G.R. No. 108107

# SECOND DIVISION

# [ G.R. No. 108107, June 19, 1997 ]

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SUSAN PANTALEON, A.K.A. SUSAN FLORES, ACCUSED-APPELLANT.

## D E C I S I O N

**ROMERO, J.:**

Appellant Susan Pantaleon challenges the decision of the Regional Trial Court of Manila, Branch 16, convicting her of the crime of illegal recruitment, the dispositive portion of which states:

> "WHEREFORE, PREMISES CONSIDERED, judgments are hereby rendered:

I. The guilt of the accused for estafa in Criminal Cases No. 91-101478-80 not having been established beyond reasonable doubt, she is hereby ACQUITTED of said offenses, but is ordered to indemnify complainants

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|---|---|---|
| LEANDRO ROSITA | = | P29,000 |
| RICARDO ROSITA | = | P60,000 |
| NONITO ABADILLOS | = | P75,000 |

the face values of the plane tickets to Saipan/Korea to be deducted therefrom.

II. The guilt of the accused for illegal recruitment having been established beyond reasonable doubt in Criminal Case No. 91-101477, she is hereby CONVICTED of the offense of illegal recruitment committed in a large scale, sentencing her to life imprisonment, to pay a fine of P100,000, and to pay costs."

The prosecution's version of the evidence is as follows:

Ricardo Rosita, with his wife met appellant at the Jollibee branch in Paco, Manila because he wanted to get a job in Japan. Ricardo came to know of appellant through the latter's sister-in-law, whom appellant was able to send to Japan. Appellant asked Ricardo for P75,000.00 for the plane ticket to Japan via Korea, and for the facilitation of other papers and documents.[1] On March 13, 1991, Ricardo paid appellant P60,000.00 at his house in Paco. It was their understanding that the balance of US$500 would be given by Ricardo to the person who would accompany him to Japan.[2]

On April 4, 1991, using the name of Pedro Lorzano in his passport, Ricardo left for

Korea aboard Korean Airlines. In Korea, he stayed at the hotel indicated in the calling card given to him by appellant. He called appellant and was told to wait for the person who would take him to Saitama, Japan. A certain Lulu Geronimo arrived in the afternoon of April 14, 1991 and told him that she needed to arrange some documents for their departure to Japan.[3]

The next day Geronimo came back to the hotel and told him they were leaving for Japan at 5:00 o'clock the following morning. However, while trying to get a boarding pass, they were apprehended by Korean immigration officers and his passport was discovered to be fake. During the investigation at the immigration section, Ricardo saw several other persons also recruited by appellant.

Nonito Abadillos, Ricardo's brother-in-law, also wanted to work as a factory worker in Saitama, Japan. On March 20, 1991, appellant came to their house in Paco, Manila and Ricardo introduced her to Nonito as a recruiter. He was convinced to go to Japan as he was told that he would be receiving a salary of 180,000 yen with free board and lodging. He paid the amount of P75,000 for his passport, ticket and other documents. His route was via Saipan.[4]

Leandro Rosita, Nonito's brother-in-law, likewise was recruited to work in Japan as a factory worker. He was asked to pay P75,000.00 for his passport, tickets and other documents. On April 15, 1991, he paid P7,000.00 and on April 16, 1991, he paid appellant P20,000.00. On April 17, 1991, he paid an additional amount of P2,000.00. All payments were duly receipted by appellant.[5]

Nonito and Leandro (who used the surname Abadillos) left for Saipan on April 18, 1991 aboard Continental Airlines, together with George Samin and Kevin Kimbalita. The agreement was that appellant would send them the ticket for Japan in Saipan. They stayed in a hotel owned by a Filipino instead of free lodging in barracks as appellant had promised. When twenty seven days had passed and no plane tickets to Japan arrived for them in Saipan, they decided to return to the Philippines.[6]

Upon arrival in the Philippines, Nonito reported the matter to the NBI,[7] which led to the filing of the criminal case.

On November 11, 1992, the trial court rendered judgment: (1) acquitting appellant of Estafa but nonetheless ordering her to indemnify the complainants the amounts paid to her less the value of the plane tickets and (2) convicting her of the crime of illegal recruitment.

Before this Court, appellant contends that the trial court erred in finding her guilty of the crime of illegal recruitment in large scale and that it erred in believing the testimony of the prosecution witnesses who were actually impostors. Appellant insists that she only tried to facilitate the processing of witnesses' travel papers to Japan.

We find the appeal devoid of merit.

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.
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> 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.'"

In People v. de Leon,[8] we said that 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.

There is no question that appellant 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. The fact that no documents evidencing the recruitment activities were presented by the prosecution only strengthens, not weakens, its case against appellant. This is because only a legitimate recruitment agency would have asked the complainants to sign employment contracts, health certifications and applications for employment. Appellant took advantage of her victims' gullibility in not knowing that the above documents were necessary for a valid overseas placement as the latter believed that all they had to do to obtain employment in Japan was to pay a certain amount to appellant and everything would be fixed.

From the large amounts appellant charged, it is obvious that those were to be used, not just for plane fare, but also supposedly as placement fees. Certainly, a plane ticket to Japan will not cost P75,000.00, especially not in 1991 when these events transpired.

In fact, even at present-day prices, the said amount could already cover plane fare to Europe, the U.S. and back to the Philippines.

That the appellant offered to get them a job is clear from the testimony of the witnesses. Nonito Abadillos:

"Q Did you inquire from the accused where you are going to be employed?
A We asked her and she said Saitama, sir.

Q What kind of work will you do in that place?
A She said only as factory workers, sir.

Q And what are the requirements, if any, did the accused tell you in order that you can be deployed at Saitama, Japan?
A Nothing, sir, except she said she will get a passport and to get us tourist visa and once we arrive in Japan, we will be employed as factory workers.

Q Did you agree to her offer that you will be deployed?
A I agreed, sir, with the agreement that I will be sent to Japan.

Q And what is the consideration if any for the services to be rendered by the accused to you?
A The P75,000.00, sir."[9]

Ricardo Rosita:

"FISCAL DAING JR:
Q: Aside from what you have stated, when you met for what purpose were you going to pay the amount of P75,000?

WITNESS:
So that I will be able to work in Japan.

Q: Who told you you will be able to work to Japan?
A: Susan.

Q: When did she tell you that she can send you to Japan to work?
A: Before March 13, 1991."[10]and Leandro Rosita:

"FISCAL

Q Mr. Witness, how did you come to know the accused?
A She comes to our house and she was recruiting us.

FISCAL
Q Where was she recruiting you for?

WITNESS
A Going to Japan.

Q What will you do in Japan?
A I will be given a job.

Q In connection with the promise given by the accused to you, what was the consideration, if any, with respect to your going to Japan for employment?
A She promised that we will be given job for Japan and that the salary will be P1,800.00. I don't know the equivalent of the Japanese money."[11]

After a meticulous review of the record, we find that the trial court's findings of fact are supported by the evidence and its conclusions are in accord with law and jurisprudence.[12] We see no reason to disturb the same.

**WHEREFORE**, the decision appealed from is hereby **AFFIRMED**. Costs against the appellant.
**SO ORDERED.**

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

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[1] TSN, May 20, 1992, pp.3-6.

[2] TSN, Ibid., pp. 7-9.

[3] TSN, Ibid., pp. 11-13.

[4] TSN, April 2, 1992, pp. 3-4; May 6, 1992, pp. 5-6.

[5] TSN, April 22, 1992, pp.5-6; June 1, 1992, pp.6-13.

[6] TSN, April 22, 1992, pp. 7-8; June 1, 1992, pp. 15-18.

[7] Ibid., pp. 20-21.

[8] G.R. No. 110391, February 7, 1997.

[9] TSN, April 22, 1992, pp. 4-5.

[10] TSN, May 20, 1992, p. 7.

[11] TSN, June 1, 1992, pp. 5-6.

[12] People v. Benemerito, G.R. No. 120389, November 29, 1996.

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