

## FIRST DIVISION

[ G.R. No. 187052, September 13, 2012 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MELISSA CHUA A.K.A. CLARITA NG CHUA, ACCUSED-APPELLANT.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

Before us is an appeal from the September 15, 2008 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 01006. The Court of Appeals had affirmed with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Manila, Branch 33, in Criminal Case No. 03-217999-403. The RTC found appellant Melissa Chua, a.k.a. Clarita Ng Chua, guilty beyond reasonable doubt of illegal recruitment in large scale and four counts of *estafa*. The Court of Appeals modified the penalty imposed upon appellant for each count of *estafa* to an indeterminate penalty of imprisonment for 4 years and 2 months of *prision correccional*, as minimum, to 13 years of *reclusion temporal*, as maximum.

Appellant Melissa Chua was charged on May 6, 2003, with the crime of illegal recruitment in large scale in an Information<sup>[3]</sup> which alleged:

That on or about and during the period comprised between July 29, 2002 and August 20, 2002, both dates inclusive, in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers overseas particularly to Taiwan, did then and there wilfully, unlawfully, for fee, recruit and promise employment/job placement to REY P. TAJADAO, BILLY R. DA[N]AN,<sup>[4]</sup> ROYLAN A. URSULUM and ALBERTO A. AGLANAO without first having secured the required license from the Department of Labor and Employment as required by law, and charge or accept directly or indirectly from said complainants various amounts as placement fees in consideration for their overseas employment, which amounts are in excess of or greater than that specified in the schedule of allowable fees prescribed by the POEA, and without valid reasons and without the fault of said complainants, failed to actually deploy them and failed to reimburse expenses incurred in connection with their documentation and processing for purposes of their deployment.

Contrary to law.

Appellant was also charged with four counts of *estafa* in separate Informations, which, save for the date and the names of private complainants, uniformly read:

That on or about August 10, 2002, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously defraud ALBERTO A. AGLANAO in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which she made to said ALBERTO A. AGLANAO prior to and even simultaneous with the commission of the fraud, to the effect that she [has] the power and capacity to recruit and employ the latter in Taiwan as a factory worker 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 ALBERTO A. AGLANAO to give and deliver, as in fact he gave and delivered to the 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 she did obtain the amount of P80,000.00 which amount, once in her possession, with intent to defraud, they wilfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of said ALBERTO A. AGLANAO in the aforesaid amount of P80,000.00, Philippine Currency.

Contrary to law.<sup>[5]</sup>

On arraignment, appellant pleaded not guilty to all charges. A joint trial of the cases ensued.

At the trial, private complainant Rey P. Tajadao testified that in August 2002, his fellow complainant, Alberto A. Aglanao, introduced him to appellant Chua. By then, Aglanao had already submitted his application for employment abroad with appellant. Since Tajadao was also interested to work overseas, he suggested that Tajadao apply as well.

Soon after, Tajadao met with appellant, who offered him a job as a factory worker in Taiwan for deployment within the month. Appellant then required him to undergo medical examination and pay a placement fee of P80,000. Chua assured Tajadao that whoever pays the application fee the earliest can leave sooner. Thus, Tajadao delivered to appellant staggered payments of P40,000, P35,000 and P5,000 at the Golden Gate International (Golden Gate) Office in Paragon Tower, Ermita, Manila. Said payments are evidenced by a voucher<sup>[6]</sup> signed by appellant.

After completing payment, Tajadao was made to sign a contract containing stipulations as to salary and conditions of work. On several occasions, thereafter, he returned to appellant's office to follow-up on his application. After several visits, however, Tajadao noticed that all the properties of Golden Gate in its Paragon Tower Office were already gone.

Tajadao filed a complaint for illegal recruitment against appellant before the Philippine Overseas Employment Agency (POEA). It was only then that he learned that appellant Chua was not licensed to recruit workers for overseas employment.

Another private complainant, Billy R. Danan, testified that Chua also offered employment abroad but failed to deploy him. He recalled meeting appellant on

August 6, 2002 at the Golden Gate Office in Ermita, Manila. Danan inquired about the prospect of finding work in Taiwan as a factory worker, and appellant confirmed there was a standing "job order." The latter advised Danan to obtain a passport, undergo medical examination, secure an NBI clearance and prepare the amount of P80,000.

On August 10, 2002, Danan paid appellant in full as evidenced by a cash voucher signed by the latter. A month passed, however, and he was still unable to leave for Taiwan. Appellant informed Danan that his departure would be re-scheduled because Taiwan had suspended admission of overseas workers until after the festival. After appellant advanced this explanation several times, Danan decided to verify whether she was licensed to recruit. Upon learning otherwise, Danan lodged a complaint for illegal recruitment against appellant with the POEA.

The third private complainant, Alberto Aglanao, testified that he met appellant Chua on August 5, 2002. Like Tajadao and Danan, Aglanao applied for work as a factory worker in Taiwan. Appellant similarly assured Aglanao of employment abroad upon payment of P80,000. But despite payment<sup>[7]</sup> of said amount on August 10, 2002, appellant failed to deploy Aglanao to Taiwan.

Roylan Ursulum,<sup>[8]</sup> the fourth private complainant, testified that he too went to the Golden Gate Office in Ermita, Manila to seek employment as a factory worker. He was introduced by Shirley Montano to appellant Chua. The latter told Ursulum that the first applicants to pay the placement fee of P80,000 shall be deployed ahead of the others. Thus, Ursulum obtained a loan of P80,000 to cover the placement fee, which he allegedly gave appellant in two installments of P40,000 each. As with the rest of the private complainants, Ursulum never made it to Taiwan. Ursulum did not submit proof of payment but presented, instead, ten text messages on his mobile phone supposedly sent by appellant. One of said text messages reads, "*Siguro anong laking saya nyo pag namatay na ko.*"

The prosecution likewise presented as witness Severino Maranan, Senior Labor Employment Officer of the POEA. Maranan confirmed that appellant Chua was neither licensed nor authorized to recruit workers for overseas employment. In support, he presented to the court a certification issued by the POEA to that effect.

In her defense, appellant Chua denies having recruited private complainants for overseas employment. According to appellant, she was only a cashier at Golden Gate, which is owned by Marilen Callueng. However, she allegedly lost to a robbery her identification card evidencing her employment with the agency. Appellant denied any knowledge of whether the agency was licensed to recruit workers during her tenure as it has been delisted.

In a Decision dated March 28, 2005, the RTC of Manila, Branch 33, found appellant Melissa Chua, a.k.a. Clarita Ng Chua, guilty beyond reasonable doubt of illegal recruitment in large scale and four counts of *estafa*. The *fallo* of the RTC decision reads:

WHEREFORE, the prosecution having established the guilt of the accused beyond reasonable doubt, judgment is hereby rendered CONVICTING the accused as principal in the crime of illegal recruitment in large scale and

*estafa* (four counts) and she is sentenced to suffer the penalty of LIFE IMPRISONMENT and a fine of Five Hundred Thousand Pesos (Php500,000.00) for illegal recruitment in large scale; and the indeterminate penalty of four (4) years and two (2) months of prison [correctional], as minimum, to Twelve (12) years of prison mayor as maximum for EACH count of *Estafa*.

The accused is also ordered to pay each of the complainant[s] the amount of P80,000.00.

In the service of the sentence, the accused is credited with a x x x the full extent of her [preventive] imprisonment if she agrees in writing to observe the same disciplinary rules imposed upon convicted prisoners; otherwise, only 4/5 of the time of such preventive imprisonment shall be credited to her.

SO ORDERED.<sup>[9]</sup>

The trial court relied on the testimony of Severino Maranan, Senior Labor Employment Officer of the POEA, that appellant is not licensed to recruit workers for overseas employment at the time she promised but failed to place the four private complainants for work abroad. It accorded greater weight to the testimonies of private complainants who positively identified appellant as the person who recruited them for employment in Taiwan and received the placement fees.

The court *a quo* likewise found appellant guilty beyond reasonable doubt of *estafa* for misrepresenting herself as having the power and capacity to recruit and place private complainants as factory workers in Taiwan. Such misrepresentation, the trial court stressed, induced private complainants to part with their money. The RTC brushed aside appellant's defense that she was merely a cashier of Golden Gate and that the same is owned by Marilen Callueng. It gave little weight to the receipts submitted by appellant to prove that she turned over the placement fees to Callueng. The trial court observed nothing in said receipts indicating that the money came from private complainants.

Dissatisfied, appellant Chua filed a Notice of Appeal<sup>[10]</sup> on April 15, 2005.

By Decision dated September 15, 2008, the Court of Appeals affirmed with modification the RTC ruling. It modified the penalty for each of the four counts of *estafa* by imposing upon appellant an indeterminate sentence of 4 years and 2 months of *prison correccional*, as minimum, to 13 years of *reclusion temporal*, as maximum, for each count of *estafa*.

The appellate court held that the prosecution has established by proof beyond reasonable doubt that appellant had no license to recruit at the time she promised employment to and received placement fees from private complainants. It dismissed appellant's defense that she was only a cashier of Golden Gate and that she remitted the placement fees to "the agency's treasurer." The Court of Appeals explained that in order to hold a person liable for illegal recruitment, it is enough that he or she promised or offered employment for a fee, as appellant did.

The appellate court held further that the same pieces of evidence which establish appellant's commission of illegal recruitment also affirm her liability for *estafa*. It pointed out that appellant defrauded private complainants when she misrepresented that they would be hired abroad upon payment of the placement fee. The Court of Appeals perceived no ill motive on the part of private complainants to testify falsely against appellant.

Lastly, the appellate court modified the penalty imposed by the trial court upon appellant Chua for each count of *estafa*. It raised the maximum period of appellant's indeterminate sentence from 12 years of *prision mayor* to 13 years of *reclusion temporal*.

On October 6, 2008, appellant Chua elevated the case to this Court by filing a Notice of Appeal.<sup>[11]</sup>

In a Resolution<sup>[12]</sup> dated July 1, 2009, we required the parties to file their respective supplemental briefs, if they so desire. On August 26, 2009, appellant Chua filed a Manifestation (In lieu of Supplemental Brief)<sup>[13]</sup> by which she repleaded and adopted all the defenses and arguments raised in her Appellant's Brief.<sup>[14]</sup> On September 3, 2009, the Office of the Solicitor General, for the People, filed a Manifestation<sup>[15]</sup> that it will no longer file a supplemental brief since it has discussed in its Appellee's Brief<sup>[16]</sup> all the matters and issues raised in the Appellant's Brief.

Before us, appellant Melissa Chua presents a lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE OFFENSE OF ILLEGAL RECRUITMENT IN LARGE SCALE AND FOUR (4) COUNTS OF ESTAFA DESPITE THE INSUFFICIENCY OF THE EVIDENCE FOR THE PROSECUTION.<sup>[17]</sup>

The Office of the Solicitor General, for the people, submits that it has established all the elements necessary to hold appellant Chua liable for illegal recruitment in large scale and *estafa*. It cites the testimony of Severino Maranan, Senior Labor Employment Officer of the POEA, and the certification issued by Felicitas Q. Bay, Director II of the POEA, to the effect that appellant was not authorized to engage in recruitment activities. The OSG argues against appellant's defense that she was only a cashier of Golden Gate on the argument that her act of representing to the four private complainants that she could send them to Taiwan as factory workers constitutes recruitment. It stresses that the crime of illegal recruitment in large scale is *malum prohibitum*; hence, mere commission of the prohibited act is punishable and criminal intent is immaterial. Lastly, the OSG points out that appellant failed to show any ill motive on the part of private complainants to testify falsely against her.

For her part, appellant Chua maintains that she was merely a cashier of Golden Gate International. She disowns liability for allegedly "merely acting under the direction of [her] superiors"<sup>[18]</sup> and for being "unaware that [her] acts constituted a crime."<sup>[19]</sup> Appellant begs the Court to review the factual findings of the court *a quo*.