

THIRD DIVISION

[G.R. No. 198015, January 20, 2021]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AVELINA MANALANG A.K.A. TESS ROBLES, A.K.A. ALVINA
MANALANG, ACCUSED-APPELLANT.**

D E C I S I O N

HERNANDO, J.:

Challenged in this appeal is the November 23, 2010 Decision^[1] of the Court of Appeals (CA) in CA-GR CR-HC No. 03820 which found accused-appellant Avelina Manalang a.k.a. Tess Robles, a.k.a. Alvina Manalang (Manalang) guilty beyond reasonable doubt of Illegal Recruitment in Large Scale and three (3) counts of Estafa.

The Antecedents:

Manalang was charged with Illegal Recruitment in Large Scale in violation of Section 6(1) and (m) of Republic Act No. 8042 (RA 8042), otherwise known as the Migrant Workers and Overseas Filipino Act of 1995, and Estafa under Article 315(2) of the Revised Penal Code (RPC).^[2]

Docketed as Criminal Case No. 01-192706, the Information charging Manalang with Illegal Recruitment in Large Scale alleged:

That in or about and during the period comprised between June 2000 to May 28, 2011, inclusive in the City of Manila, Philippines, the said accused (*defendant-appellant, herein*), conspiring and confederating with one whose true name, real identity and present whereabouts is still unknown and mutually helping each other, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment/job placement to the following persons, to wit:

As Chamber Maid in Australia:

Ma. Teresa P. Marañon
Erlic Lorricon y Lavado
Leizel Miguel y Leria
Gemma L. Ortiz
Lolita V. Tura

As Factory Worker in South Korea

Jhun M. Labarento

Edwin L. Geronimo

As Waiter in Australia
Edgardo R. Cawas

without first having secured the required license or authority from the Department of Labor and Employment and said accused without valid reasons and without the fault of the complainants failed to actually deploy them and continuously fail, despite demands to reimburse the expense incurred by the said complainants in connection with their documentation and processing for purpose of their deployment.

Contrary to law.^[3]

In addition, eight (8) other Informations^[4] docketed as Criminal Case Nos. 01-192707 to 01-192714 charged Manalang with Estafa. The accusatory portions of the Informations in Criminal Case Nos. 01-192707, 01-192712, and 01-192714, which are the subject of the instant appeal, read:

Criminal Case No. 01-192707:

That in or about and during the period comprised between December 9, 2000 and May 28, 2001 inclusive, in the city of Manila, Philippines, the said accused, conspiring and confederating with one whose true name identity and present whereabouts are still unknown and helping each other, the said accused did then and there willfully, unlawfully and feloniously defraud MA. TERESA P. MARAÑON in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said MA. TERESA P. MARAÑON to the effect that they have the power and capacity to recruit and employ said MA. TERESA P. MARAÑON in Australia as Chamber Maid and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said MA. TERESA P. MARAÑON to give and deliver, as in fact, she gave and delivered to said accused the amount of P80,000.00 on the strength of the said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the said amount of P80,000.00 which amount once in her possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of the said MA. TERESA P. MARAÑON in the aforesaid amount of P80,000.00, Philippine currency.

Contrary to law.^[5]

Criminal Case No. 01-192712:

That in or about and during the period comprised between August 16, 2000 and May 28, 2001, inclusive, in the city of Manila, Philippines, the said accused, conspiring and confederating with one whose true name identity and present whereabouts are still unknown and helping each other, the said accused did then and there willfully, unlawfully and feloniously defraud LOLITA V. TURA in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said LOLITA V. TURA to the effect that they have the power and capacity to recruit and employ said LOLITA V. TURA in Australia as Chamber Maid and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said LOLITA V. TURA to give and deliver, as in fact, she gave and delivered to said accused the amount of P56,000.00 on the strength of the said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the said amount of P56,000.00 which amount once in her possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of the said LOLITA V. TURA in the aforesaid amount of P56,000.00, Philippine currency.

Contrary to law.^[6]

Criminal Case No. 01-192714:

That in or about and during the period comprised between February 21, 2001 and May 28, 2001 inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating with one whose true name identity and present whereabouts are still unknown and helping each other, the said accused did then and there willfully, unlawfully and feloniously defraud EDGARDO R. CAWAS in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said EDGARDO R. CAWAS to the effect that they have the power and capacity to recruit and employ said EDGARDO R. CAWAS in Australia as waiter and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said EDGARDO R. CAWAS to give and deliver, as in fact, she gave and delivered to said accused the amount of P65,000.00 on the strength of the said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the said amount of P65,000.00 which amount once in her possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of the said EDGARDO R. CAWAS in the aforesaid amount of P65,000.00, Philippine currency.

Contrary to law.^[7]

The cases were thereafter consolidated^[8] and upon arraignment, Manalang pleaded not guilty to all charges.^[9]

Trial ensued. Eventually, the RTC provisionally dismissed Criminal Case Nos. 01-192708^[10] and 01-192710^[11] on June 7, 2004 for failure of the respective complainants to appear before the court.^[12] Criminal Case Nos. 01-192709,^[13] 01-192711,^[14] and 01-192713^[15] were subsequently dismissed by the trial court for lack of evidence.^[16]

During the trial, the testimony of the Philippine Overseas Employment Administration (POEA) representative, Ann Bella Ching, was dispensed^[17] with after the defense stipulated on the veracity of the POEA Certification^[18] dated January 23, 2002 which partly stated:

This is to certify that per available records of this Office, AVELINA MANALANG, in her personal capacity is neither licensed nor authorized by this Administration to recruit workers for overseas employment.

Any recruitment activity undertaken by the above-named person is deemed illegal. [xxx]^[19]

The prosecution presented the private complainants Lolita V. Tura (Tura), Ma. Teresa P. Marañon (Marañon), and Edgardo R. Cawas (Cawas), as witnesses. The defense, on the other hand, presented Manalang and Madilyn Masagca (Masagca) as its witnesses.

Evidence for the Prosecution:

1. Tura's Testimony:

On August 16, 2000, Tura went to Trade Center Building, Padre Faura St., Ermita, Manila, where a certain "Maria" introduced her to Manalang who deploys workers to Australia.^[20]

During their meeting, Manalang promised to deploy Tura to Australia as a chambermaid with a monthly salary of \$1,200.00.^[21] Convinced, Tura agreed to travel as a tourist and paid Manalang P80,000.00 as placement fee, inclusive of processing charges for her withholding income tax, bank statement and visa.^[22]

Tura made the following partial payments: F7,000.00 on August 16, 2000;^[23] P25,000.00 on November 29, 2000;^[24] and P24,000.00 in January 2001.^[25] Since Tura's partial payments amounted to only P56,000.00 out of the P80,000.00 total placement fee, she and Manalang agreed that the balance will be deducted from her salary upon her deployment.^[26]

Manalang issued corresponding receipts for the first two partial payments, or a total

of P32,000.00. In both instances, Manalang signed the receipts as "Tess Robles" in Tura's presence. Tura was not issued a receipt corresponding to her last payment but she recalled that the payment took place in Manalang's house in Dapitan, Sampaloc, Manila.^[27]

Tura waited for her deployment, which defendant-appellant promised would be in January 2001.^[28] By March 2001, she was still not deployed. Hence, Tura demanded the reimbursement of P56,000.00 but Manalang failed to return said amount.^[29]

Thus, Tura filed a complaint before the Criminal Investigation and Detection Group (CIDG), which successfully arrested Manalang in an entrapment operation on May 28, 2001.^[30]

During trial, Tura positively identified Manalang as the person who issued the receipts for her partial payments, and signed them as "Tess Robles".^[31]

2. Marañon's Testimony:

In November 2000, Marañon was looking for a job at Trade Center Building along Padre Faura Street when a certain Mercy Casa approached her and informed her of the ongoing recruitment for employment in Australia. She then went upstairs at Room 221, Honte Travel Tours, and was introduced to Manalang.

Manalang informed Marañon that she can work as a chambermaid in Australia with a salary of AUD15,000.00 per month^[32] provided she pays a placement fee of P160,000.00 and submits her passport and NBI clearance. In addition, the accused promised Marañon that she will take care of her taxes, charges and fees and the processing of her papers in relation to her tourist visa, and eventually her working visa.^[33] They both agreed as well that Marañon will give a down payment of P90,000.00 and the balance will be deducted from her salary.^[34]

Marañon gave Manalang a total of P80,000.00 on the following dates: (1) P70,000.00 on November 9, 2000 as evidenced by receipt no. 211405;^[35] and (2) P10,000.00 on November 29, 2000, as evidenced by receipt no. 211415.^[36] Marañon witnessed the accused sign both receipts as "Tess Robles".^[37]

Manalang assured Marañon that she will be deployed for employment in Australia by January 2001. However, this did not materialize. In view of Manalang's failed promises, Marañon went to the POEA to verify whether Manalang is a licensed recruiter. To her surprise, she was informed that Manalang was not authorized to recruit workers abroad.^[38] Thus, on April 4, 2001, Marañon demanded Manalang to return her passport and partial payments, however the latter only returned her passport.^[39]

Subsequently, Manalang again asked Marañon for an additional P10,000.00 to complete her down payment of P90,000.00. Due to this, Marañon sought the help of the CIDG. On May 28, 2001, Manalang was arrested in an entrapment operation.^[40]