

## THIRD DIVISION

[ G.R. No. 200884, June 04, 2014 ]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MILDRED SALVATIERRA Y MATUCO, APPELLANT.**

### DECISION

**PERALTA, J.:**

On appeal is the Court of Appeals (CA) Decision dated June 3, 2011 in CA-G.R. CR-HC No. 03687 affirming with modification the Regional Trial Court (RTC)<sup>[1]</sup> Joint Decision<sup>[2]</sup> in Criminal Case Nos. MC04-8838 and MC05-9048 to 9055.

Appellant Mildred M. Salvatierra was charged in an Information for Illegal Recruitment in Large Scale in violation of Section 6 of Republic Act No. (RA) 8042, allegedly committed as follows:

That on or about the period covering March 2004 to October 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, representing herself to have the capacity of contracting, enlisting and transporting Filipino workers for employment abroad, did then and there willfully, unlawfully and feloniously, recruit and promise employment/job placement abroad, specifically in Korea as factory workers to Reynaldo Andremesin, Otelio J. Florentino, Ruzzel C. Crisostomo, Ma. Reinaluz De Guzman, Arvin M. Ariguin, Lester Duyao, Rosalyn A. Fernandez and Renante B. Quirao, Jr. for a fee in the amount of P75,000.00, P75,000.00, P83,000.00, P83,000.00, P97,000.00, P57,000.00, P64,000.00 and P49,500.00 respectively, which is beyond the amount provided under the law, without first securing the required license and authority from the Department of Labor and Employment, and despite the receipt of the payment of the fees, accused failed to deploy said complainants for job placement abroad, which act is deemed committed in large scale, in violation of the aforementioned law.

CONTRARY TO LAW.<sup>[3]</sup>

The case was docketed as Criminal Case No. MCO4-8838.

Appellant was likewise charged in eight (8) separate Informations for *Estafa* under Article 315 (a) of the Revised Penal Code (RPC). The informations were similarly worded, except for the name of the person and the amount defrauded, as follows:

That on or about the period covering April 2004 to October 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of the Honorable Court, the above-named accused, with intent to defraud RUZZEL S. CRISOSTOMO, by means of deceit and false pretenses executed prior to or simultaneous with the commission of fraud, did then and there willfully, unlawfully and feloniously pretend and falsely represent to complainant that she has the capacity to recruit, enlist and facilitate his deployment abroad for the amount of P83,500.00, complainant relying on said representation was induced to give and deliver to the accused, as in fact he gave and delivered the said amount to her and which amount accused appropriated for her personal use and despite repeated demands, accused failed and continue to fail to return to complainant said amount, to the damage and prejudice of the complainant.

CONTRARY TO LAW.<sup>[4]</sup>

The same acts were committed against Renante B. Quirao, Jr. for P49,500.00;<sup>[5]</sup> Rosalyn A. Fernandez for P64,000.00;<sup>[6]</sup> Lester C. Duyao for P57,500.00;<sup>[7]</sup> Ma. Reinaluz De Guzman for P83,500.00;<sup>[8]</sup> Reynaldo B. Adremesin for P75,000.00;<sup>[9]</sup> Arvin M. Ariguin for P97,500.00;<sup>[10]</sup> and Otelio J. Florentino, Jr. for P75,000.00.<sup>[11]</sup> The cases were docketed as Criminal Case Nos. MC05-9048-9055. <sup>[12]</sup> The estafa and illegal recruitment cases were raffled to the RTC, Branch 211, Mandaluyong City.

Upon arraignment, appellant pleaded "not guilty" to all the charges. Trial on the merits ensued.

The prosecution established that on different occasions, appellant represented herself to be capable of deploying workers for a fee to South Korea. Believing on such representation, the victims parted with their money and waited for appellant's instructions. Upon receipt of the initial payments made by the victims, appellant issued either receipts or petty cash vouchers. Afterwhich, appellant stopped seeing them and failed to deploy them. Appellant yet demanded additional placement fee and made instructions to meet them at Greenwich Restaurant in Shaw Blvd. in Mandaluyong City. Prior to said meeting, the victims went to the National Bureau of Investigation (*NBI*) to complain about appellant's activities. They likewise informed the *NBI* of their scheduled meeting with appellant, hence, the plan for entrapment operation where appellant was arrested. Upon her arrest, the *NBI* agents took from her the marked money. She was, likewise, found positive for yellow fluorescent smudges.<sup>[13]</sup>

Appellant, for her part, raised the defense of denial and claimed that she herself was an applicant and a victim of Llanesa Consultancy. She denied having transacted with the victims and explained that she was shocked when *NBI* agents invited her while she was attending mass in Mandaluyong City. As to the receipts and petty cash vouchers, she admitted having signed them but only upon instructions of a certain Susan Carillo.<sup>[14]</sup>

On October 10, 2008, the RTC rendered a Decision<sup>[15]</sup> against appellant, the

dispositive portion of which reads:

WHEREFORE, the court finds the accused **MILDRED SALVATIERRA y MATUCO GUILTY** beyond reasonable doubt of the above-entitled cases and hereby sentences her accordingly, thus:

1. In Criminal Case No. MC05-8838, for Violation of R.A. 8042, otherwise known as The Migrant Workers and Overseas Filipinos Act of 1995, sentences her to life imprisonment and to pay a fine of P200,000.00;
2. In Criminal Case No. MC05-9048, for Estafa involving Ruzzel S. Crisostomo, to suffer a minimum period of four (4) years of prision correccional to a maximum period of ten (10) years of prision mayor and to indemnify the complainant the amount of Php83,500.00 and to pay the costs;
3. In Criminal Case No. MC05-9049, for Estafa involving Renante B. Quirao, Jr., to suffer a minimum period of four (4) years of prision correccional to a maximum period of six (6) years of prision mayor and to indemnify the complainant the amount of Php49,500.00 and to pay the costs;
4. In Criminal Case No. MC05-9050, for Estafa involving Rosalyn A. Fernandez, to suffer a minimum period of four (4) years of prision correccional to a maximum period of eight (8) years of prision mayor and to indemnify the complainant the amount of Php64,000.00 and to pay the costs;
5. In Criminal Case No. MC05-9051, for Estafa involving Lester C. Duyao, to suffer a minimum period of four (4) years of prision correccional to a maximum period of seven (7) years of prision mayor and to indemnify the complainant the amount of Php57,500.00 and to pay the costs;
6. In Criminal Case No. MC05-9052 for Estafa involving Ma. Reinaluz De Guzman, to suffer a minimum period of four (4) years of prision correccional to a maximum period of ten (10) years of prision mayor and to indemnify the complainant the amount of Php83,500.00 and to pay the costs;
7. In Criminal Case Nos. MC05-9053, MC05-9054 and MC05-9055, for Estafa involving Reynaldo B. Adremesin, Arvin M. Ariguin and Otelio J. Florentino, Jr., for failure of the prosecution to prove her guilt beyond reasonable doubt, the cases against the accused are hereby DISMISSED.

It appearing that accused is detained, the period of her detention shall be credited in the service of her sentence.

SO ORDERED. [16]

On appeal, the CA affirmed the RTC decision with modification by increasing the fine imposed on the illegal recruitment case to P500,000.00. The appellate court likewise modified the penalties on the *estafa* cases. The dispositive portion of the appealed decision is hereafter quoted for easy reference:

**WHEREFORE**, in view of the foregoing, the assailed Joint Decision of the Regional Trial Court of Mandaluyong City (Branch 211) in Criminal Case No. MC04-8838 is **AFFIRMED** in so far as it adjudged accused-appellant guilty beyond reasonable doubt of large-scale illegal recruitment in violation of R.A. No. 8042 or "The Migrant Workers and Overseas Filipinos Act of 1995." The fine imposed upon accused-appellant is increased to P500,000.00.

The assailed Joint Decision in Criminal Cases Nos. MC05-9048-MC05-9049, MC05-9050, MC05-9051 and MC05-9052 is **AFFIRMED** in so far as it adjudged accused-appellant guilty beyond reasonable doubt of five (5) counts of estafa under Article 315, paragraph (2) of the Revised Penal Code. The Joint Decision is **MODIFIED**, in so far as the penalty imposed. Accused-appellant is hereby imposed the following indeterminate sentences:

1. 6 years, 8 months and 21 days of prision mayor, as minimum, to 12 years, 8 months and 21 days of reclusion temporal, as maximum in Criminal Case No. MC05-9048;
2. 6 years, 8 months and 21 days of prision mayor, as minimum, 8 years, 8 months and 21 days of prision mayor, as maximum, in Criminal Case No. MC05-9049;
3. 6 years, 8 months and 21 days of prision mayor, as minimum, 10 years, 8 months and 21 days of prision mayor, as maximum, in Criminal Case No. MC05-9050;
4. 6 years, 8 months and 21 days of prision mayor, as minimum, 9 years, 8 months and 21 days of prision mayor, as maximum, in Criminal Case No. MC05-9051; and
5. 6 years, 8 months and 21 days of prision mayor, as minimum, 12 years, 8 months and 21 days of reclusion temporal, as maximum, in Criminal Case No. MC05-9052.

**SO ORDERED.**<sup>[17]</sup>

Hence, the present appeal.

In a Resolution<sup>[18]</sup> dated June 18, 2012, the Court notified the parties that they

may file their respective supplemental briefs if they so desire; and required the Superintendent of the Correctional Institution for Women to confirm the confinement of appellant. Said confinement was confirmed in a letter<sup>[19]</sup> dated July 26, 2012. Appellant filed a Manifestation in Lieu of Supplemental Brief<sup>[20]</sup> since her defenses and relevant issues have been exhaustively and substantially discussed in her appellant's brief; while appellee, through the Office of the Solicitor General (OSG), filed its Supplemental Brief<sup>[21]</sup> on September 20, 2012.

We affirm appellant's conviction with modification, however, on the penalties imposed.

The crime of illegal recruitment is defined and penalized under Sections 6 and 7 of RA 8042, or the Migrant Workers and Overseas Filipinos Act of 1995, to wit:<sup>[22]</sup>

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, x x x:

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.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

SEC. 7. *Penalties.* –

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

(b) 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 as defined herein.