

## SECOND DIVISION

[ G.R. Nos. 129593 & 143533-35, July 10, 2000 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
EVANGELINE P. ORDOÑO, ACCUSED-APPELLANT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court, Branch 25, Tagudin, Ilocos Sur, finding the accused-appellant Evangeline P. Ordoño guilty of: (1) two counts of illegal recruitment and sentencing her to suffer for each count the penalty of life imprisonment and a fine of P100,000.00; and, (2) two counts of estafa for which she was sentenced to suffer: (a) in Criminal Case No. 450-T, six (6) years and one (1) day to ten (10) years and one (1) day of *prision mayor* and to indemnify the offended party Jerry Lozano in the total amount of P48,500.00 and to pay him P40,000.00 in moral damages; and, (b) in Criminal Case No. 451-T, ten (10) years and one (1) day of *prision mayor* to fourteen (14) years and one (1) day of *reclusion temporal* and to indemnify the offended party Presenio Lorena in the total amount of P65,000.00.

In Criminal Case Nos. 448-T and 449-T (for illegal recruitment), the informations, save for the names of the complainants and the amounts involved, alleged -

That on or about the month of December 1992, in the municipality of Tagudin, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully, and feloniously, in violation of and in disregard of the provisions of the Labor Code of the Philippines, rules and regulations, engage in the recruitment and placement of workers by then and there offering and undertaking to secure overseas employment for [name],<sup>[2]</sup> particularly in Korea, without the requisite authority or license from the Department of Labor and Employment, charging, collecting and receiving fee in the amount of [amount].<sup>[3]</sup>

CONTRARY TO LAW.

On the other hand, in Criminal Case Nos. 450-T and 451-T (for estafa), the informations, save for the names of the complainants and the amounts involved, alleged -

That sometime in the month of December 1992 and for sometime thereafter, in the municipality of Tagudin, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully, and feloniously defraud one [name]<sup>[4]</sup> as follows, to wit: That Evangeline

Ordoño, by means of false pretenses and fraudulent representations which she made to the effect that she possessed power, qualifications, agency, or business and holding herself out as [an] authorized agent to recruit laborers for employment abroad particularly in Korea, where in truth she has no qualifications, provided the amount of [amount in words (amount)]<sup>[5]</sup> be delivered to her in advance to defray expenses in the preparation of the necessary matters, and by means of these false pretenses and fraudulent acts, she was able to convince and induce [name] to deliver to her the amount of [amount], as in fact she received the said amount from [name], said accused instead of complying with her aforestated obligation of securing foreign employment for [name] to Korea, failed to send and secure his foreign employment and when he demanded from her the return of his money in the amount of [amount], the said accused refused and continued refusing to return the money to [name], notwithstanding repeated demands made on her but instead, she did then and there wilfully (sic), unlawfully and feloniously convert and misappropriate for her personal use and benefit the sum of [amount] to the damage and prejudice of [name] in the said sum.

CONTRARY TO LAW.

Accused-appellant entered a plea of not guilty to all the charges.<sup>[6]</sup> Thereafter, the cases were tried jointly, all indictments being based on the same facts.

The evidence for the prosecution established the following facts:

Complainant Presenio Lorena is a resident of Libtong, Tagudin, Ilocos Sur. He only finished grade school. He earns his living as a farmer. He was introduced to accused-appellant by her relative, Zenaida Ordoño, when they went to his residence. Accused-appellant represented herself as one connected with a recruitment agency and able to deploy workers abroad, particularly in Korea. Attracted by the alleged high salaries in Korea, he was convinced to apply for an overseas job by the accused-appellant. He paid the accused-appellant P20,000.00 on December 10, 1992, for which he was issued a receipt indicating that the amount was "partial payment for deposit" (Exh. A).<sup>[7]</sup> On December 15, 1992, he paid the accused-appellant an additional amount of P10,000.00. This payment was also covered by a receipt (Exh. B)<sup>[8]</sup> issued by the accused-appellant. Later, on January 5, 1993, he paid the accused-appellant P10,000.00 for which he was issued a receipt (Exh. C)<sup>[9]</sup> stating that the amount was partial payment for complainant's plane ticket. He paid the additional amount of P21,000.00, but he was told that no receipt was going to be issued to him because he was leaving for abroad.

Accused-appellant secured for Lorena a passport (Exh. F),<sup>[10]</sup> a two-way plane ticket (Exh. D),<sup>[11]</sup> and some pocket money in U.S. currency from the money she received from him. Accused-appellant informed Lorena that Kuala Lumpur is in Korea and that, upon arrival there, he would be fetched by a certain Joy Mejia from the Metro Hotel, where he was told to check in. He was also told by the accused-appellant that if he was lucky enough to reach Korea, half of what he paid for his ticket would be refunded to him. On January 23, 1993, Lorena took a Philippine Airlines flight to Kuala Lumpur, Malaysia. As instructed, he stayed at the Metro Hotel for several days, but no one came to fetch him. Lorena went to the Philippine

Embassy for assistance, but he was asked to give U.S. \$500.00 for the processing of his work permit. As he did not have enough money, he came back to the Philippines on February 4, 1993. He went to see accused-appellant to confront her, but she told him that if he wanted to try his luck again in finding employment abroad, he must recruit two more persons so that the placement fees they would pay would be used for his second job application.<sup>[12]</sup>

The other complainant, Jerry Lozano, is also a resident of Libtong, Tagudin, Ilocos Sur. Like Lorena, he is also a farmer. He never reached high school. Sometime in December 1993, he was called to Lorena's house upon accused-appellant's request. There, Lorena introduced accused-appellant to him. Accused-appellant introduced herself to Lozano as a recruiter of overseas workers for Korea. Lozano was convinced to apply in the hope of landing a good job in Korea. Accused-appellant required him to pay her in cash for the processing of his passport and employment papers. Lozano paid her the total amount of P41,000.00 in two installments. These payments were covered by receipts issued by accused-appellant. One receipt (Exh. G),<sup>[13]</sup> dated February 9, 1993, was for P20,000.00 and another one (Exh. G-1),<sup>[14]</sup> dated February 14, 1993, was for P21,000.00.

Lozano departed from the country on February 27, 1993. His passport, two-way ticket (Exh. H),<sup>[15]</sup> and pocket money in U.S. dollars were obtained from the money he had paid to accused-appellant. He arrived in Kuala Lumpur, Malaysia, not in Korea as he was promised. There, he was apprehended by the Malaysian police at the airport after finding that he had no other travel documents with him except his passport. He was kept in a flooded jail for one night. The next day, he was deported to the Philippines.

After arriving home, he saw accused-appellant and confronted her. As in Lorena's case, he was told to recruit two persons so that the money they would pay for their placement fees would be used by him for another overseas employment application.<sup>[16]</sup>

Lorena and Lozano filed complaints in the National Bureau of Investigation (NBI) Regional Office in San Fernando, La Union. NBI Agent Melchor Acosta secured a certification (Exh. J)<sup>[17]</sup> from the Department of Labor and Employment (DOLE) Regional Office in La Union that accused-appellant had no authority to recruit workers for overseas employment in the region. The complaints were referred to the Office of the Provincial Prosecutor in Vigan, Ilocos Sur which filed the informations in court.<sup>[18]</sup>

Accused-appellant Evangelina Ordoño testified in her behalf. She admitted that she and Zenaida Ordoño, who is her sister-in-law, went to the house of Presenio Lorena in Libtong, Tagudin, Ilocos Sur. But she claimed they went to Lorena's house to buy fish. During their conversation with Lorena and the latter's mother, Zenaida happened to mention that accused-appellant had worked in Malaysia and that the latter's brothers were still working there. Lorena became interested, and he and his mother sought the help of accused-appellant in getting a job abroad. Accused-appellant told them that she went to Malaysia as a tourist for which purpose she had a passport, a two-way ticket, and "show" money. She sought in turn the assistance of her friend, a certain Joy Mejia, in finding employment for Lorena. According to accused-appellant, Lorena asked her to secure a passport for him for

which he gave her P1,500.00. She admitted having received from Lorena the total amount of P45,000.00, of which P5,000.00 was not covered by any receipt. She claimed that she used the money in purchasing a two-way plane ticket for Lorena, U.S. \$550.00 "show" money, and P3,500.00 for the escort at the immigration. She claimed that she offered to return the balance of P3,000.00 to Lorena, but the latter told her to keep it. On the day of Lorena's flight, accused-appellant asked Lorena to sign a document. The document (Exh. 1)<sup>[19]</sup> reads:

23 Jan. 1993

To Whom it May Concern:

I, Presenio Lorena, of legal age, residing at Libtong, Tagudin, Ilocos Sur, ay kusang loob na humingi ng tulong kay Mrs. Evangeline Ordoño sa aking bia[h]e sa Malaysia na bilang tourist lang.

At walang pananagutan si Mrs. Evangeline Ordoño tungkol dito. Ako'y buong pusong nagpapasalamat sa kanya.

(Sgd.)  
Presenio Lorena

(Sgd.)  
Mrs. Consuelo Mejia

Accused-appellant claims that Lorena was able to work in Malaysia but that he came back to the Philippines because he did not like his job.<sup>[20]</sup>

With regard to Jerry Lozano, accused-appellant said that it was Presenio Lorena who introduced Lozano to her. Like Lorena, Lozano sought her assistance in procuring for him a passport, a two-way ticket to Kuala Lumpur, and some "show" money in going abroad to work. Accused-appellant said she received from Lozano P41,000.00: P20,000.00 (Exh. G) covered by the receipt, dated February 9, 1993, which she used to buy Lozano's plane ticket, and P21,000.00 covered by the receipt (Exh. G-1), dated February 14, 1993, which she used to purchase Lozano's "show" money in the amount of U.S. \$650.00. She claimed she bought the U.S. \$650.00 for less than P20,000.00.<sup>[21]</sup>

The defense presented Lorena as an adverse witness to show that despite his sad experience in Malaysia, he did not tell Lozano about it. Lorena said, however, that he did not tell Lozano about his being sent to Malaysia instead of Korea because he did not know what Lozano and accused-appellant had talked about. He thought Lozano was bound for Korea.<sup>[22]</sup>

Consuelo Mejia, Joy's mother, took the witness stand for accused-appellant. She testified that Lorena was introduced to her by the accused-appellant by phone. Lorena requested her to ask for her daughter Joy's help in finding him a job in Kuala Lumpur. On the day of Lorena's flight, she sent, through him, a package of cooked food for Joy. She claimed it was she who had written the document (Exh. 1) allegedly signed by Lorena upon the accused-appellant's request. Consuelo also sent books through Lozano to her son, Jun, who was also in Malaysia. After Lozano had returned to the Philippines, he and Lorena went to her house to return the package of books.<sup>[23]</sup>

Another defense witness was Rosalinda Zulueta. She testified that she worked as a domestic helper in Malaysia and is Joy Mejia's friend. According to her, she accompanied Joy at the Metro Hotel to get the package sent through Lorena. However, they missed Lorena, because he had already left before they arrived.<sup>[24]</sup>

Zenaida Ordoño testified that she and accused-appellant went to Libtong to buy fish from Lorena. Lorena's mother was her friend. She introduced accused-appellant to the Lorenas and told them that accused-appellant had just arrived from abroad. As a result, Lorena and his mother asked her to accompany them to Manila to see accused-appellant. Ordoño said she declined and instead simply gave the accused-appellant's address. She told them to take a Philippine Rabbit bus and look for accused-appellant's husband, a conductor of the bus line, so that they could be taken to accused-appellant.<sup>[25]</sup>

On rebuttal, Lorena took the stand to refute accused-appellant's testimony. He denied the signature appearing on the handwritten document (Exh. 1), claiming it was a forgery. He stated that he came to Manila with his mother only on the day of his departure when he first saw his plane ticket. He did not have the chance to read the same as the accused-appellant inserted it in his passport.<sup>[26]</sup>

Lorena's mother, Magdalena Lorena, corroborated her son's testimony. She denied that the accused-appellant went to their house to buy fish because they were not fishermen. She stated that the accused-appellant actually came to recruit workers for overseas employment. Accused-appellant told them that she could send Lorena to Korea and his salaries for three months would be enough to pay for their debts. They paid accused-appellant sums of money for Lorena's passport and overseas job application. Accused-appellant visited them in their houses about five to six times.<sup>[27]</sup> Lozano's mother, Anita Lozano, also denied that accused-appellant went to Libtong in order to buy fish. The first time she met her, accused-appellant presented herself as someone who could send workers abroad. Accused-appellant asked for P45,000.00, and they paid her. She believed accused-appellant because the latter told her that if Lozano would be sent home, he would get his money back.<sup>[28]</sup>

Lorena's aunt, Lourdes Lorena, testified that she learned from her sister that accused-appellant came as a recruiter.<sup>[29]</sup>

Mila Tagle was presented on sur-rebuttal. She is the cousin of accused-appellant. She used to work for her as a househelper. She knew Lorena and Lozano because they went to her cousin's house several times to follow up their applications for overseas employment. She never knew what the accused-appellant's work was. She knew that Lorena went to Malaysia as a tourist because she was able to talk to him. She was merely informed by accused-appellant about Lozano.<sup>[30]</sup>

On November 5, 1996, the trial court rendered a decision, the dispositive portion of which reads:

Thus we find accused guilty beyond reasonable doubt of the crime of Illegal Recruitment in Criminal Case Nos. 448-T and 449-T and hereby sentences her to suffer the penalty for the first offense of life imprisonment and a fine of P100,000.00 and for the second offense a