

## FIRST DIVISION

[ G.R. No. 198664, November 23, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OWEN MARCELO CAGALINGAN AND BEATRIZ B. CAGALINGAN, ACCUSED-APPELLANTS.**

### DECISION

**BERSAMIN, J.:**

Illegal recruitment is a crime committed by a person who, not having the valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers, undertakes any of the activities within the meaning of "recruitment and placement" mentioned in Article 13(b) of the *Labor Code*, or any of the prohibited practices enumerated in Section 6 of Republic Act No. 8042 (*Migrant Workers' Act*), against three or more persons, individually or as a group.

### The Case

The accused-appellants assail the decision promulgated on March 18, 2011,<sup>[1]</sup> whereby the Court of Appeals (CA) affirmed their convictions for illegal recruitment in large scale and three counts of *estafa* handed down on November 25, 2004 by the Regional Trial Court (RTC), Branch 18, in Cagayan de Oro City.<sup>[2]</sup>

### Antecedents

The factual and procedural antecedents, as summarized by the CA, are as follows:

Accused-appellants Owen Marcelo Cagalingan (Owen) and Beatriz B. Cagalingan (Beatriz) (accused spouses) were charged with Illegal Recruitment in Large Scale before the Regional Trial Court of Cagayan de Oro City in a complaint initiated by private complainants Reynalyn B. Cagalingan (Reynalyn), Roselle Q. Cagalingan (Roselle), Laarni E. Sanchez (Laarni), Norma R. Cagalingan (Norma); and Arcele J. Bacorro (Arcele). Accused-appellants were likewise indicted for three (3) counts of *estafa* in the same court by private complainants Reynalyn, Roselle, and Arcele, docketed as Criminal Case Nos. 2003-124, 2003-125, and 2003-238, respectively.

The information in Criminal Case No. 2003-173, which charged the accused with illegal recruitment in large scale reads, as follows:

"That on or about and during the period from the months of October up to November, 2002, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, representing themselves to have the capacity to contract, enlist, hire and transport Filipino workers for employment in Macau, China, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, for a fee, recruit and promise employment/job placement to the following persons:

1. Reynalyn B. Cagalingan
2. Roselle Q. Cagalingan
3. Laarni E. Sanchez
4. Norma R. Cagalingan; and
5. Arcele J. Bacorro

Without first having secured or obtained the required license or authority from the government agency.

Contrary to and in Violation of Section 6, in relation to Section 7(b) of RA 8042, the Migrant Workers and Overseas Filipinos Act of 1995."

That in Criminal Case No. 2003-124 for the crime of *estafa*, the information reads:

"That on or about November 23, 2002 in the City of Cagayan de Oro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud Reynalyn Cagalingan in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said Reynalyn Cagalingan to the effect that they had the power and capacity to recruit and employ her abroad as a worker in Macao, China and could facilitate 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 the said Reynalyn Cagalingan to give and deliver, as in fact the latter gave and deliver (sic), to said accused the amount of Php 40,000.00 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 they did obtain the amount of Php 40,000.00 which amount once in their possession, with intent to defraud, they willfully, unlawfully and feloniously appropriated, misapplied

and converted to their own personal use and benefit, to the damage and prejudice of said Reynalyn Cagalingan in the aforesaid amount of Php 40,000.00, Philippine Currency.

Contrary to Article 315 (2)(a) of the Revised Penal Code."

That in Criminal Case No. 2003-125 for the crime of *estafa*, the information reads:

"That on or about November 22, 2002 in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Code, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud Roselle Cagalingan in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said Roselle Cagalingan to the effect that they had the power and capacity to recruit and employ her abroad as a worker in Macau, China and could facilitate 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 the said Roselle Cagalingan to give and deliver, as in fact the latter gave and deliver (sic), to said accused the amount of Php 40,000.00 on the strength of said manifestation and fraudulent 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 amount of Php 40,000.00 which amount once in their possession, with intent to defraud, they willfully, unlawfully and feloniously appropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Roselle Cagalingan in the aforesaid amount of Php. 40,000.00, Philippine Currency.

CONTRARY to Article 315 (2)(a) of the Revised Penal Code."

And that in Criminal Case No. 2003-238 for *estafa*, the information reads:

"That on October 28, 2002, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud Arcele J. Bacorro in the following manner, to wit: accused by means of false pretenses and fraudulent representations, which they made to said Arcele J. Bacorro representing that they had the power and

capacity to recruit and employ her to work at Macau, China and by means of their similar deceits, induced and succeeded in inducing the said Arcele J. Bacorro to give and deliver, as in fact the latter did give and deliver (sic), to said accused the amount of Php 40,000.00 as placement fee well-knowing that their representations were false and fraudulent and made solely to obtain, as in fact they did obtain the amount of Php 40,000.00 which amount once in their possession, accused willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal, use, gain and benefit, to the damage and prejudice of the offended party Arcele J. Bacorro in the aforesaid sum of P40,000.00, Philippine Currency.

Contrary to and in violation of Article 315 (2)(a) of the Revised Penal Code."

Warrants of arrest against accused spouses were issued on various dates and accused spouses were arrested on May 26, 2003 in Vigan, Ilocos Sur. Nevertheless, due to budgetary constraints, accused spouses were brought to the court *a quo* only on June 4, 2004.

Thereafter, upon arraignment both accused assisted by counsel pleaded "not guilty" to the crimes charged. Joint trial ensued thereafter.

The prosecution presented as witnesses the following: private complainants Arcele, Reynalyn, Laarni, and Roselle; Leonardo G. Rodrigo (Leonardo), Officer-in-Charge of the Philippine Overseas Employment Administration (POEA)-Regional Extension Unit-10, Cagayan de Oro City; and Marichu Damasing (Marichu), Branch Clerk of Court, Branch 1, MTCC-Cagayan de Oro City. The evidence presented by the prosecution established the following facts.

On different dates and occasions, private complainants were recruited by Accused Spouses to work in Macau, China for a fee. Accused spouses Owen and Beatriz were from Vigan, Ilocos Sur but Owen grew up and finished his high school education in Cagayan de Oro City. Owen is the first cousin of the husbands of private complainants Reynalyn and Roselle and the nephew of the husband of private complainant Norma.

Private complainant Arcele testified that she met accused spouses on October 28, 2002 at around 12 o'clock noon, at the house of private complainant Norma. The latter introduced accused spouses to her and she was told by accused Owen that her wife, accused Beatriz, was asked by her employer, a certain Lu Ting Hoi Simon, of Macau, China to hire office workers who are computer literate to work at Mandarin Oriental Hotel. Beatriz confirmed this information and added that she was even given a leave of absence by her employer just to come home in order to hire workers. It was Owen who explained to her about the job and the requirements like: passport, bio-data, Diploma in lieu of Transcript of

Records, and Forty Thousand Pesos (P40,000.00) for roundtrip tickets and documentation fees as Beatriz could not speak Visayan.

On November 6, 2002, Arcele paid Fifteen Thousand Pesos (P15,000.00) to accused Owen and subsequently, another P5,000.00 after she mortgaged her house in order to raise the required amount. She was issued a receipt for the P20,000.00 and was told that the balance of P20,000.00 was needed for the documentation fee. She was likewise told that her departure for Manila would be on November 22, 2002 and on November 23, 2002 for Macau, China. Nonetheless, as she was not able to pay the P20,000.00 before the scheduled date, her departure was postponed. Hence, on November 23, 2002, she paid in full the balance of P20,000.00 without receipt as she trusted accused spouses. The departure was rescheduled on November 29, 2002 for Manila at 3 o'clock in the afternoon and on November 30, 2002 for Macau, China. They further agreed that Accused Spouses would fetch her at her house at 12 o'clock noon on November 29, 2002. Unfortunately, on the said date and time, accused spouses failed to appear. Hence, she decided to proceed to Cagayan de Oro City airport and look for accused spouses but the latter were not around. Instead, she met the other recruits at the airport and they all realized that they were victims of illegal recruitment. She and the other private complainants went home aggrieved and humiliated.

Private complainant Reynalyn likewise recounted that accused Owen was the first cousin of her husband and accused spouses were introduced to her by her parents-in-law on October 4, 2002 as the latter stayed at the house of her parents-in-law located adjacent to her house. Accused Owen offered to help her find work in Macau, China as accused Beatriz was allegedly asked by her employer to find Filipino workers who could replace the Taiwanese and Portuguese workers in Mandarin Oriental Hotel at Macau, China. As Reynalyn was not a college graduate, she was told that she could be assigned at the laundry section with a salary rate equivalent to Eighteen Thousand Pesos (P18,000.00) per month. She was told to secure her passport, to fill-up the bio-data with Chinese character and to pay P40,000.00 for plane tickets and other documents. She paid accused spouses the said amount and a receipt was issued to her. However, on the scheduled date of departure to Manila on November 29, 2002, she waited for accused spouses at the airport but to her disappointment, the latter failed to show up.

Another prosecution witness, private complainant Laarni, also testified that it was private complainant Roselle who informed her that accused spouses were recruiting workers for Macau, China. On October 21, 2002, she met Roselle together with accused spouses and the latter asked her if she was willing to work in Macau. She was asked about her educational background and upon knowing that she is an AB Journalism graduate, and took up computer informatics, Beatriz assured her that she could work in Macau. She was offered as office secretary for a two (2) years contract with a salary of P18,000.00 a month. She was then given a bio-data with Chinese characters with a corresponding English translation to fill up and was required to submit her transcript of records, diploma, certificate of employment and a photocopy of her passport. She was also