

## SECOND DIVISION

[ G.R. No. 181475, April 07, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LARRY "LAURO"  
DOMINGO, APPELLANT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

On appeal via Petition for Review on Certiorari is the Court of Appeals Decision<sup>[1]</sup> dated September 28, 2007 affirming the Joint Decision<sup>[2]</sup> dated October 19, 2004 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 11 which convicted Larry Domingo (appellant) of *Illegal Recruitment* (Large Scale) in Criminal Case No. 1224-M-2001 and *Estafa* in Criminal Case Nos. 1243-M-2001 and 1246-M-2001, and acquitting him in Criminal Case Nos. 1225-M-2001 to 1242-M-2001 and 1244-M-2001, 1245-M-2001 and 1247-M-2001, also for *Estafa*.

The Information<sup>[3]</sup> in Criminal Case No. 1224-M-2001 reads:

The undersigned Asst. Provincial Prosecutor accuses Larry "Lauro" Domingo y Cruz of the crime of illegal recruitment, defined and penalized under the provisions of Article 38 in relation to Articles 34 and 39 of the Labor Code of the Philippines, as amended by presidential Decree Nos. 1920 and 2018, committed as follows:

That in or about the month of November 1999 to January 20, 2000, in the Municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being a non-licensee or non-holder of authority from the Department of Labor and Employment to recruit and/or place workers under local or overseas employment, did then and there willfully and feloniously, with false pretenses, undertake illegal recruitment, placement or deployment of Wilson A. Manzo, Florentino M. Ondra, Feliciano S. del Rosario, Leo J. Cruz, Norberto S. Surio, Genaro B. Rodriguez, Mariano Aguilar, Dionisio Aguilar, Mario J. Sorel, Marcial "Boy" A. dela Cruz, Edgardo P. Jumaquio, Midel Clara Buensuceso, Remigio S. Carreon, Jr., Romeo Manasala, Magno D. Balatbat, Jose Armen F. Sunga, Rogelio M. Cambay, Junior Balisbis, Ma. Leah Vivas, Simeon S. Cabigao, Edcil P. Mariano, Juanito C. Bartolome, Angelito R. Acevedo, Godofredo P. Samson, Eugenio del Rosario y Tolentino, William B. Bautista, Rodolfo M. Marcelino, Roberto B. Bohol, Felipe H. Cunanan, Carlos P. Dechavez, Carlos J. Cruz, Reynaldo C. Chico, Renato D. Jumaquio, Narciso F. Sunga, Enrico R. Espiritu, Leonardo C. Sunga, Jr., and Iglecerio H. Perez. This offense involved economic sabotage, as it was committed in large scale.

Contrary to law. (Underscoring supplied)

The Informations<sup>[4]</sup> for 23 counts of *Estafa*, all of which were similarly worded but varying with respect to the name of each complainant and the amount which each purportedly gave to appellant, read:

That in or about the month of November, 1999 to January, 2000, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of deceit, false pretenses and fraudulent manifestations, and with intent of gain, did then and there willfully, unlawfully and feloniously defraud one [Wilson A. Manzo] by then and there falsely representing that he has the power and capacity to recruit and employ persons in Saipan and could facilitate the necessary papers in connection therewith if given the necessary amount, and by means of deceit of similar import, when in truth and in fact, as the accused knew fully well his representation was false and fraudulent and designed to inveigle [Wilson A. Manzo] to give, as in fact the latter gave and delivered the amount of [P14,000.00] to him, which the accused misappropriated to himself, to the damage and prejudice of Wilson A. Manzo in the said amount of [P14,000.00].

Contrary to law.

Of the 23 complainants, only five testified, namely: Rogelio Cambay, Florentino Ondra, Dionisio Aguilar, Ma. Leah Vivas, and Simeon Cabigao. The substance of their respective testimonies follows:

Rogelio Cambay: Appellant recruited him for a painting job in Marianas Island for which he paid him the amount of P15,000 in two installments - P2,500 during his medical examination at Newton Clinic in Makati City, and the balance of P12,500 before the scheduled departure on January 25, 2000.

On his scheduled departure, appellant did not show up at their meeting place in Malolos, Bulacan, hence, the around one hundred people who waited for him organized a search party to look for him in Zambales. Appellant was arrested on February 25, 2000 at the Balintawak tollgate.

A verification<sup>[5]</sup> with the Department of Labor and Employment showed that appellant was not a licensed recruiter.

Florentino Ondra: He was recruited by appellant for employment as laborer in Saipan, for which he gave P14,700 representing expenses for passporting, NBI clearance, and medical examination.

Dionisio Aguilar: In September, 1999, he met appellant thru a friend whereupon he was interviewed, tested for a hotel job, and scheduled for medical examination. He gave P30,000 to appellant inside the latter's car on November, 1999 after his medical examination. While he was twice scheduled for departure, it did not materialize.

Ma. Leah Vivas: After meeting appellant thru Eddie Simbayan on October 19, 1999, she applied for a job as a domestic helper in Saipan, for which she paid appellant P10,000, but like the other complainants, she was never deployed.

Simeon Cabigao: He was recruited by appellant in September, 1999 for employment as carpenter in Saipan with a guaranteed salary of \$375 per month. For the promised employment, he paid appellant P3,000 for medical fee, and an additional P9,000, supposedly to bribe the examining physician because, per information of appellant, he (Cabigao) was found to have an ailment. He was scheduled for departure on February 23, 2000, but the same never took place.

He was among those who looked for appellant in Zambales.

Private complainant Cabigao later recanted this testimony, per his affidavit<sup>[6]</sup> dated March 3, 2003. Testifying anew, this time for the defense, he averred that the one who actually recruited him and his co-complainants and received their money was Danilo Gimeno (Gimeno), and that they only agreed among themselves to file a case against appellant because Gimeno was nowhere to be found.

Appellant, denying all the accusations against him, claimed as follows: He was a driver hired by the real recruiter, Gimeno, whom he met inside the Victory Liner Bus bound for Manila in September, 2000. It was Gimeno who undertakes recruitment activities in Dakila, Malolos, Bulacan at the residence of Eddie Simbayan, and that the other cases for illegal recruitment filed against him before other courts have all been dismissed.

Appellant likewise presented as witnesses private complainants Enrico Espiritu and Roberto Castillo who corroborated his claim that it was Gimeno who actually recruited them, and that the filing of the complaint against appellant was a desperate attempt on their part to get even because Gimeno could not be located.

By Joint Decision dated October 19, 2004, the trial court found appellant guilty beyond reasonable doubt of *Illega*

*/ Recruitment* (Large Scale) and of 2 counts of *Estafa*, viz:

WHEREFORE, in Criminal case No. 1224-M-2001, for Illegal Recruitment (Large Scale), this Court finds the accused LARRY DOMINGO GUILTY beyond reasonable doubt of violation of Article 38(b) of the Labor Code, as amended, in relation to Article 13 (b) and 34 of the same Code (Illegal Recruitment in Large Scale) and hereby sentences him to suffer the penalty of life imprisonment and pay a fine of P100,000.00.

Accused is further ordered to pay the following complainants the amounts opposite their names as actual or compensatory damages, to wit:

1. Rogelio Cambay - P15,000.00
2. Dionisio Aguilar - P30,000.00
3. Florentino Ondra - P14,700.00
4. Ma. Lea Vivas - P10,000.00

In Criminal Case No. 1243-M-2001 for *Estafa*, this Court finds the accused LARRY DOMINGO GUILTY beyond reasonable doubt of *Estafa* under Article 315 par. 2(a) of the Revised Penal Code and hereby sentences him to a prison term ranging from Two (2) Years, Eleven (11)