

THIRD DIVISION

[G.R. No. 209859, June 05, 2017]

**EILEEN P. DAVID, PETITIONER, VS. GLENDA S. MARQUEZ,
RESPONDENT.**

DECISION

TIJAM, J.:

This is a Petition for Review on Certiorari^[1] under Rule 45, assailing the Decision^[2] dated May 29, 2013 and Resolution^[3] dated November 6, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 124839, reinstating the criminal cases of Illegal Recruitment and Estafa ag inst Petitioner Eileen David.

The Procedural and Factual Antecedents

In a *Sinumpaang Salaysay* filed before the Office of the City Prosecutor of Manila, Respondent Glenda Marquez alleged, among others, that she is a resident of Sampaloc, Manila and that sometime in March 2005, petitioner approached her in Kidapawan City and represented that she could recruit her to work abroad.^[4] It was further alleged that petitioner demanded payment of placement fees and other expenses from the respondent for the processing of the latter's application, to which the respondent heeded.^[5] Respondent's application was, however, denied and worse, the money that she put out therefor was never returned.^[6]

In her Counter-Affidavit and Counter Charge, petitioner averred that it was physically impossible for her to have committed the said acts as she was in Canada at the alleged time of recruitment as evidenced by the entries in her passport.^[7] Petitioner further averred that she was never engaged in the recruitment business.^[8] The petitioner alleged that the amount deposited in her account was not for her but was just coursed through her to be given to her friend in Canada who was the one processing respondent's application, as evidenced by a certification to that effect issued by the said friend.^[9] Further, petitioner argued before the Prosecutor that assuming *arguendo* that the allegations of recruitment were true, the case should be filed in Kidapawan City and not in Manila.^[10]

On December 9, 2008, two separate Informations were filed against petitioner for Illegal Recruitment and Estafa, respectively. The accusatory portions thereof read as follows:

Criminal Case No. 08-265539

The undersigned accuses EILEEN DAVID of a violation of Article 38 (a), P.D. No. 1412, amending certain provision of Book I, P.D. No. 442, otherwise known as the New Labor Code of the Philippines, in relation to Article 13 (b) and (c) of said code, as further amended by P.D. Nos. 1693, 1920, and 2018 and as further amended by Sec. 6 (a), (1) and (m) of Republic Act 8042, committed as follows:

That sometime in the month of March, 2005, in the City of Manila, Philippines, the said accused representing herself to have the capacity to contract, enlist and transport Filipino workers overseas, particularly in Canada, did then and there willfully, unlawfully, for a fee, recruit and promise employment/job placement to GLENDA S. MARQUEZ without first having secured the required license from the Department of Labor and Employment as required by law, and charged or accepted directly or indirectly from said complainant the amount of Php152,670.00 as placement/processing fee in consideration for her overseas employment, which amount is in excess of or greater than that specified in the schedule of allowable fees prescribed by the POEA, and without valid reasons failed to actually deploy her and continuously fail to reimburse expenses incurred by her in connection with her documentation and processing for purposes of her deployment.

Contrary to law.^[11]

Criminal Case No. 08-265540

The undersigned accuses EILEEN P. DAVID of the crime of Estafa, Art. 315 par. 2 (a) of the Revised Penal Code, committed as follows:

That on or about and during the period comprised between March 8, 2005 and April 20, 2007, inclusive, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully, and feloniously defraud GLENDA S. MARQUEZ in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said GLENDA S. MARQUEZ prior to and even simultaneous with the commission of the fraud, to the effect that she had the power and capacity to recruit and employ said GLENDA S. MARQUEZ for overseas employment in Canada as Live-in Caregiver, and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, induced and succeeded in inducing the said GLENDA S. MARQUEZ to give and deliver, as in fact she gave and delivered to said accused the total amount of Php152,670.00, on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact, she did obtain the said amount of Php152,670.00, which amount once in her possession, with intent to defraud, misappropriated, misapplied, and converted to her own personal use and benefit, to the damage and prejudice of said GLENDA S. MARQUEZ in the aforesaid amount of Php152,670.00, Philippine Currency.

Contrary to law.^[12]

The Ruling of the Regional Trial Court

On December 11, 2008, warrants of arrest were issued against the petitioner.

On April 15, 2009, petitioner filed a Motion to Quash the Information^[13] in Criminal Case No. 08-265540, arguing that she was deprived of her right to seek reconsideration or reinvestigation of the public prosecutor's resolution as she was not furnished a copy thereof.^[14] Also, petitioner argued that the City Prosecutor of Manila had no jurisdiction over the case as the alleged crime was committed in Kidapawan City.

In an Order^[15] dated May 13, 2011 in Criminal Case No. 08-265540, the Regional Trial Court (RTC) of Manila, Branch 55, denied petitioner's Motion to Quash, ruling that the ground relied upon by the petitioner in the said motion is not one of those enumerated under Section 3^[16], Rule 117 of the Rules of Court for quashing a complaint or information.^[17] As to the jurisdictional issue, the RTC ruled that it has jurisdiction to take cognizance of the case, citing Section 9 of Republic Act No. 8042^[18] (RA 8042), which explicitly states that:

A criminal action arising from illegal recruitment as defined herein shall be filed with the Regional Trial Court of the province or city where the offense was committed **or where the offended party actually resides at the time of the commission of the offense** xxx. (*underscoring supplied for emphasis*)^[19]

Since complainant is a resident of Manila, the RTC ruled that the second ground interposed by the petitioner is devoid of merit.^[20] Thus:

In view of the foregoing, the Motion to Quash is hereby DENIED for lack of merit.

SO ORDERED.^[21]

Petitioner filed a Motion for Reconsideration^[22] of the said Order alleging that she just found out that there were two Informations filed against her, one for Illegal Recruitment in Criminal Case No. 08-265539^[23] and another for Estafa^[24] in Criminal Case No. 08-265540. Petitioner maintained that the alleged crimes were committed in Kidapawan City, not in Manila as alleged in the Informations. Petitioner further alleged that there is no showing that respondent is an actual resident of

Manila but as per her Reply-Affidavit, Manila is merely her postal address.^[25] Hence, petitioner again raised a jurisdictional issue in the said motion.^[26]

In an Order^[27] dated January 26, 2012, this time in Criminal Cases Nos. 08-265539-40, the RTC reconsidered its May 13, 2011 Order, finding that it had no jurisdiction to try the cases since the crimes of Illegal Recruitment and Estafa were not committed in its territory but in Kidapawan City, thus:

WHEREFORE, in the light of the foregoing, the instant Motion for Reconsideration is hereby GRANTED. The Order of this Court dated May 13, 2011 is hereby RECONSIDERED and SET ASIDE.

This case is ordered returned to the Office of the Clerk of Court of the Regional Trial Court for proper disposition.

SO ORDERED.^[28]

On the same date, the RTC also issued an Order^[29] recalling the warrants of arrest issued against the petitioner, thus:

Considering that this Court has no territorial jurisdiction over the above-entitled cases, the Order of this Court dated December 11, 2008, pertaining to the issuance of Warrants of Arrest against herein accused is hereby cancelled (and) set aside.

WHEREFORE, let the Warrants of Arrest issued in these cases be ordered RECALLED AND SET ASIDE.

SO ORDERED.^[30]

Respondent, through the public prosecutor, then filed a Motion for Reconsideration^[31] of the said Order, averring that while it appears in the Philippine Overseas Employment Administration (POEA) pro-forma complaint affidavit that the alleged recruitment activities took place in Kidapawan City, it also appears in her Reply-Affidavit, that she deposited certain amounts in several banks in Manila for the name and account of petitioner as payments for employment processing and placement fees.^[32] Thus, part of the essential elements of Illegal Recruitment and Estafa took place in Manila.^[33] Section 9 of RA 8042, above-quoted, which states that an illegal recruitment case may also be filed with the RTC of the province or city where the offended party actually resides at the time of the commission of the crime, was likewise invoked in the said motion.^[34] Respondent averred that the records show that at the time of the incident up to the present, she resides in Sampaloc, Manila.^[35]

Petitioner filed an Opposition^[36] to the said motion. Respondent, through the public

prosecutor, filed a Comment^[37] thereon and a Reply^[38] was then filed by the petitioner.

In an Order^[39] dated March 16, 2012, the RTC denied respondent's motion for reconsideration, ruling that as stated in respondent's *Sinumpaang Salaysay*, the essential elements of Illegal Recruitment and Estafa took place in Kidapawan City and not in Manila. The allegation that several deposits for the payment of the placement fees were made in Manila is of no moment, according to the RTC, considering that the main transaction actually took place in Kidapawan City, which is the basis for determining the jurisdiction of the court. Thus:

WHEREFORE, premises considered, the instant Motion for Reconsideration filed by the Prosecution is hereby DENIED for lack of merit. The Orders of the Court both dated January 26, 2012 still stand.

SO ORDERED.^[40]

The Ruling of the Court of Appeals

Undaunted, respondent filed a *Petition for Certiorari* before the CA.

In its assailed Decision, the CA discussed, first, the issue of respondent's legal personality to file the said petition and second, the RTC's jurisdiction over the case.^[41]

On the first issue, the CA ruled that while it is only the Office of the Solicitor General (OSG) that may represent the People or the State in criminal proceedings before this Court or the CA, the private offended party retains the right to bring a special civil action for *certiorari* in his/her own name in criminal proceedings before the courts of law.^[42] The CA cited Section 1, Rule 122, which provides that the right to appeal from a final judgment or order in a criminal case is granted to any party except when the accused is placed thereby in double jeopardy.^[43] It also cited this Court's ruling that the word party in the said provision must be understood to mean not only the government and the accused, but also other persons who may be affected by the judgment rendered in the criminal proceeding.^[44] The private complainant, having an interest in the civil aspect of the case, thus, may file such action in his/her name to question the decision or action of the respondent court on jurisdictional grounds.^[45] In line with this, the CA also ruled that there is no double jeopardy in this case as the charges were dismissed upon motion of the petitioner-accused.^[46]

As to the issue on jurisdiction, the CA ruled that the RTC has jurisdiction over the cases of Illegal Recruitment and Estafa, citing Section 9 of RA 8042, which provides that a criminal action arising from illegal recruitment may be filed in the place where the offended party actually resides at the time of the commission of the offense.^[47] According to the CA, it was established that herein respondent was residing in