

## THIRD DIVISION

[ G.R. No. 108028, July 30, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CRISTINA M. HERNANDEZ, ACCUSED-APPELLANT.**

### DECISION

**FRANCISCO, J.:**

Accused-appellant Cristina Hernandez was charged with the crime of illegal recruitment committed in large scale in violation of Article 38 (a) and (b) in relation to Article 13 (b) and (c) of the New Labor Code,<sup>[1]</sup> committed as follows:

"That in or about and during the period comprised between December 14, 1988 to December 24, 1988, inclusive in the City of Manila, Philippines, the said accused representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully for a fee, recruit and promise employment/job placement abroad to the following persons to wit: **ROGELIO N. LEGASPI, ULDARICO P. LEGASPI, SONNY P. BERNABE, ARNEL B. MENDOZA, BENITO L. BERNABE, ARNOLD P. VALENZUELA, ARMANDO P. PAGULAYAN, GREGORIO P. MENDOZA, JR., RONALD T. CORREA, DANILO PALAD and ROBERT P. VELASQUEZ** (hereinafter known as private complainants) without first having secured the required license or authority from the POEA."<sup>[2]</sup> (underscoring supplied.)

Upon arraignment, appellant pleaded not guilty and trial on the merits ensued. Of the fourteen (14) private complainants, four (4) were presented as witnesses for the prosecution, namely: Benito L. Bernabe, Robert P. Velasquez, Gregorio P. Mendoza and Arnel Mendoza. They testified to the following essential facts: Private complainants' first encounter with the appellant was on December 12, 1988 when one Josefa Cinco accompanied them to the office of the Philippine Thai Association, Inc. (Philippine-Thai) in Ermita, Manila to meet the appellant. Introducing herself as the general manager of Philippine-Thai, appellant asserted that her company recruited workers for placement abroad and asked private complainants if they wanted to work as factory workers in Taipeh. Enticed by the assurance of immediate employment and an \$800 per month salary, private complainants applied. Appellant required private complainants to pay placement and passport fees in the total amount of P22,500.00 per applicant, to be paid in three installments, to wit: P1,500 on December 14, 1988, P10,000.00 on December 16, 1988, and P11,000.00 on December 22, 1988. When the complainants-witnesses paid the first two installments, they were issued receipts by Liza Mendoza, the alleged treasurer of Philippine-Thai signed by the latter in the presence of the appellant. The receipts for

the last installment paid by them were signed by Liza Mendoza, and the appellant. After having received the entire amount<sup>[3]</sup> from the witnesses, appellant assured them that they would be able to leave for Taipeh sometime before the end of December, 1988. But contrary to appellant's promise, complainants-witnesses were unable to leave for abroad. They demanded for the return of their money but to no avail. Appellant's unfulfilled promise of employment and her refusal to return the money that had been paid by way of placement and passport fees, triggered the filing of the complaint.

For its part, the defense presented as its lone witness, the appellant whose testimony consisted mainly in denying the charges against her. Appellant claimed that she never met any of the complainants nor did she ever recruit any of them. She likewise denied having received money from anyone and asserted that she did not know any Liza Mendoza who is the alleged treasurer of Philippine-Thai. Appellant maintained that although she had an office in Ermita Building located at Arquiza Street, Ermita, Manila, the said office belonged to B.C. Island Wood Products Corporation which was engaged in the logging business. However, when questioned further, appellant admitted being the president of Philippine-Thai but only in a nominal capacity, and claimed that as nominee-president, she did not participate in any of its transactions. Appellant likewise insisted that Philippine-Thai was engaged solely in the barong tagalog business.

After careful calibration of the evidence presented by the prosecution and the defense, the court *a quo* rendered a decision holding that the defense of "denial" interposed by the accused could not prevail over the positive and clear testimonies of the prosecution witnesses which had established the guilt of the accused beyond reasonable doubt.<sup>[4]</sup> The dispositive portion of the decision reads:

"WHEREFORE, premises considered, this Court hereby finds that the accused CRISTINA HERNANDEZ, (sic) guilty beyond reasonable doubt of the crime of illegal recruitment, committed in large scale, as defined in Article 38(a) & (b) of Presidential Decree No. 1412, x x x in relation to Article 13 (b) and (c) x x x, accordingly, sentences the accused to suffer the penalty of life imprisonment (RECLUSION PERPETUA) with the accessory penalties provided for by law; to pay a fine of ONE HUNDRED THOUSAND (P100,000.00) PESOS without subsidiary imprisonment in case of insolvency; to return and pay to BENITO L. BERNABE the amount of TWENTY EIGHT THOUSAND AND FIVE HUNDRED (P28,500.00) PESOS; to ROBERT P. VELASQUEZ the amount of TWENTY TWO THOUSAND AND FIVE HUNDRED (P22,500.00) PESOS; to GREGORIO P. MENDOZA the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS; to ARNEL MENDOZA the amount of TWENTY TWO THOUSAND FIVE HUNDRED (P22,500.00) PESOS also without subsidiary imprisonment in case of insolvency; and to pay the costs.

SO ORDERED.

Manila, Philippines, November 29, 1991."<sup>[5]</sup>

Appellant comes to this Court for the reversal of the judgment of conviction assigning the following errors against the lower court:

## I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED "LIABLE OF (sic) ILLEGAL RECRUITMENT COMMITTED IN A LARGE SCALE AND BY A SYNDICATED (sic)" FOR HAVING "MAINTAINED OFFICE WITHOUT LICENSE OR REGISTRATION FROM THE DEPARTMENT OF LABOR, THRU ITS OFFICE, THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA)."

## II

THE TRIAL COURT ERRED IN TAKING JUDICIAL NOTICE OF THE "FACT THAT ACCUSED CRISTINA M. HERNANDEZ HAD BEEN CHARGED x x x OF ANOTHER ILLEGAL RECRUITMENT x x x DOCKETED AS CRIMINAL CASE NO. 88-62599" AND IN CONSIDERING THE PENDENCY THEREOF AS EVIDENCE OF THE "SCHEME AND STRATEGY ADOPTED BY THE ACCUSED x x x AND PRACTICED WITH THE HELP OF HER AGENTS AND OTHER PERSONS WORKING UNDER THE SHADE OF HER PROTECTION."

## III

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE OR WEIGHT TO THE DEFENSE OF THE ACCUSED.<sup>[6]</sup>

The first assignment of error is anchored on the contention that the prosecution failed to prove one of the essential elements of the crime of illegal recruitment -- that the offender is a non-licensee or non-holder of authority to lawfully engage in the recruitment and placement of workers.<sup>[7]</sup> The aforementioned element, specifically the fact that neither appellant nor Philippine-Thai was licensed or authorized to recruit workers as shown by the records of the POEA, was the subject of a stipulation proposed by the prosecution and admitted by the defense during trial. Appellant assails as erroneous the reliance placed by the prosecution on the said stipulation of facts in dispensing with the presentation of evidence to prove the said element of the crime of illegal recruitment. Appellant argues that: (1) the stipulation of facts was not tantamount to an admission by the appellant of the fact of non-possession of the requisite authority or license from the POEA, but was merely an admission that the Chief Licensing Officer of the POEA, if presented in court, would testify to this fact, and (2) the stipulation of facts is null and void for being contrary to law and public policy. Appellant posits the foregoing arguments to bolster her contention that the stipulation of facts did not relieve the prosecution of its duty to present evidence to prove all the elements of the crime charged to the end that the guilt of the accused may be proven beyond reasonable doubt.

At the outset, it should be said that the above contention and the arguments are insignificant in view of the fact that records disclose that the prosecution had in fact presented evidence to prove the said element of the crime of illegal recruitment. "EXHIBIT I", a certification issued by the Chief Licensing Branch of the POEA, attesting to the fact that neither appellant nor Philippine-Thai is licensed/authorized to recruit workers for employment abroad, was offered and admitted in evidence without the objection of the appellant.<sup>[8]</sup>

Although appellant's arguments find no significant bearing in the face of the existence of "EXHIBIT I", they nonetheless require deeper scrutiny and a clear response for future application. Hence, the following discussion.

Appellant correctly distinguishes between an admission that a particular witness if presented in court would testify to certain facts, and an admission of the facts themselves. According to the appellant, what was stipulated on between the prosecution and defense counsel at the hearing on June 6, 1990 was "merely that the testimony of the Chief Licensing Officer of the POEA would be to the effect that appellant is not licensed nor authorized to recruit workers",<sup>[9]</sup> Thus:

"Prosecutor

x x x Before we call on our first witness, we propose some stipulations regarding the testimony of the Chief Licensing Branch of the POEA -- that Cristina Hernandez is not a (sic) licensed nor authorized by the Department of Labor to recruit workers abroad.

Court

Would you agree?

Atty. Ulep (Counsel for the Accused): Agreed, Your Honor."<sup>[10]</sup>

She claims that the foregoing clearly indicate that there was no judicial admission of the fact of non-possession of a license/authority but rather a mere admission that the witness, if presented, would testify to such fact. This being the case, it remained incumbent upon the prosecution to present evidence of such fact. To buttress her position, the following was cited to note the distinction:

"Suppose a case is set for trial and one of the parties moves for a continuance because of the absence of W, an important witness. His opponent, who is anxious to go to trial; asks what are the facts to which W would testify. The other attorney tells him, adding: 'If I consent to the overruling of my motion, will you stipulate that those are the facts?' The attorney who is pressing for trial says: 'No but I will stipulate that if W were called in this case as a witness, he would so testify.' What is the difference between the two stipulations?

In the first stipulation proposed there is a judicial admission of the facts, and they cannot be contradicted. But the second stipulation proposed will only have the same effect as if the witness had testified to the facts. Such testimony the party is free to contradict."<sup>[11]</sup>

The distinction, though cogent, is unfortunately inapplicable to the case at bar. Conveniently omitted from the appellant's reply brief is the ensuing statement made by the court after counsel for the accused, Atty. Ulep agreed to the stipulation proposed by the prosecution, to wit:

Atty. Ulep (counsel for the accused): Agreed, Your Honor.

Court

The prosecution and the defense agreed to stipulate/admit that from the record of the POEA Licensing and Regulation Office, Dept. of Labor and Employment, accused Cristina Hernandez/Phil. etc., Ass. x x x is neither licensed nor authorized by that office to recruit workers overseas abroad and that if the duly authorized representative from the POEA Administration is to take the witness stand, he will confirm to this fact as borne by the records.<sup>[12]</sup> (Underscoring supplied .)

From the foregoing, it is evident that the prosecution and the defense counsel stipulated on two things: that "x x x from the record of the POEA, x x x accused Cristina Hernandez, Phil. etc. Ass. x x x is neither licensed nor authorized by that office to recruit workers for overseas abroad and that if the duly authorized representative from the POEA Administratin (sic) is to take the witness stand, he will confirm to this fact x x x."<sup>[13]</sup> The claim that the lower court mistakenly interpreted defense counsel's acquiescence to the prosecution's proposed stipulation as an admission of non-possession of the requisite POEA license or authority is belied by the fact that after the above enunciation by the court, no objection was interposed by defense counsel.

Appellant further contends that granting arguendo that defense counsel had in fact agreed to the above stipulation of facts, the same is null and void for being contrary to the well-established rule that a stipulation of facts is not allowed in criminal cases. To bolster this contention, appellant cited the consistent ruling of this Court on the matter. Thus, as held in the case of *U.S. vs. Donato*:<sup>[14]</sup>

"Agreements between attorneys for the prosecution and for the defense in criminal cases, by which it is stipulated that certain witnesses, if present, would testify to certain facts prevent a review of the evidence by the Supreme Court and are in violation of the law."<sup>[15]</sup>

The above ruling was reiterated in a subsequent case where the accused was convicted solely on the basis of an agreement between the fiscal and the counsel for the accused that certain witnesses would testify confirming the complaint in all its parts. In reversing the judgment of conviction, this Court held that:

"It is neither proper nor permissible to consider a case closed, or to render judgment therein, by virtue of an agreement entered into between the provincial fiscal and the counsel for the accused with reference to facts, some of which are favorable to the defense, and others related to the prosecution, without any evidence being adduced or testimony taken from the witnesses mentioned in the agreement; such practice is not authorized and defeats the purposes of criminal law; it is an open violation of the rules of criminal procedure x x x."<sup>[16]</sup>

The rule prohibiting the stipulation of facts in criminal cases is grounded on the fundamental right of the accused to be presumed innocent until proven guilty, and the corollary duty of the prosecution to prove the guilt of the accused beyond reasonable doubt. It is therefore advanced that the prosecution being duty-bound to prove all the elements of the crime, may not be relieved of this obligation by the mere expedient of stipulating with defense counsel on a matter constitutive of an essential element of the crime charged.