

## FIRST DIVISION

[ G.R. No. 120353, February 12, 1998 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLOR N. LAUREL, ACCUSED-APPELLANT.**

### D E C I S I O N

**BELLOSILLO, J.:**

This is an appeal from the decision of the Regional Trial Court of Manila finding accused-appellant Flor N. Laurel guilty of illegal recruitment in large scale penalized under Art. 38, par. (b), in relation to Art. 39, par. (a), of the Labor Code.

From 19 October 1991 to 25 May 1992 accused-appellant Flor N. Laurel promised employment abroad for a fee to complaining witnesses Ricardo San Felipe, Rosauro San Felipe, Juanito Cudal and Cenen Tambongco, Jr. However, after receiving ₱12,000.00 from Tambongco, Jr., ₱11,000.00 from each of the San Felipe brothers and ₱6,000.00 from Cudal, Laurel reneged on her promises and went into hiding. Verification with the Philippine Overseas Employment Administration (POEA) revealed that Laurel was neither licensed nor authorized to recruit workers for overseas employment.<sup>[1]</sup> Consequently, she was haled to court and charged with large scale illegal recruitment.

Accused Laurel did not deny the charge against her. Instead, when called to the witness stand, she presented an affidavit of desistance by Juanito Cudal as well as several receipts, Exhs. "2," "3," "4," "5" and "6," signed by the other private complainants acknowledging payment by her of the amounts taken from them in "*full settlement*" of her obligation.<sup>[2]</sup> Thus, on the basis of these documents, she moved to dismiss the case. But the court *a quo* denied her motion on the ground that the elements of large scale illegal recruitment were established beyond reasonable doubt through the combined testimonies of the four (4) offended parties. The court *a quo* noted that the affidavit of desistance as well as the receipts for payments made were prepared and signed after the prosecution had already rested its case. Consequently, the trial judge rendered a decision convicting the accused Flor N. Laurel and sentenced her to life imprisonment and to pay a fine of ₱100,000.00 conformably with Art. 39, par. (a), of the Labor Code. In addition, the accused was ordered to return the balance of what she had received from each complainant.<sup>[3]</sup> Hence, this appeal.

As in the court below, accused-appellant does not deny the charge against her. She contends however that she should have been convicted only of simple illegal recruitment and not of large scale illegal recruitment.

She argues through counsel that since illegal recruitment in large scale is defined in Art. 38, par. (b), of the Labor Code immediately following the definition of illegal recruitment committed by a syndicate, it follows that for illegal recruitment to be considered committed in large scale it should have been committed by a syndicate.

Hence, an individual who commits an act of illegal recruitment even if it be against three (3) or more persons cannot be charged with illegal recruitment in large scale.

The interpretation is completely erroneous. Article 38, par. (b), of the Labor Code reads:

Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage 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 and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof.

Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group (*underscoring supplied*).

The language of the law is very clear that illegal recruitment is committed in large scale if done against three or more persons individually or as a group. The number of offenders, whether an individual or a syndicate, is clearly not considered a factor in the determination of its commission. The rule is well-settled that when the language of the statute is clear, plain and free from ambiguity, there is no room for attempted interpretation or extended court rationalization of the law.<sup>[4]</sup> The duty of the court is to apply it, not to interpret it.<sup>[5]</sup> Counsel for accused-appellant was misled by the fact that illegal recruitment in large scale is defined immediately after illegal recruitment by a syndicate. However, the only reason therefor is that they are both considered offenses involving economic sabotage as the law itself so provides. Besides, we have affirmed time and again the conviction of an individual for large scale illegal recruitment.<sup>[6]</sup>

As regards the alleged desistance by private complaints, we rule that although an affidavit of desistance may be given due course even if executed only on appeal, it may be given such credit only when special circumstances exist engendering doubt on the criminal liability of the accused.<sup>[7]</sup> Otherwise, without such special circumstances, courts look with disfavor on affidavits of retraction<sup>[8]</sup> considering them as exceedingly unreliable.<sup>[9]</sup>

There is absolutely nothing in the affidavits of retraction executed by private complainants which creates doubt on the guilt of accused-appellant. The complainants merely allege that they made a mistake and "misunderstood the circumstances."<sup>[10]</sup> However, aside from such sweeping statement as "misunderstood the circumstances," no detail is given as to how their mistake or misapprehension of circumstances can indicate absence of or at least cast doubt on the guilt of accused-appellant. On the contrary, we have every reason to conclude that the affidavits of retraction were executed by private complainants only because accused-appellant returned the money taken from them as evidenced by the receipts marked as Exhs. "2," "3," "4," "5" and "6."<sup>[11]</sup> As complainant Ricardo San Felipe testified in court: "I will withdraw, if the payments is (sic) complete, sir."<sup>[12]</sup> Thus, given the reason for their desistance, the solemn testimonies given by private complainants shall not be disregarded for it is a matter of public interest that every crime must be prosecuted and the author thereof penalized.<sup>[13]</sup>