver, as in fact, the latter gave and delivered to said accused the total amount of P12,636.00 Philippine Currency, on the strength of said manifestation and representation said accused knowing fully well that the same were false and fraudulent and were made only to obtain, as in fact, he obtained the aforementioned amount which one in possession with intent to defraud the said accused misapplied, misappropriated and converted to his personal use and benefits, to the damage and prejudice of said offended party in the total amount aforementioned and in such amount as may be awarded under the provisions of the New Civil Code.”^[2]

Criminal Case No. 90-13964

“That on or about the period comprised from February, 1989 to March, 1989 in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously defraud ARNULFO CAAMPUED y CAMBA in the following manner, to wit: the said accused by means of false manifestation and fraudulent representation executed prior to or simultaneously with the commission of the fraud he made to the said complainant to the effect that he had the power and capacity to obtain a visa and other travel papers for abroad if given the necessary amount to meet the requirements therefor, including the service fee and by means of other deceits of similar import induced and succeeded in inducing the said complainant to give and deliver, as in fact, the latter gave and delivered to said accused the total amount of P14,500.00 Philippine Currency, on the strength of said manifestation and representation said accused knowing fully well that the same were false and fraudulent and were made only to obtain, as in fact, he obtained the aforementioned amount which once in possession with intent to defraud the said accused misapplied, misappropriated and converted to his personal use and benefits, to the damage and prejudice of said offended party in the total amount aforementioned and in such amount as may be awarded under the provisions of the New Civil Code.”^[3]

At his arraignment, herein appellant pleaded not guilty to the charges, and the trial thereafter proceeded. The prosecution presented the three complainants in these three cases as witnesses. They testified to their recruitment which led to the filing of these cases against appellant. Complainant Ferdinand Tuazon testified that he met appellant in their house in the first week of February, 1989 through a certain Fred, a compadre of his father, Renato. Appellant was using the name Mr. Santiago, introducing himself as a Singaporean citizen, and was recruiting workers for Singapore. He invited the Tuazons to work in Singapore. Ferdinand Tuazon was asked by his father if he wanted to apply and he indicated his desire to apply as a janitor. He was told by appellant to prepare

the necessary documents, like his passport and clearance from the National Bureau of Investigation (NBI), and to undergo medical examination at the Philippine Medical Test System in Quezon Avenue, Quezon City.^[4]

Complainant Arnulfo Caampued testified that he first met appellant in the house of his landlord, Renato Tuazon, on the same date. Appellant introduced himself as a recruiter operating through direct hiring. He said that he had no permanent office in the Philippines but he was billeted at the Camelot Hotel in Quezon City.^[5] Arnulfo was asked by appellant to submit the necessary requirements, such as a medical certificate, residence certificate, NBI clearance, birth certificate, and his latest certificate of employment. He was supposed to work as a security guard. Appellant also told him and his companions that Singapore is a beautiful place and, if they could work there, they could improve their standard of living and help their respective families.^[6]

Complainant Norlito Hular testified that he came to know appellant through Renato Tuazon, father of his co-complainant.^[7] During their first meeting, appellant introduced himself as Manolito Santiago and invited him to work abroad. Appellant showed them the job order, indicating the job openings, and let them sign it. Norlito was supposed to work as a bartender in a club in Singapore. The appellant also told him that their main office, Global Management of Singapore, is located in Singapore and all their papers will be forwarded to Singapore for authentication.^[8]

When the three complainants were in the process of preparing the necessary requirements, appellant asked for money from them on different occasions and for various purposes. Tuazon gave his first payment of P4,000.00, as placement fee, in the first week of February and in the presence of his parents, sister and the two other complainants. His second payment of P5,000.00 was given in the second week of February, and the last payment for processing fee of P3,000.00 in the first week of March, 1989.^[9]

Arnulfo Caampued gave his first payment of P5,000.00 in the first week of February for processing fee. Other payments of P5,000.00 was made in the first week of March, and P4,500.00 in the third week of March.^[10] Warlito Hular gave appellant the amount of P3,500.00 in the first week of February for processing fee, P2,500.00 in the last week of February for medical examination and passport fees, and P3,363.00 in the second week of March as placement fee.^[11]

The three complainants were not issued receipts and neither did they ask for the same because of their continuing trust in appellant and his assurance that they could leave by the last week of February. Another reason was their frequent meetings with appellant wherein they were repeatedly reassured of their placements abroad, aside from the fact that appellant assisted them in their medical examinations.

The three complainants were not able to leave on the scheduled dates of departure. When appellant met them for the last time, he informed them that they would be leaving on March 22, 1989. Appellant showed them a piece of paper with a reservation code number which could be counter-checked at the office of Singapore Airlines along

T.M. Kalaw in Manila for their flight schedule. When they went to the Singapore Airlines office to verify, they were given a computerized document indicating their names, flight schedule and their status as "waitlisted" passengers.^[12]

Appellant was able to make them believe that the computerized documents would suffice for them to leave for Singapore. At this point, appellant was again able to collect money from the complainants. They were supposed to meet the day before their supposed date of departure but appellant failed to show up, hence the complainants decided to proceed to the airport to confirm their flight. They found out that their reservation was not confirmed and no plane tickets had been purchased for them.

Thereafter, appellant did not show up anymore. It was after about a year later when complainants learned that appellant had been arrested and was detained at the NBI. They went to the NBI office and identified appellant. As a consequence, a complaint was thereafter filed against the latter.^[13]

Appellant, as was to be expected, denied the charges. He interposed an alibi for his defense. He averred that he is a businessman engaged as a meat dealer, and that he had his own slaughterhouse. During the month of February, 1989, he was regularly buying meat from Batangas with four companions. They purchased cows and pigs in the morning and butchered them in the afternoon, and the meat was delivered the following morning to Divisoria. His usual routine started in the afternoon and ended at midnight. Sometimes, he also supervised the business of his aunt, Josephine Tan, who owns the stalls he was using in Divisoria.^[14]

He further claimed that on March 15, 1990, he was arrested while delivering live cows at Masilo, Malabon, and he was then detained at the NBI. On March 22, 1990, he was taken out from his detention cell for identification by the complainants.^[15] He denies having been engaged in recruitment for overseas employment, claiming that he did not know the three complainants until their confrontation at the office of the NBI in the National Capital Region.

The Court a quo eventually rendered its decision on August 18, 1992, finding herein appellant guilty of the charges beyond reasonable doubt, and disposing as follows:

"WHEREFORE, premises considered, accused NESTOR MAÑOZCA y ALMARIO is found guilty by this Court of Illegal Recruitment in Large Scale in Criminal Case No. 90-13962 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine in the sum of P100,000.00. He is likewise found guilty of two counts of Estafa in Criminal Case No. 90-13963 and 90-13964 and is hereby sen(t)enced to serve two prison terms of four (4) months and one (1) day of arresto mayor as minimum to four (4) years, two (2) months and one (1) day of prision correc(c)ional as maximum and to reimburse Norlito Hular the sum of P12,636.00 with legal rate of interest from (the) date (the) Information is filed in Court, to pay Arnulfo Caampued the sum of P15,000.00 in actual damages (with) the same legal interest from the date (the) Information is filed in Court and to pay the costs."^[16]

Hence, this appeal, with appellant asseverating that the trial court erred in convicting him on the bases of the incredible testimonies of the prosecution witnesses, and in not giving credence to his testimony.^[17] The inquiry thus boils down to the question of credibility, and on whether or not his guilt was proven beyond reasonable doubt.

Appellant argues that the testimonies of the complainants are not in accord with human nature and experience. He would like to impress upon this Court that there had been a mistake of identity, and that it was an absurd situation wherein complainants supposedly knew him by different names when he introduced himself only on a single occasion.^[18] This argument is palpably devoid of merit.

It is settled that the findings of the trial court on the credibility of witnesses shall be given weight and the highest degree of respect by this Court.^[19] Inconsistencies in the testimonies of the prosecution witnesses do not affect their credibility, as what is important is that they have positively identified the accused as the culprit.^[20] Thus, appellant's name or alias is inconsequential as long as his identity is established to be that of the person identified in open court.

This Court is fully aware of the practice of recruiters of using fictitious names or aliases to conceal their true identities in order to evade identification and escape liability. As correctly observed by the trial court:

"The prosecution has clearly and convincingly established through the three witnesses that accused NESTOR MAÑOZCA was the same Nestor Santiago and Manolito Santiago who recruited them in February of 1989. There could be no mistake in their identification of the accused because of the many times that they had talked and dealt with the accused. All their confrontations were not brief but were of such length as to cause a clear picture of the accused in their minds. The three would naturally commit his face in their memory after entrusting him with big amounts of money. This erases all doubts on their identification of the accused despite not having seen him for a year."^[21]

Inconsistencies in the testimonies of the prosecution witness should be determined, not by resort to individual words or phrases alone, but by the whole impression or effect of what has been said or done.^[22] The actuations of appellant in requiring the complainants to submit the necessary documents, accompanying them to a clinic for medical examination and getting the results, and using airline procedures for checking reservations, gave complainants the impression that appellant was capable of providing them with work abroad, which is basically the essence of the crime of illegal recruitment.

His deceitful acts were, however, exposed by the certification issued by the POEA that petitioner was neither licensed nor authorized to recruit workers for overseas employment.^[23]

It is settled that the essential elements of the crime of illegal recruitment in large scale are that (1) the accused engages in acts of recruitment and placement of workers, as

defined under Article 13(b), or in any prohibited activities under Article 34, of the Labor Code; (2) the accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of a license or an authority to recruit and deploy workers, either locally or overseas; and (3) the accused commits the same unlawful acts against three (3) or more persons, individually or as a group.^[24]

Appellant would capitalize on the failure of the complainants to produce evidence that they really paid the amounts which they claim.^[25] We have ruled in *People vs. Goce*,^[26] that complainant's failure to ask for receipts for the fees paid to the accused therein, as well as their consequent failure to present receipts before the trial court as proof of the said payment, is not fatal to their case. As held by the court below in its challenged decision:

"x x x Because of the trust they had (i)n the accused, they did not demand receipts for their payments. The failure to produce or demand receipts does not negate the fact that they actually paid the amounts. The trust and belief that (they) had reposed (i)n the accused was from the very first meeting up to the last time they made the payment uninterrupted so there was no reason for them to ask for receipts for the other payments made despite the sizeable amount they paid. x x x."^[27]

As already stated, appellant raised alibi as a defense. Times without number, this Court has ruled that alibi is one of the weakest defenses that can be resorted to by an accused not only because it is inherently weak and unreliable but also because it can easily be fabricated.^[28] Such defense becomes weaker if uncorroborated, worse still if it could have been corroborated by other persons mentioned by appellant but such corroborative testimony was not presented. As pointed out by the lower court in its decision:

"The alibi of the accused could not be relied on by this Court as to raise even a shadow of a doubt on the improbability of his commission of the offense charged. It merits outright rejection where it could have been corroborated by other witnesses, but no such corroborating evidence was presented. Accused was given three hearing dates with(in) which to present other evidence that would corroborate his testimony but (no) one (was) offered. Based on the testimony of the accused there could have been more than twenty other persons who could have corroborated his testimony. His failure to present any of them raises doubt on his testimony. x x x."^[29]

To be given credence, it must not only appear that the accused was at some other place and that it was physically impossible for him to associate and transact business with the complainants. Said the trial court:

"x x x Accused'(s) alibi is not only weak but also not worthy of belief. His testimony has not established his whereabouts during the months of

February beyond question. What it has instead raised is the veracity of his alleged income and if he really held the job. Against the credible and clear testimony of the complainants, accused's alibi must be rejected."^[30]

This Court is also aware that appellant was detained in Batangas City Jail for another offense during his trial in this case.

We likewise affirm the conviction of appellant for estafa in Criminal Cases No. 90-13963 and 90-13964. All the elements of estafa are present,^[31] to wit: (1) that the accused defrauded another (a) by abuse of confidence or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation was caused to the offended party or third party. The complainants entrusted their hard-earned money to appellant Mañozca on the latter's promise that they would land a job in Singapore. Again, we quote the trial court:

"Prosecution also established that the accused by using the fictitious name of Nesty Santiago and Manolito Santiago and falsely pretending to possess the power and capacity to obtain and provide work for complainants in Singapore, obtained from the complainants various sums of money knowing fully well that he did not have such power or capacity in violation of Article 315, paragraph 2 (a) of the Revised Penal Code. In Criminal Case No. 90-13964 the amount defrauded from Arnulfo Caampued by accused is P14,500.00 while in Criminal Case No. 90-13963 the amount defrauded from Norlito Hular is P12,636.00."^[32]

WHEREFORE, the appealed judgment of the court a quo is hereby **AFFIRMED** in toto, with costs against accused-appellant Nestor Mañozca y Almari.

SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

^[1] Original Record, Criminal Case No. 90-13962, 2.

^[2] Ibid., Criminal Case No. 90-13963, 1.

^[3] Ibid., Criminal Case No. 13964, 1.

^[4] TSN, January 4, 1991, 4-5.

^[5] Ibid., January 10, 1991, 2-3.

^[6] Ibid., id., 7.

^[7] Ibid., January 15, 1991, 6.

- [8] Ibid., id., 7.
- [9] Ibid., January 4, 1991, 5.
- [10] Ibid., January 10, 1991, 3, 8.
- [11] Ibid., January 15, 1991, 4, 7.
- [12] Ibid., id., 5.
- [13] Ibid., id., 8.
- [14] Ibid., March 5, 1991, 3-4.
- [15] Ibid., id., 5.
- [16] Rollo, 16; per Judge Tirso D’C. Velasco.
- [17] Ibid., 68.
- [18] Ibid., 77; Appellant’s Brief, 10.
- [19] People vs. Cajambab, G.R. No. 111805, January 26, 1995, 240 SCRA 643.
- [20] People vs. Martinez, G.R. No. 100813, January 31, 1992, 205 SCRA 666, citing People vs. Ferrera, G.R. No. 66965, June 18, 1987, 151 SCRA 113.
- [21] Rollo, 14.
- [22] People vs. Gabas, G.R. No. 96951, June 13, 1994, 233 SCRA 77.
- [23] Folder of Exhibits, 16.
- [24] People vs. Bautista, G.R. No. 113547, February 9, 1995, 241 SCRA 216.
- [25] Rollo, 78; Appellant’s Brief, 11.
- [26] G.R. No. 113161, August 29, 1995, 247 SCRA 780, citing People vs. Comia, G.R. No. 109761, September 1, 1994, 236 SCRA 185.
- [27] Rollo, 14.
- [28] People vs. Calope, G.R. No. 97284, January 21, 1994, 229 SCRA 413.

[29] Rollo, 15.

[30] Ibid., loc. cit.

[31] People vs. Turda, G. R. Nos. 97044-46, July 6, 1994, 233 SCRA 702, reiterating People vs. Romero, G.R. No. 103385-88, July 26, 1993, 224 SCRA 749.

[32] Rollo, 15.



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