

THIRD DIVISION

[G.R. No. 176264, January 10, 2011]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. TERESITA "TESSIE" LAOGO, APPELLANT.

DECISION

VILLARAMA, JR., J.:

This petition assails the July 31, 2006 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 01664, which affirmed the Decision^[2] of the Regional Trial Court (RTC), Branch 12, of Malolos, Bulacan in Criminal Case No. 693-M-2001. The RTC found appellant Teresita "Tessie" Laogo guilty beyond reasonable doubt of the crime of illegal recruitment in large scale.

Appellant Teresita "Tessie" Laogo was the proprietor and manager of Laogo Travel Consultancy, a travel agency firm located along Padre Faura Street in Manila. On March 7, 2001, an Information^[3] was filed against appellant and a certain Susan Navarro (Susan) in Malolos, Bulacan charging them of the crime of Illegal Recruitment (Large Scale). The information reads:

INFORMATION

The undersigned Asst. Provincial Prosecutor accuses Susan Navarro and Tessie [Teresita] Laogo of the crime of illegal recruitment, penalized under Art. 38 in relation to Art[s]. 34 and 39 of the Labor Code of the Philippines, as amended by Presidential Decree No. 1412, committed as follows:

That in or about and during the months of May and June 2000, in the municipality of Bulacan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, knowing that they are non-licensee or non-holder of authority from the Department of Labor to recruit and/or place workers in employment either locally or overseas, conspiring, confederating together and helping each other, did then and there wilfully, unlawfully and feloniously engage in illegal recruitment, placement or deployment activities for a fee, which they received from complainants Edith Bonifacio-Ulanday, Rogelio Enriquez y Buenavidez, Billy dela Cruz, Jr. y Fernandez, Dante Lopez y Enriquez, Teodulo dela Cruz y Mendoza, Edwin Enriquez y Panganiban and Gary Bustillos y de Guzman by recruiting and promising them job placement abroad, more particularly in Guam, which did not materialize, without first having secured the required license or authority from the Department of

Labor and Employment.

That the crime is committed in a large scale tantamount to economic sabotage as the aforementioned seven persons were [recruited] individually or as a group.

Contrary to law.

The charge stemmed from the following set of facts.

Sometime during the second week of March 2000, Susan invited several individuals including six of the seven complainants - namely, Teodulo dela Cruz, Billy dela Cruz, Jr., Dante Lopez, Edwin Enriquez, Rogelio Enriquez, and Gary Bustillos - to her house in Bulacan, Bulacan to celebrate the town fiesta. Appellant was among the several guests in Susan's house during the said occasion.

According to Teodulo dela Cruz, during the fiesta, Gary Bustillos introduced him to Susan as somebody who could help him find work abroad. Since Susan was Gary's aunt, Teodulo immediately trusted Susan. Susan told him he can apply as assistant cook and can work in Guam, USA. Upon Susan's instruction, Teodulo filled up an application form^[4] and gave her P3,000.00 after the latter promised to process his application to work abroad.^[5] On May 22, 2000, Susan accompanied Teodulo to appellant's travel agency office in Ermita where he paid an additional P15,000.00 for his placement fee.^[6] A receipt bearing the logo and name of Laogo Travel Consultancy was issued to him signed by Susan.^[7] Months later, when Susan's promise to send him abroad remained unfulfilled, Teodulo, along with several other applicants, went to appellant's office and to Susan's house to follow up their application, but the two always told them that their visas have yet to be released.^[8]

Similarly, Billy dela Cruz, Jr. also met Susan through Gary, who himself was seeking help from Susan to work in Guam. At Susan's house, Billy saw Dante Lopez, Edwin Enriquez, and Rogelio Enriquez. Like him, the three were also seeking Susan's help to work abroad.^[9] Susan introduced Billy to appellant, who promised him that she will send them abroad within three months.^[10] After the meeting, Billy issued to Susan two Metrobank checks, dated March 11 and May 10, 2000, bearing the amounts P23,000.00 and P44,000.00, respectively, as partial payment for his placement fee.^[11] On May 19, 2000, Billy also went to appellant's travel agency in Ermita and personally handed an additional cash of P6,000.00 to Susan, who thereafter gave the money to appellant. Appellant issued a corresponding receipt^[12] for the P6,000.00 cash bearing her signature and the name and logo of Laogo Travel Consultancy. After several months, no word was heard from either Susan or appellant. Sensing that something was wrong, Billy decided to report the matter to the authorities in Bulacan, Bulacan and filed the complaint against Susan and appellant.^[13]

Dante Lopez testified that he was also introduced by Gary Bustillos to appellant and Susan. Susan identified herself as an employee of appellant's travel agency. The two

told him that they can send him and his companions to Guam within the span of three months.^[14] Lopez paid both accused P6,000.00 to process his papers, covered by a receipt dated May 19, 2000 showing appellant's signature.^[15] Appellant's promise, however, turned sour after three months. When he confronted appellant, the latter told him that he would be sent to a different country. Left without a choice, Lopez waited. Again, the promise remained unfulfilled.^[16]

According to Rogelio Enriquez, he also met appellant during the town fiesta when Susan invited him to cook for her guests. Susan introduced appellant as someone who could send him to work abroad. Eager about the prospect, Rogelio immediately gave his P3,000.00 cash to Susan for the processing of his visa and employment documents.^[17] He saw Susan hand the money to appellant.^[18] A week later, Rogelio gave an additional P900.00 to Susan.^[19] No receipts were issued on both payments since Rogelio failed to complete the required P6,000.00 placement fee.^[20] Months passed but Rogelio heard nothing from either Susan or appellant. Apprehensive, Rogelio verified the status of the Laogo Travel Consultancy with the Philippine Overseas Employment Administration (POEA). From the POEA, Rogelio learned that neither of the accused nor Laogo Travel was licensed to recruit workers for employment abroad. Aggrieved, Rogelio, together with his six companions, filed the complaint against Susan and appellant.

Edwin Enriquez also paid P12,000.00 to Susan as processing fee for his application to work in Guam. According to him, Susan's husband and appellant were present when he gave the money to Susan during the town fiesta.^[21] Susan issued a receipt dated May 16, 2000 to Edwin. The receipt contained the logo of Laogo Travel Consultancy and was signed by Susan with a description which says "Payment was for Placement Fee."^[22]

Two other persons, namely Edith Bonifacio-Ulanday and Gary Bustillos, Susan's nephew, were among the seven who filed the complaint against Susan and appellant. The two, however, later decided to withdraw their complaints after executing their respective affidavits of desistance.^[23]

On March 15, 2001, warrants of arrest^[24] were issued against Susan and appellant. When arraigned, appellant pleaded not guilty.^[25] Susan, meanwhile, remained at large. An alias warrant of arrest^[26] was issued by the trial court against her but to no avail.

During the trial, appellant denied any participation in the illegal activities undertaken by Susan. She insisted that Susan was not in any way connected with her travel agency and that she confronted the latter when she came to know of Susan's recruitment activities. Appellant claimed that she even had to rename her travel agency to Renz Consultancy and Employment Services to avoid being associated with Susan's recruitment activities.^[27]

Appellant admitted having met Rogelio at Susan's house during the town fiesta, but

denied knowing the other complainants. According to appellant, she came to know Rogelio when Susan specifically identified him as the one who cooked the dishes after some guests prodded Susan.^[28]

Unsatisfied with appellant's explanation, the trial court promulgated a Decision^[29] finding her guilty of large scale illegal recruitment. The *fallo* of the trial court's July 16, 2002 Decision reads:

WHEREFORE, finding herein accused Teresita (Tessie) Laogo y Villamor guilty as principal beyond reasonable doubt of the crime of illegal recruitment in large scale, she is hereby sentenced to suffer the penalty of life imprisonment and pay a fine of P500,000.00 as imposed by law[;] to indemnify the private offended parties x x x actual damages, as follows: Teodulo dela Cruz - P15,000.00, Billy dela Cruz - P73,000.00, Dante Lopez - P6,000.00, Rogelio Enriquez - P3,000.00, and Edwin Enriquez - P12,000.00[;] and to pay the costs of the proceedings.

In the service of her sentence the said accused, a detention prisoner, shall be credited with the full time during which she had undergone preventive imprisonment, pursuant to the provisions of Art. 29 of the Revised Penal Code.

Pending the actual apprehension of the other accused Susan Navarro, [who is] still at-large, on the strength of the warrant of arrest earlier issued, let the record be committed to the archives subject to recall and reinstatement, should circumstances so warrant for due prosecution against her of this case.

SO ORDERED.^[30]

Appellant filed an appeal before this Court, but said appeal was transferred to the CA following our pronouncement in *People v. Mateo*.^[31]

In her Appellant's Brief^[32] before the CA, appellant insisted that she had no hand in the recruitment of the complainants and maintains that the recruitment activities were made solely upon the initiative of accused Susan Navarro.^[33] Appellant anchored her defense on the testimonies of the complainants who declared that the transactions and the payments were made not with her but with Susan.^[34] Appellant admitted that her consultancy firm was merely engaged in the business of assisting clients in the procurement of passports and visas, and denied that her agency was involved in any recruitment activity as defined under the Labor Code, as amended.^[35]

On July 31, 2006, the appellate court rendered the assailed decision affirming appellant's conviction.^[36] The CA noted that although at times, it was Susan with whom the complainants transacted, the records nevertheless bear that appellant had a

hand in the recruitment of the complainants. The CA pointed out that appellant, together with Susan, repeatedly assured the private complainants that her consultancy firm could deploy them for overseas employment,^[37] leading the appellate court to conclude that appellant consciously and actively participated in the recruitment of the complainants.^[38]

Aggrieved, appellant brought the case to us on appeal, raising the same arguments she had raised at the CA.

We affirm appellant's conviction.

Recruitment and placement refers to the 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. When a person or entity, in any manner, offers or promises for a fee employment to two or more persons, that person or entity shall be deemed engaged in recruitment and placement.^[39]

Article 38(a) of the Labor Code, as amended, specifies that recruitment activities undertaken by non-licensees or non-holders of authority are deemed illegal and punishable by law. And when the illegal recruitment is committed against three or more persons, individually or as a group, then it is deemed committed in large scale and carries with it stiffer penalties as the same is deemed a form of economic sabotage.^[40]

But to prove illegal recruitment, it must be shown that the accused, without being duly authorized by law, gave complainants the distinct impression that he had the power or ability to send them abroad for work, such that the latter were convinced to part with their money in order to be employed.^[41] It is important that there must at least be a promise or offer of an employment from the person posing as a recruiter, whether locally or abroad.^[42]

Here, both the trial court and the CA found that all the five complainants were promised to be sent abroad by Susan and herein appellant^[43] as cooks and assistant cooks. The follow up transactions between appellant and her victims were done inside the said travel agency. Moreover, all four receipts issued to the victims bear the name and logo of Laogo Travel Consultancy,^[44] with two of the said receipts personally signed by appellant herself.^[45] Indubitably, appellant and her co-accused acting together made complainants believe that they were transacting with a legitimate recruitment agency and that Laogo Travel Consultancy had the authority to recruit them and send them abroad for work when in truth and in fact it had none as certified by the POEA.^[46] Absent any showing that the trial court and the CA overlooked or misappreciated certain significant facts and circumstances, which if properly considered, would change the result, we are bound by said findings.^[47]

Appellant's contention that she had to change the name of her travel agency to disassociate herself with Susan's recruitment activities is too lame to deserve serious

consideration. In light of the testimonies of the complainants that appellant with her co-accused promised them employment abroad, we find appellant's act of closing Laogo Travel Consultancy and establishing a new one under her husband's name^[48] as just an afterthought, a belated decision which cannot undo the damage suffered by the private offended parties. It could indeed hardly be construed as a simple reaction of an innocent person, as it in fact smacks of a desperate attempt of a guilty individual to escape liability or to confuse and dishearten her victims.

WHEREFORE, the appeal is **DENIED**. The Decision dated July 31, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01664 is **AFFIRMED *in toto***.

With costs against the accused-appellant.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Sereno, JJ., concur.

[1] *Rollo*, pp. 4-23. Penned by then Court of Appeals Associate Justice Jose L. Sabio, Jr. (now retired), with Associate Justices Rosalinda Asuncion-Vicente and Sesinando E. Villon, concurring.

[2] *CA rollo*, pp. 23-28. Penned by Judge Crisanto C. Concepcion.

[3] *Id.* at 12-13.

[4] *TSN, Teodulo dela Cruz*, August 21, 2001, p. 4.

[5] *Records*, Vol. I, p. 8. "Sinumpaang Salaysay" dated November 23, 2000 of Teodulo dela Cruz.

[6] *TSN, Teodulo dela Cruz*, August 21, 2001, p. 5.

[7] *Exh. "A"*.

[8] *TSN, Teodulo dela Cruz*, August 21, 2001, p. 7.

[9] *TSN, Billy dela Cruz, Jr.*, September 13, 2001, pp. 3, 6.

[10] *Id.* at 10.

[11] *Id.* at 4. See also *Exhs. "C" and "C-1"*.

[12] *Exh. "C-3"*.

[13] TSN, Billy dela Cruz, Jr., September 13, 2001, p. 5.

[14] TSN, Dante Lopez, October 2, 2001, p. 4.

[15] Exh. "E".

[16] Supra note 14.

[17] TSN, Rogelio Enriquez, October 9, 2001, pp. 3-4.

[18] Id. at 7.

[19] Id. at 8.

[20] Id. at 4.

[21] TSN, Edwin Enriquez, October 18, 2001, pp. 3-4, 7.

[22] Exh. "H".

[23] Records, Vol. I, pp. 30-31.

[24] Id. at 13, 15.

[25] Id. at 93.

[26] Id. at 110.

[27] TSN, Teresita Laogo, November 23, 2001, pp. 7-8.

[28] Id. at 5-6.

[29] CA *rollo*, pp. 23-28.

[30] Id. at 28 and subsequent unnumbered page.

[31] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[32] CA *rollo*, pp. 61-74.

[33] Id. at 72.

[34] Id. at 69-72.

[35] Id. at 72.

[36] The dispositive portion of the Court of Appeals' Decision dated July 31, 2006 reads:

WHEREFORE, in the light of the foregoing disquisitions, the decision of the Regional Trial Court of Malolos, Bulacan, Branch 12, in Criminal Case No. 693-M-2001, finding appellant Teresita "Tessie" Laogo guilty beyond reasonable doubt of the crime charged, is, hereby, **AFFIRMED** with **MODIFICATION**.

As modified, the award of actual damages in the amount of Php 3,000.00, in favor of Rogelio Enriquez, is **DELETED**.

SO ORDERED. (*Rollo*, p. 22.)

[37] *Rollo*, pp. 12-17.

[38] Id. at 18.

[39] Article 38(b), Labor Code.

ART. 38 *Illegal recruitment*. - x x x

(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.

x x x x

[40] Section 7, in relation to the last paragraph of Section 6, of R.A. No. 8042.

[41] *Lapasaran v. People*, G.R. No. 179907, February 12, 2009, 578 SCRA 658, 662.

[42] *People v. Angeles*, G.R. No. 132376, April 11, 2002, 380 SCRA 519, 526-527.

[43] TSN, Billy dela Cruz, Jr., September 13, 2001, pp. 9-10; TSN, Dante Lopez, October 2, 2001, pp. 3-4.

[44] Exhs. "A," "C-3," "E," and "H".

[45] Exhs. "C-3" and "E".

[46] Records, Vol. I, pp. 172-173; Exh. "B".

[47] *People v. Costelo*, G.R. No. 134311, October 13, 1999, 316 SCRA 895, 898.

[48] Renz Travel Consultancy and Employment Services, Exh. "2".



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