

FIRST DIVISION

[G.R. No. 199497, August 24, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DELIA CAMANNONG, ACCUSED-APPELLANT.

D E C I S I O N

BERSAMIN, J.:

On appeal is the judgment promulgated on April 14, 2011 in CA-G.R. CR-H.C. No. 03529,^[1] whereby the Court of Appeals (CA) affirmed the conviction of the accused-appellant for the crime of illegal recruitment in large scale penalized under Article 38(b), in relation to Article 39(a), of the *Labor Code* but increased the fine from P100,000.00 to P500,000.00. She had been found guilty under the decision rendered on August 19, 2008 in Criminal Case No. V-1013 by the Regional Trial Court, (RTC), Branch 50, in Villasis, Pangasinan.^[2]

Antecedents

The information for illegal recruitment in large scale, to which the accused-appellant pleaded *not guilty*, alleged:

That sometime on the 3rd week of July, 2000 at Mangampang, Pogo, Bautista, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously recruit JOEL G. SALVA, MARVIN ALBANO, REYNALDO SALVA, JR., ROLLY CALIXTRO and ROGER CABAEL for employment abroad, without first securing the requisite license or authority from the Department of Labor and Employment.

Contrary to Art. 38, par. (a) in relation to Art. 39, par. (B), Labor Code of the Philippines (P.D. No. 442), as amended by PD No. 2018.^[3]

At the trial, the Prosecution presented the complainants as witnesses, namely: Joel Salva, Marvin Albano, Rolly Calixtro, and Reynaldo Salva, Jr. Also presented as a witness for the Prosecution was Remedios Mercado, Labor and Employment Officer III of the District Office in Dagupan City of the Department of Labor and Employment (DOLE).^[4] On the other hand, the accused-appellant testified for the Defense along with Rogelio Maniquez.^[5]

The CA summarized the versions of the parties as follows:

x x x [T]he prosecution endeavored to prove that on the 3rd week of July 2000, DELIA met with MARVIN, ROLLY, REYNALDO, JR. and Joseph Cabael [*JOSEPH*] and introduced herself as a recruiter of workers for deployment to Israel as apple pickers. She told them that she needed

their birth certificates and P500.00 for authentication, P1,500.00 for their medical examination and P6,500.00 to cover their processing fee and passports including the amount necessary to open a bank account for them. On the 2nd week of the following month, private complainants again met with DELIA and each of them handed her the amount of P6,500.00 in Alcala, Pangasinan. Because of their trust on and assurances of DELIA, they parted with their money without asking for receipts. According to them, DELIA promised that they would be able to leave for Israel sometime in the 3rd week of September 2000 but none of them was able to leave as promised. On February 2001, private complainants together with JOSEPH, SONNY, Betty Cabael and Susan Cabael went to DELIA's house to demand the return of their money and papers but she asked for time to withdraw the amount and retrieve the papers from their office. When DELIA defaulted again on her promise, they returned to her house but DELIA told them that the Philippine Overseas Employment Agency (POEA) will sue them if they insist on backing-out. Thus, they agreed among themselves to seek assistance from and file a complaint with the National Bureau of Investigation [NBI] of Dagupan.

On further questioning, JOEL recalled that DELIA was introduced to him and to MARVIN, REYNALDO, JR., ROLLY, JOSEPH and ROGER by a certain SONNY BRILLO [SONNY]. He claimed that he signed a contract for a monthly salary of P35,000.00 upon his deployment to Java, Israel. However, he was not furnished a copy of this contract. MARVIN, on the other hand, maintained that he had spoken with DELIA numerous times before he parted with his P6,500.00 upon the supposition that the same will be used for the procurement of his passport and payment of other processing fees. According to him, he gave a total of P7,000.00 to DELIA since he gave an additional P500.00 in the house of Susan Cabael. Meanwhile, ROLLY testified on cross-examination that it was SONNY who introduced him to DELIA when the latter went to their barangay in Bautista, Pangasinan to convince people to work abroad. When questioned by the trial judge, he asserted that aside from the P6,500.00, he gave DELIA an additional P500.00 for "authentication purposes" while at SONNY's bakery. Lastly, REYNALDO, JR. maintained during his cross-examination that he gave the money to DELIA and not to SONNY. On further questioning, the witness averred that "Pastor Sonny" and DELIA were then at the canteen of JOEL and that when he and his companions went there, they learned that DELIA and "Pastor Sonny" were recruiting workers for jobs abroad.

To prove DELIA's lack of authority to recruit workers for employment abroad, Remedios Mercado, Labor Employment Officer III of the Department of Labor and Employment [DOLE] of Dagupan City District, testified that DELIA had no certificate or license to recruit nor was she issued any special recruitment authority by the POEA.

For her part, DELIA, a sales supervisor of Rhine Marketing Corporation, denied knowing private complainants prior to her apprehension or that she recruited them for overseas employment. She insisted that it was

SONNY, cousin of her friend Celedonia Cabaal, who sends workers to Israel and that he approached her to inquire whether she knew some persons who were seeking employment abroad. According to her, NBI agent Rolly Lomboy [LOMBOY] went to her house and demanded P5,000.00 from her. When she did not accede, LOMBOY left and called her to go to the van parked along the road. When she got there, she saw five (5) unknown men seated inside the van and that she later learned that they were the applicants of SONNY. LOMBOY then took her mobile number and soon called her to meet him at Bayambang market. She sought the assistance of NBI agents who eventually apprehended LOMBOY in an entrapment operation at Cindy's Camiling. On cross-examination, she asserted that while detained at the Urdaneta District Jail, two persons, whom she later learned to be some of the private complainants, approached her to sign an affidavit to withdraw her complaint against LOMBOY.^[6]

After trial, the RTC rendered its decision on August 19, 2008 pronouncing the accused-appellant guilty as charged, and disposed:

WHEREFORE, judgment is hereby rendered finding accused Delia Camannong GUILTY beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale, penalized under Art. 38 par. (b), in relation to Art. 39 par. (a), of the Labor Code, and is hereby sentenced to suffer the penalty of *life imprisonment* and to pay a fine of P100,000.00.

The accused is likewise ordered to pay the private complainants actual damages of P6,500.00 each with legal interest from the time of the filing of the Information until fully paid.

SO ORDERED.^[7]

The accused-appellant appealed to the CA, which promulgated the assailed judgment on April 14, 2011 affirming the conviction with modification of the fine, to wit:

WHEREFORE, the foregoing considered, the appeal is hereby **DENIED** and the assailed judgment of conviction is hereby **AFFIRMED with the MODIFICATION** that the amount of the fine imposed is **INCREASED** to Five Hundred Thousand Pesos (P500,000.00).

SO ORDERED.^[8]

Hence, this appeal.

Issue

The issue is whether or not the CA correctly affirmed the conviction of the accused-appellant for the illegal recruitment in large scale and properly imposed the penalty provided by law.

Ruling of the Court

The appeal lacks merit.

The essential elements of illegal recruitment committed in large scale are: (1) that the accused engaged in acts of recruitment and placement of workers as defined under Article 13(b)^[9] of the *Labor Code*, or in any prohibited activities listed under Article 34^[10] of the *Labor Code*; (2) that she had not complied with the guidelines issued by the Secretary of Labor and Employment with respect to the requirement to secure a license or authority to recruit and deploy workers;^[11] and (3) that she committed the unlawful acts against three or more persons.^[12]

In the assailed judgment, the CA affirmed the findings of facts of the RTC, observing that:

First. DELIA made misrepresentations pertaining to her capacity to send workers abroad for employment, for which reason JOEL, MARVIN, REYNALDO, JR. and ROLLY, parted with their money believing that the same will be utilized to process their papers. Second. As testified to by an employee of the DOLE, one Remedios Mercado, DELIA had no authority to conduct any recruitment activity for overseas employment in the province of Pangasinan, including the cities of Dagupan, San Carlos and Urdaneta. Third. DELIA recruited for overseas employment, JOEL, MARVIN, REYNALDO, JR., and ROLLY.

Verily, DELIA is culpable for the crime of large scale illegal recruitment, having promised overseas employment to JOEL, MARVIN, REYNALDO, JR. and ROLLY as apple pickers in Israel. Her actions in requiring them to undergo medical examinations, opening bank accounts, procurement of passports and such other documents necessary for travel abroad, showed her alleged capacity to recruit private complainants for foreign employment when in truth she had no authority to do so. It must also be stressed that the failure of private complainants to show the covering receipts to prove payment to DELIA will not hinder her conviction for the crimes committed since the absence of receipts to evidence payment to the recruiter would not warrant an acquittal of the accused, and it is not necessarily fatal to the prosecution's cause.

Moreover, it is worthy to note that LOMBOY was never mentioned during the presentation of the prosecution's evidence either during the direct or cross-examination of its witnesses. When JOEL and MARVIN testified, only the name of Atty. Reynaldo Pangan was mentioned as the person before whom their respective affidavits were executed while the others did not mention any other names specifically that of LOMBOY. Curiously, not one of the private complainants were asked regarding their alleged connection to LOMBOY with respect to this case when they were cross-examined by the defense counsel. Truth be told, the extortion charge against LOMBOY is merely being utilized by DELIA to lend some credence to her defense of frame-up. To Our mind however, the complaint filed against DELIA cannot be taken as a mere act of retaliation on the part of JOEL, MARVIN, ROLLY and REYNALDO, JR. since it is apparent that the extortion case against LOMBOY came only after private complainants charged her with illegal recruitment. Verily, the lack of any connection between LOMBOY and private complainants is a tell-tale sign that the