

SECOND DIVISION

[G.R. No. 232623, October 05, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OLIVER
IMPERIO Y ANTONIO, ACCUSED-APPELLANT.**

DECISION

HERNANDO, J.:

This is an appeal from the February 10, 2017 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08232, which denied the appeal brought therewith and affirmed the March 16, 2016 Judgment^[2] of the Regional Trial Court (RTC) of Pasig City, Branch 166 in Criminal Case No. 146959. The RTC convicted Oliver Imperio y Antonio (appellant) of Illegal Recruitment in Large Scale under Republic Act No. (RA) 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995."

Factual Antecedents

The Information^[3] in Criminal Case No. 146959 alleged as follows:

On or about January 11, 2012, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, representing himself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad to the following persons, namely:

1. Cherry Beth A. Barabas
2. John Daryl V. De Leon
3. Edralin D. Sta Maria
4. Shane S. Llave
5. Megallan III L. Concrenio
6. Annavey C. Flores
7. Maricor Ventura
8. Ma. Camella C. Luzana
9. Gregorio C. Daluz

without first securing the required license and authority from the Philippine Overseas Employment Administration (POEA) and said accused failed to actually deploy without valid reasons said complainants abroad and to reimburse the expenses incurred by them in connection with their documentation and processing for purposes of deployment abroad, to their damage and prejudice.

Contrary to law.^[4]

Appellant pleaded *not guilty* to the charge. Thereafter, trial on the merits ensued.^[5]

The prosecution presented seven witnesses, namely: (1) Shane S. Llave (Llave), (2) National Bureau of Investigation (NBI) Agent Yehlen Agus (Agent Agus), (2) Edralin Sta. Maria (Sta. Maria), (4) Marcelo Maningding, (5) Juliet Mahilum, (6) Magellan Concrenio III (Concrenio), and (7) Rodolfo Oliverio. Appellant was the sole witness in his defense.

Version of the Prosecution:

Sometime between June 2011 and July 2011, appellant informed Llave that his aunt, who was based in California, United States of America (USA), was hiring a data encoder with a salary of US\$3,000.00. Due to appellant's representations, Llave forwarded her resume to appellant, and paid him the amount of P7,000.00 as processing fee for her visa application with the United States Embassy, for which no receipt was issued. Upon appellant's request for other referrals, Llave recommended Concrenio, Cherry Beth Barabas (Barabas), John Daryl De Leon (De Leon), Sta. Maria, and a certain Michelle^[6] (applicants).

Appellant offered Concrenio overseas employment in Canada as a utility worker. Meanwhile, like Barabas and De Leon, appellant offered Sta. Maria overseas employment with a salary of P90,000.00. In consideration for their employment abroad, appellant collected from these applicants certain amounts of money.^[7] Testimonies of the prosecution witnesses revealed that appellant received P7,000.00 each from Llave, Sta. Maria, Barbara, and De Leon, and P10,000.00^[8] from Concrenio.

Despite the applicants' repeated inquiries, and the lapse of a considerable length of time, appellant failed to secure overseas employment for them as promised. The foregoing notwithstanding, he demanded an additional amount of P1,500.00 from each of the applicants as notarization fee for their papers submitted to the United States Embassy.

These circumstances prompted Llave, Concrenio, Barabas, De Leon, and Sta. Maria, together with the other private complainants, to file their respective complaints against appellant before the NBI. Upon further investigation by NBI Agent Agus, it was revealed that appellant has no license or authority to recruit applicants for overseas employment as certified by the Philippine Overseas Employment Agency (POEA).^[9]

On January 11, 2012, appellant was arrested via an entrapment operation conducted by the NBI. It was during the entrapment operation that appellant received from Barabas, De Leon, and Sta. Maria payment for their processing fees collectively amounting to P21,000.00 as evidenced by a written receipt executed by appellant.^[10]

Version of the Defense:

In his defense, appellant vehemently denied the allegations against him. Appellant alleged that he met Llave on June 3, 2011 when the latter applied for work at his office. It is through their continued friendship that Llave was able to secure a loan from appellant in the amount of P35,000.00 with an agreed interest rate of 20%. Despite repeated demands, Llave failed to pay her obligation to appellant. Appellant further claimed that he came to know the other private complainants through Llave, and, on one occasion, had an altercation with them at the latter's house. While appellant later admitted that he received various amounts from private complainants, he claimed that all these were made as payment for Llave's outstanding obligation to him.

Appellant further testified that after the entrapment operation, and subsequent to his arrest, NBI Agent Agus instructed him to prepare and issue an acknowledgment receipt stating therein that he received from Barabas, De Leon, and Sta. Maria a sum of money amounting to P21,000.00 as processing fee for their overseas employment in California, USA.

Ruling of the Regional Trial Court:

In a Judgment^[11] rendered on March 16, 2016, the RTC found appellant guilty beyond reasonable doubt of Illegal Recruitment in Large Scale. The RTC held that:

The prosecution was able to prove that accused, indeed, is not a license holder or had any authority to engage in recruitment and placement activities. The defense failed to rebut this evidence presented by the prosecution but plainly denied and posed an alibi that the money he received represented payment for the loan obtained from him by private complainant, Shane Llave, without presenting further evidence to back up his claim. The fact that accused Imperio, who has no authority or license to recruit for work overseas, actually recruited the private complainants for work in California, U.S.A. and Canada, for a fee. x x x

x x x x

The Information stated that there were nine (9) private complainants who executed their respective complaint affidavits against accused. Out of these nine (9) private complainants, the prosecution was able to present three (3) of them, particularly, Shane Llave, Edralin Sta. Maria and Magellan Concrenio III, whose testimonies corroborated one another and strengthen the evidence of guilt of the accused beyond reasonable doubt. As undoubtedly proven by the prosecution, the act committed by the accused falls within the ambit of illegal recruitment in large scale as defined under the law.^[12]

The dispositive portion of the Judgment states:

WHEREFORE, premises considered, judgment is hereby rendered finding accused, Oliver Imperio y Antonio, **GUILTY** beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale.

Accordingly, pursuant to Sec. 7(b) of R.A. 8042, "Migrant Workers and Overseas Filipinos Act of 1995", accused Oliver Imperio y Antonio is sentenced to suffer the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (Php500,000.00). He is likewise ordered to pay the private complainants the following amounts as actual damages, to wit: 1) Shane Llave - Php 7,000.00; 2) Edralin Sta. Maria - Php7,000.00; and 3) Magellan Concrenio III - Php10,000.00

Let a mittimus order be issued to transfer custody of the accused to National Bilibid Prisons, Muntinlupa City.

SO ORDERED.^[13]

Aggrieved, appellant appealed the Judgment to the CA.

Ruling of the Court of Appeals:

On February 10, 2017, the CA rendered its assailed Decision^[14] affirming with modifications the Judgment of the RTC. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the appeal is **DENIED**. The March 16, 2016 Judgment of the Regional Trial Court, Branch 166, Pasig City in Criminal Case No. 146959 is hereby **AFFIRMED**. In addition, accused--appellant is obliged to pay the interest of 6% *per annum* on the respective sums due to each of the complainants, to be reckoned from the finality of this decision until fully paid considering the amount to be restituted became determinate only through this adjudication.

SO ORDERED.^[15]

The CA held that the appellant's testimony is self-serving and uncorroborated, and that his denial of any illegal recruitment activity "cannot stand against the prosecution witnesses' positive identification of appellant as the person who induced them to part with their money upon the misrepresentation and false promise of deployment abroad."

^[16] The appellate court also gave respect to the RTC's factual findings and assessment of the credibility of the prosecution's witnesses. It noted that the prosecution witnesses corroborated each others testimonies-that appellant represented to the private complainants of his resources and ability to send them abroad for employment. The CA also found that appellant was, in no manner, authorized by law to engage in the recruitment and placement of workers, as evidenced by a Certification^[17] issued by the POEA. It also held that there were at least three (3) victims in this case who all testified before the RTC in support of their respective complaints, which therefore made appellant liable for Illegal Recruitment in Large Scale.

Proceedings before this Court:

Appellant now seeks affirmative relief from this Court and pleads for his acquittal.

This Court, in its October 2, 2017 Resolution,^[18] notified the parties that they may file their supplemental briefs, if they so desire. However, both parties manifested^[19] that in lieu of filing supplemental briefs, they were adopting their respective briefs filed before the CA.

Issue

The main issue raised by appellant is whether the RTC erred in finding that his guilt for the crime charged had been proven beyond reasonable doubt.

Appellant maintains that the RTC gravely erred in giving weight to the testimonies of the prosecution witnesses despite their inconsistencies, which therefore casts doubt on the veracity and credibility of their declarations. In particular, appellant points out that the testimony of Llave is unclear as to when she came to know of appellant.

Appellant also claims that: (1) Llave's failure to request from appellant a receipt for the amounts supposedly paid to him; and (2) Concrenio's act of paying appellant the sum of P10,000.00 as processing fee for his papers with the United States Embassy, but which pertains to his employment in Canada, are unnatural and contrary to human experience, which therefore cast doubt on the veracity of their accounts.

Appellant further denies promising any kind of overseas employment to Sta. Maria, and that the latter "parted with his money because of what he learned from [De Leon] and [Barabas] and not because of any representations made by [appellant]."^[20] Appellant also faults the RTC for disregarding his defense of denial.

Our Ruling

We find the appeal unmeritorious.

Illegal recruitment in large scale:

Article 13(b) of the Labor Code, as amended,^[21] 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." Recruitment, as defined in the Labor Code, becomes illegal when undertaken by non-licensees or non-holders of authority. In this regard, Article 38 of the Labor Code provides:

ARTICLE 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 Department 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.

To be clear, Illegal Recruitment, as defined under Article 38 of the Labor Code, encompasses illegal recruitment activities for both local and overseas employment which were undertaken by non-licensees or non-holders of authority.

RA 8042, or the "Migrant Workers and Overseas Filipinos Act of 1995," as amended by RA 10022,^[22] broadened the definition of Illegal Recruitment under the Labor Code, and provided stiffer penalties especially when it constitutes economic sabotage, which are either Illegal Recruitment in Large Scale, or Illegal Recruitment Committed by a Syndicate. Notably, RA 8042 defines and penalizes Illegal Recruitment for employment abroad, whether undertaken by a non-licensee or non-holder of authority or by a licensee or holder of authority. Relevant to the instant case is Section 6 of RA 8042, which provides:

SEC. 6. *Definition.* - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: *Provided.* That any such non licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority: x x x

x x x x

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage; and

x x x x

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Under RA 8042, a non-licensee or non-holder of authority is liable for Illegal Recruitment when the following elements concur: (1) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers; and (2) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13(b) of the Labor Code, or any of the prohibited practices enumerated under Article 34 of the Labor Code (now Section 6 of RA 8042). In the case of Illegal Recruitment in Large Scale, a third element is added: that the offender commits any of the acts of recruitment and placement against three or more persons, individually or as a group.^[23]

Moreover, "[t]o prove [I]llegal [R]ecruitment, it must be shown that the accused gave the complainants the distinct impression that [he or she] had the power or ability to deploy the complainants abroad in [such] a manner that they were convinced to part with their money for that end."^[24]

All the elements of Illegal Recruitment in Large Scale are present in the instant case.

In this case, the prosecution sufficiently proved that appellant had indeed engaged in Large Scale Illegal Recruitment.

First, appellant is a non-licensee or non-holder of authority. Among the documentary evidence submitted by the prosecution is a POEA Certification^[25] dated May 31, 2013, which states that appellant is "not licensed nor authorized to recruit workers for overseas employment."^[26] Significantly, appellant has not negated nor denied the contents of the Certification issued by the POEA.

Second, three (3) private complainants, namely, Llave, Concrenio, and Sta. Maria, all positively identified appellant as the person who promised them overseas employment in Canada or the USA in various capacities, which gave them the distinct impression that appellant had the ability to facilitate their applications and, eventually, deploy them for employment abroad. It bears noting that all these complainants corroborated each other on materials points, particularly that - (1) they were made to believe that appellant was capable of securing them of work abroad; (2) he exacted from them various sums of money as placement fees; (3) he required them to submit various documents for the processing of their visas with the United States Embassy; (4) he demanded an additional amount of P1,500.00 from each of the applicants as notarization fee for their papers submitted to the United States Embassy; and (5) he failed to secure overseas employment for them as promised.

Appellant attacks the credibility and veracity of their accounts for being faulty and inconsistent.

We find that the inconsistencies cited by appellant are immaterial to adversely affect their testimonies. To our mind, these are minor details and collateral matters which do not affect the weight and substance of their declarations. Nor do they touch on the essential elements of the crime charged. "It is an elementary rule in this jurisdiction that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration nor the veracity or weight of their testimony."^[27] Verily, what is important is that private complainants have positively identified appellant as the one who made misrepresentations of his capacity to secure and facilitate for them overseas employment, and induced them to part with their money upon the false promise of employment abroad.

In contrast, appellant offered only his defense of denial and alibi which we hold to be unavailing. It is settled in this jurisdiction that "greater weight is given to the positive identification of the accused by the prosecution witnesses than the accused's denial and explanation concerning the commission of the crime."^[28] Moreover, a denial, when unsubstantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law. Thus, as between appellant's alibi and bare denials, and the categorical and positive statements of the private complainants, the latter must prevail.^[29]

It bears emphasis at this point that the fact that no receipt was issued by appellant is not fatal to the prosecution's cause, more so in this case where the respective testimonies of private complainants clearly narrated appellant's involvement in illegal recruitment activities. The case of *People v. Domingo*^[30] is instructive, viz.:

That no receipt or document in which appellant acknowledged receipt of money for the promised jobs was adduced in evidence does not free him of liability. For even if at the time appellant was promising employment no cash was given to him, he is still considered as having been engaged in recruitment activities, since Article 13 (b) of the Labor Code states that the act of recruitment may *be for profit or not*. It suffices that appellant promised or offered employment for a fee to the complaining witnesses to warrant his conviction for illegal recruitment.^[31] (Underscoring supplied)

There is no question at this point that both the RTC and the CA found that appellant had engaged in illegal recruitment activities. In this regard, we have consistently held that factual findings of the trial court, especially when the same have been affirmed by the appellate court, as in this case, are deemed binding and conclusive.^[32] This is because "trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed first-hand their demeanor and manner of testifying under grueling examination."^[33] While this Court may revise the factual findings of the RTC on the notion that they were erroneous, unfounded, unreliable, or conflicted with the findings of fact of the CA,^[34] this notion, however, has not been demonstrated by appellant in the instant case.

Given all the foregoing premises, this Court finds no reason to deviate from the findings of the RTC and the CA.

Lastly, it was established that there were at least three (3) victims in this case, namely, Llave, Concrenio, and Sta. Maria, who all testified before the RTC in support of their respective complaints. In this regard, the Court is not swayed by appellant's assertion that he did not promise any kind of overseas employment to Sta. Maria. As found by the RTC and the CA, it was clearly established that appellant directly dealt with Sta. Maria relative to the latter's supposed employment abroad, and that appellant even charged him a placement fee to cover for the expenses of processing his documents.

Based on the foregoing, there is no doubt that appellant is guilty of Illegal Recruitment in Large Scale, which constitutes economic sabotage under Section 6 of RA 8042.

The penalty imposed.

Anent the penalty that must be imposed, we note that both the RTC and the CA imposed the penalty of life imprisonment and a fine of P500,000.00.

Section 7(b) of RA 8042 provides that "the penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if Illegal Recruitment constitutes economic sabotage" such as in the case of Illegal Recruitment in Large Scale. Notably, the same section states that "the maximum penalty shall be imposed if x x x committed by a non-licensee or non-holder of authority."^[35]

Significantly, RA 10022, which took effect on May 7, 2010,^[36] amended the fine under Section 7(b) of RA 8042 in this wise, *viz.* :

The penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) nor more than Five million pesos (P5,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

Provided, however, That the maximum penalty shall be imposed if x x x committed by a non-licensee or non-holder of authority.^[37]

Considering that the crime charged was committed on January 11, 2012, which is almost two (2) years after the amendment took effect on May 7, 2010, the penalty as amended by RA 10022 should be, perforce, applied. Moreover, Section 7 of the latter statute provides that the maximum penalty shall be imposed if committed by a non-licensee or non-holder of authority.

Considering the foregoing premises, the proper penalty to be imposed upon appellant is life imprisonment and a fine of P5,000,000.00.

WHEREFORE, the appeal is **DISMISSED**. The assailed February 10, 2017 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 08232, which affirmed the March 16, 2016

Judgment of the Regional Trial Court of Pasig City, Branch 166 in Criminal Case No. 146959 finding accused appellant Oliver Imperio y Antonio **GUILTY** beyond reasonable doubt of Illegal Recruitment in Large Scale under Republic Act No. 8042, as amended by Republic Act No. 10022, and sentencing him to suffer the penalty of life imprisonment, is **AFFIRMED with MODIFICATION** in that the Fine is increased from P500,000.00 to P5,000,000.00.

The amounts ordered to be paid as actual damages in Criminal Case No. 146959 shall earn interest at the legal rate of six percent (6%) *per annum* which shall be computed from the date of finality of this Decision until fully paid.

SO ORDERED.

Perlas-Bernabe, Senior Associate Justice, (Chairperson), Inting, and Delos Santos, JJ., concur.

Baltazar-Padilla, J., on leave.

[1] *Rollo*, pp. 2-17; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a member of this Court).

[2] *CA rollo*, p. 47-57; penned by Judge Rowena De Juan-Quinagoran.

[3] *Records*, pp. 1-2.

[4] *Id.* at 1.

[5] *Rollo*, p. 3.

[6] The records show that she was not able to file a complaint against appellant.

[7] *Records* pp. 177 and 180.

[8] *Id.* at 170; partial payment amounting to P3,000.00 deposited in the Banco De Oro (BDO) account of appellant.

[9] *Id.* at 191.

[10] *Id.* at 160.

[11] *CA rollo*, pp. 47-57.

[12] *Id.* at 55-56.

[13] *Id.* at 56.

[14] *Rollo*, pp. 2-17.

[15] *Id.* at 17.

[16] *Id.* at 12.

[17] *Records*, p. 191.

[18] *Rollo*, pp. 24-25.

[19] *Id.* at 26-28, and 31-33.

[20] *CA rollo*, p. 42.

[21] LABOR CODE OF THE PHILIPPINES, Presidential Decree No. 442 (Amended & Renumbered). Approved: July 21, 2015.

[22] AN ACT AMENDING R.EPUBUC ACT NO. 8042, Otherwise Known as the Migrant Workers and Overseas Filipino Act of 1995, Republic Act No. 10022. Approved: March 8, 2010.

[23] *People v. Tolentino*, 762 Phil. 592, 611 (2015).

[24] *People v. Sison*, 816 Phil. 8, 22-23 (2017) citing *People v. Abat*, 661 Phil. 127, 132 (2011).

[25] *Records*, p. 191.

[26] *Id.*

[27] *Calma v. People*, 820 Phil. 848, 866 (2017).

[28] *People v. Leoño*, G.R. No. 244379, December 5, 2019, citing *People v. Gharbia*, 369 Phil. 942, 953 (1999).

[29] *People v. Dela Cruz*, 811 Phil. 745, 764 (2017).

[30] 602 Phil. 1037 (2009).

[31] *Id.* at 1045-1046.

[32] *People v. Tolentino*, *supra* note 23, at 613.

[33] *People v. Dela Cruz*, *supra* note 29.

[34] *People v. Molina*, G.R. No. 229712, February 28, 2018.

[35] Republic Act No. 8042, Section 7.

[36] *People v. Molina*, *supra* note 34.

[37] Republic Act No. 10022, Section 6.



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