

THIRD DIVISION

[G.R. No. 114905, December 12, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DONNIE PERALTA Y PICANA, ACCUSED-APPELLANT.
D E C I S I O N**

PANGANIBAN, J.:

Overseas employment offers hope for economic deliverance not only to the unemployed but also to the underemployed and the underpaid. To them, anyone who represents oneself as someone who can find them good-paying jobs abroad is like an angel from heaven. A considerable number, however, turn out to be "fallen angels" who prey upon innocent, unsuspecting victims. These poor unfortunate individuals deserve no less than the full protection of the courts; and the "fallen angels," the full sanction of the law.

The Case

Before us is one such instance of heartless deception inflicted upon our lowly workers. In an Information ^[1] dated April 28, 1993, State Prosecutor Mario AM. Caraos charged Appellant Donnie Peralta y Picana with illegal recruitment; specifically, violation of Section 1, Presidential Decree (PD) No. 2018, amending Article 38 of PD 442, as amended, otherwise known as the Labor Code of the Philippines. The charge was:

"That during the period from May 1992 to September 1992 in Paranaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused falsely representing himself to have the power and capacity to contract, enlist and recruit workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment/job placement in Taiwan to RENE ALCARAZ, JULIUS NAVARRO, MARIETA A. RAMOS, MA. THERESA E. MANDARAOG, IMELDA G. AGUIRRE, EMELINA C. VILELA, MAXIMA CABRAL, and AUGUSTO CESAR TEODOSIO without first obtaining the required license and/or authority from the Department of Labor and Employment."

During his arraignment on July 12, 1993, Appellant Peralta, with the assistance of counsel, pleaded not guilty.^[2] At pre-trial, Peralta admitted that he was not licensed or authorized by the Philippine Overseas Employment Administration (POEA) to recruit workers for employment abroad.^[3] After due trial, the Regional Trial Court of Makati (now a city), Branch 132,^[4] promulgated the herein assailed Decision^[5] dated January 10, 1994, finding appellant guilty beyond reasonable doubt of illegal recruitment in large scale. The dispositive portion thereof reads:

"WHEREFORE, the accused is hereby sentenced to life imprisonment and to pay a fine of P100,000.00 and the costs."

The Facts

Version of the Prosecution

Four of the eight private complainants -- Rene Alcaraz, Imelda Aguirre, Julius Navarro and Maria Teresa Magdaraog -- were presented as witnesses by the prosecution.^[6] According to Alcaraz,^[7] sometime in April 1992, he learned from a co-worker, Librada Librianes, that Appellant Peralta was enlisting workers for Taiwan. The following month, Alcaraz, together with Complainant Julius Navarro who was also his co-employee, went to the house of appellant in Alabang, Muntinlupa, where they were given application forms. After accomplishing the forms, they were told by appellant that whoever could give the initial amount of P10,000 would be included in the first batch to leave for Taiwan in September of that year. On June 10, 1992, Alcaraz gave said amount to Peralta. A receipt ^[8] therefore was issued to him, signed by Marie Peralta, wife of appellant. In September, however, appellant and his wife could only promise Alcaraz that his deployment would be in December. Tired of waiting, he asked appellant to refund his payment. He was told to come back for it in February 1993. Again, appellant failed to keep his word.

Witness Imelda Aguirre claimed ^[9] that in the first week of April 1992, she was introduced by her co-worker Regina Teodisio to Donnie Peralta, their "brother in faith." After briefly talking about their religious faith, appellant asked them whether they wanted to work in Taiwan. He informed them that they would need about P35,000 in all, although it would be all right if each of them initially paid only P10,000 as processing fee. Aguirre was convinced to proceed with the recruitment process after being assured that she could withdraw her money, minus actual expenses, in case she later decided to back out. Appellant gave her a referral slip for medical examination at the S.M. Lazo Medical Center. On June 15, 1992, a receipt ^[10] signed by Maila Mercado, stepdaughter of Peralta, was issued by the latter to Aguirre upon her payment of P9,000. She was then told by appellant that her papers would be processed to enable her to leave in September 1992. But nothing happened in September. Instead, appellant again promised her that she would be able to leave the following December. When December came, appellant postponed her departure to January 1993. Disappointed, Aguirre opted to simply withdraw her money. Peralta directed her to confer with his lawyer who would take charge of returning her money. But despite several visits to appellant's house and office, she failed to meet the lawyer. She thus decided to file a criminal complaint against appellant. During her cross examination, ^[11] she asserted that when she first met the accused, Sons and Daughters Travel Consultancy ("Travel Consultancy") was not yet in existence.

Julius Navarro testified ^[12] that in February 1992, he was introduced by his co-worker, Levy Rubianos, to Peralta who purportedly could send workers to Taiwan. After being convinced by appellant to apply, he was given a referral ^[13] for medical examination and was told that if he passed it, he should give P10,000 as processing fee. He was also informed by appellant that he would be employed as factory worker with a salary of about P15,000 to P20,000 per month. On May 1, 1992, he gave

P10,000 to the accused, as evidenced by a receipt [14] signed by appellant's stepdaughter, Maila Mercado. Appellant promised Navarro that he would leave in three (3) months. Later, appellant changed this to December; then February 1993. Still, he was not able to leave; thus, he filed a complaint with the Criminal Investigation Service in Camp Crame, Quezon City. During his cross-examination, Navarro clarified that Rubianos merely introduced him to Peralta; that the latter's wife also claimed that appellant could send workers to Taiwan; and that, although he got his application form at appellant's house, he filed it at the spouses' office. [15] On redirect examination, he admitted knowing that Travel Consultancy was owned by the Spouses Peralta who both received and entertained applicants in its office. [16]

The fourth witness, Maria Teresa Magdaraog, testified [17] that she came to know appellant through Complainant Imelda Aguirre whom she accompanied to his house in Alabang sometime in September 1992. Through the appellant, she also applied for work in Taiwan because "the salary was big." At Peralta's behest, she underwent medical examination. [18] Thereafter, she paid P10,000 to appellant, for which she was issued a receipt [19] signed by his aforementioned stepdaughter. Peralta assured her that she would be able to leave that same month. Although he reneged, appellant kept promising that she would soon leave. Later, Magdaraog asked for a refund of her money but was not able to recover anything. Thus, she filed a complaint at Camp Crame. During her cross-examination, the defense counsel confronted her with her Sinumpaang Salaysay. [20] She admitted that she applied through Travel Consultancy because the application form she was asked to accomplish bore said firm's letterhead. [21]

Version of the Defense

In his defense, Peralta claimed before the lower court that he was merely an employee of Travel Consultancy located at Bautista Building, San Antonio Valley I, Parañaque, Metro Manila, which was managed by his second wife, Marie Peralta. His testimony [22] was summarized by the trial court as follows:

"x x x as far as he knew, the said firm was registered and licensed; that he was like a messenger in charge of signing and issuing [r]equest [f]orms for the medical examination of job applicants at S.M. Lazo Clinic and getting their medical certificates therefrom; that he did not recruit Rene Alcaraz, Imelda Aguirre, Julius Navarro and Teresa Magdaraog for job placements in Taiwan; that he came to know them thru his wife; that he did not receive the amount of P10,000.00 as processing fee from any of them as he was not authorized to receive money for the office; that it was Marie and her daughter Maila Mercado, the cashier, who were so authorized; that he signed the [r]equest [f]orms of the aforesaid applicants (Exhs. B, E, I & M) because pursuant to the arrangement arrived at in his negotiation with S.M. Lazo Clinic, the latter would not honor the [r]equest [f]orm if not signed by him; and that before he married Marie in February 1992, he was one of the applicants." [23]

The defense also presented Celedonio Munar as witness. He testified that in the second week of February 1992, he and his brother-in-law, Mercurio Arroyo, went to and applied at Travel Consultancy located at Mincor Subdivision, Alabang, Muntinlupa. It was appellant who gave him a referral for medical examination and an application form. He submitted the required clearances and pictures as well as paid the placement fee of P10,000 to Marie Peralta. He went back several times thereafter to follow up his application, and when he could no longer wait, he asked for the refund of his payment, to which Marie obliged. Munar added that he saw four other persons also pursuing their applications. [24]

Ruling of the Trial Court

The court a quo gave full faith and credence to the testimonies of the complaining witnesses "who positively declared that they were recruited and promised employment by the accused at his house in Alabang." The request forms for medical examination issued and signed by Peralta and the receipts for the processing fees paid by the complainants, signed either by appellant's wife or stepdaughter, clearly established the fact of recruitment. It was also admitted by the accused that he was not licensed or authorized by the POEA to recruit workers for abroad.

The lower court further noted that all the incidents narrated by the complaining witnesses took place prior to October 1992, the date when appellant claimed to have started working for Travel Consultancy. The request forms which he himself signed were all dated prior to his alleged employment. He could not have acted for and in behalf of the firm in signing and issuing said forms prior to his employment therein. The trial court concluded that "he did so on his own." It thus found him guilty of illegal recruitment in large scale as defined and penalized under Articles 38 and 39 of the Labor Code, as amended, for recruiting for a fee, without license or authority, the four complainants for employment in Taiwan.

Assignment of Errors

Pleading to us for relief from his conviction, appellant assigns the following "errors" in the trial court's Decision:

"I. The court a quo erred in holding that the complainants were recruited by the accused on his own and not by the Sons and Daughters Travel Consultancy.

II. The court a quo erred in holding that complainants were recruited by the accused on his own and not as an employee of the Sons and Daughters Travel Consultancy.

III. The court a quo erred in holding that the accused acted on his own because he issued the request forms for medical clearance prior to his employment with the Sons and Daughters Travel Consultancy, and because he signed said request forms in his own name.

IV. The court a quo erred in giving undue weight to the testimonies of the complainants.

V. The court a quo erred in finding that the accused was guilty beyond reasonable

doubt of illegal recruitment in large scale.” [25]

In fine, appellant submits the following issues for the Court’s review:

1. Whether private complainants were recruited by appellant in his own capacity or in behalf of Travel Consultancy
2. Whether the prosecution’s evidence was sufficient to prove his guilt beyond reasonable doubt

The Court’s Ruling

The appeal [26] is utterly unmeritorious.

First Issue: Appellant Himself Was the Recruiter

Illegal recruitment is defined in and penalized by Art. 38 of the Labor Code, as amended, as follows:

“ART. 38. *Illegal Recruitment*. -- (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The [Department] of Labor and Employment or any law enforcement officer may initiate complaints under this Article.

(b) Illegal recruitment when committed by a syndicate or in a large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

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.”

Activities deemed included in “recruitment” are:

“x x x any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.” [27]

The detailed testimonies of each of the complaining witnesses unequivocally demonstrate that appellant represented himself as having the ability to enlist workers for employment in Taiwan. He issued referral slips, which he himself signed, to interested applicants for their medical examination -- a usual requirement for