



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 AUG 16 2017
 BY: *[Signature]*
 TIME: *9:30*

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 214340

Present:

- versus -

SERENO, *C.J., Chairperson,*
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, *and*
 CAGUIOA, *JJ.*

GILDA ABELLANOSA,
Accused-Appellant.

Promulgated:
JUL 19 2017

X-----X

DECISION

DEL CASTILLO, J.:

This resolves the appeal from the March 19, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 00179 which affirmed the September 9, 2002 Joint Decision² of Branch 38, Regional Trial Court (RTC) of Iloilo City, in Criminal Case Nos. 47984, 47985, 47987, 47988, 47989, 47990, and 47991 finding Gilda Abellanosa (appellant) guilty beyond reasonable doubt of the crime of Illegal Recruitment in large scale.

Appellant was charged with Illegal Recruitment in large scale defined and penalized under Section 6(m) in relation to Section 7, of Republic Act No. 8042 (RA 8042), otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995.

The Information in Criminal Case No. 47984 alleged as follows:

Criminal Case No. 47984

That on or about the 15th day of February, 1997, in the Municipality of Pavia, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused falsely representing to possess authority to recruit

[Signature]

¹ CA *rollo*, pp. 194-212; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Ramon Paul L. Hernando and Carmelita Salandanan-Manahan.

² Records, Vol. 1, pp. 551-574; penned by Presiding Judge Roger B. Patricio.

job applicants for employment abroad without first having secured the required authority from the Department of Labor and Employment/Philippine Overseas Employment [Administration], did then and there willfully, unlawfully[,] and illegally collect and [receive] from GEPHRE O. POMAR the amount of FIVE THOUSAND FIVE HUNDRED PESOS (₱5,500.00), Philippine Currency, as partial payment of processing and placement fees for overseas employment, which illegal recruitment activities is considered an offense involving economic sabotage, it being committed in large scale under Sec. 6(m) paragraph 2 of Republic Act [No.] 8042, having committed the same not only against Gephre O. Pomar but also against seven (7) others.

CONTRARY TO LAW.³

Except for the date of the commission of the crime, the names of the private complainants, and the amount purportedly collected from them, the seven other Informations in Criminal Case Nos. 47985, 47986, 47987, 47988, 47989, 47990, 47991 were similarly worded as the Information above. The following table provides a summary of the names of the private complainants and the amounts collected from them as follows:

Docket Number	Private Complainant	Amount Collected
Criminal Case No. 47985 ⁴	Timogen O. Pastolero	₱5,500.00
Criminal Case No. 47986 ⁵	Genelyn R. Sumentao	₱15,000.00
Criminal Case No. 47987 ⁶	Zeno M. Cathedral	₱20,000.00
Criminal Case No. 47988 ⁷	Cecilia L. Orias	₱10,000.00
Criminal Case No. 47989 ⁸	Janet P. Suobiron	₱10,000.00
Criminal Case No. 47990 ⁹	Nenita T. Bueron	₱5,000.00
Criminal Case No. 47991 ¹⁰	Elsie P. Pelipog	₱12,500.00

During arraignment, appellant pleaded not guilty to all charges against her. Thereafter, joint trial on the merits followed.

Version of the Prosecution

The prosecution presented the following witnesses: private complainants Timogen O. Pastolero (Pastolero), Zeno M. Cathedral¹¹ (Cathedral), Cecilia L. Orias (Orias), Janet P. Suobiron (Suobiron), Nenita T. Bueron (Bueron), and Elsie P. Pelipog (Pelipog). The prosecution also presented Angelica Oriemo (Oriemo),

³ Id. at 1.

⁴ Records, Vol. 2, p. 1.

⁵ Records, Vol. 1, pp. 552-553.

⁶ Records, Vol. 3, p. 1.

⁷ Records, Vol. 4, p. 1.

⁸ Records, Vol. 5, p. 1.

⁹ Records, Vol. 6, p. 1.

¹⁰ Records, Vol. 7, p. 1.

¹¹ Also spelled as Catedral in some parts of the records.

Atty. Juan Amane (Atty. Amane), and Benito Agarada (Agarada). The testimonies of the witnesses established the following facts:

Pastolero, complainant in Criminal Case No. 47985, testified that on February 15, 1997, he went to the house of Shirley Taberna (Shirley) in Ungka, Pavia, Iloilo, accompanied by his grandmother, Oriemo, and cousins Pelipog and Gephre Pomar (Pomar). When appellant arrived at around 12:00 noon, she introduced herself as a recruiter from Brunei and showed them a job order and calling card. Swayed by appellant's representations, Pastolero filled out a bio-data sheet and applied for the position of janitor. Appellant then asked for ₱5,500.00 as processing fee which Pastolero's grandmother, Oriemo, paid. Oriemo also paid the same amount of processing fee for her other grandson, Pomar. However, appellant did not issue any receipt for the payments she received; instead, she made assurances that Pastolero and Pomar could leave for Brunei within two months from the payment of the processing fee.

When Pastolero submitted additional documents to appellant on April 1, 1997, the latter advised him to just wait for his visa. However, after two months, Oriemo informed him that per appellant, his visa had already expired.

Cathedral, private complainant in Criminal Case No. 47987, testified that on February 16, 1997, he met appellant at the house of Ernesto Taberna (Ernesto) in Ungka, Pavia, Iloilo. Appellant, who introduced herself as a recruiter of workers for Brunei, showed Cathedral a job order and a calling card both indicating that appellant was an Overseas Marketing Director of RTY Skill Development Corporation. Appellant also represented herself as an acquaintance of the Labor Attache assigned to Brunei; and that she was a legitimate recruiter. Beguiled by appellant's representations, Cathedral submitted his bio-data indicating therein that he was applying as a cook.

On March 10, 1997, Cathedral gave ₱20,000.00 to appellant as processing fee. Appellant did not issue any receipt despite demand but assured him that the receipt would be given after the renewal of his passport. On June 5, 1997, Cathedral received a photocopy of his passport from Loida Monterde (Monterde), the secretary of the appellant. He noticed though that the passport number in the photocopy was the same as the number in his expired passport. Cathedral thus asked Monterde to issue a receipt for the money he paid, but Monterde told him to wait for the appellant. Thereafter, he did not see the appellant anymore. It was only when he went to the office of the National Bureau of Investigation (NBI) on June 11, 1997 that he came to know that the appellant was not an authorized recruiter.

Orias, private complainant in Criminal Case No. 47988, testified that on March 8, 1997, she met the appellant in Brgy. Mainggit, Badiangan, Iloilo at the house of Shirley. Appellant introduced herself as a recruiter from Brunei and



assured her and Suobiron that she could give them work in Brunei. Orias thus applied for a job as a waitress. Appellant then asked her to pay ₱25,000.00 as placement fee and assured her that she would be deployed to Brunei as soon as she had completed her papers. On April 1, 1997, Orias gave appellant ₱10,000.00. She asked for a receipt but the appellant assured her that the receipt will be issued after full payment of the placement fees. During the second week of May 1997, Orias, along with her co-applicants, met with appellant to inquire when they would leave for Brunei. Appellant however told them that their medical certificates had already expired.

When Orias and her co-applicants met Pelipog, the latter informed them that she could not leave for Brunei because, according to appellant, her papers had expired as well. Alarmed by such development, Pelipog, Orias, and their co-applicants sought the help of the NBI.

Suobiron, private complainant in Criminal Case No. 47989, testified that on March 8, 1997, she went to Shirley's house along with Jennifer Divinagracia (Divinagracia) and Orias where she met appellant who introduced herself as a recruiter. The following day, she went back to Shirley's house together with Orias and Bueron and submitted her bio-data, medical certificate, NBI clearance, and passport. Suobiron applied as a waitress and paid ₱10,000.00 of the ₱25,000.00 placement fee. When asked for a receipt, the appellant just wrote the amount paid in a notebook since it was only a partial payment. The full payment was supposed to be paid in April, 1997 before departing to Brunei. They were not able to pay the full amount of the placement fee because their visas did not arrive. According to the appellant the reason for this was their papers had expired.

Suobiron further testified that when she learned that Pelipog had filed a complaint against appellant before the NBI, she also lodged her complaint.

Bueron, private complainant in Criminal Case No. 47990, testified that on March 8, 1997, she, together with Orias and Suobiron, went to Shirley's house in Ungka, Pavia, Iloilo to apply for a job in Brunei. At that time, appellant was also at Shirley's house interviewing several applicants. Bueron initially applied as a waitress but the appellant advised her to apply as a domestic helper because of her height. After the interview, appellant told Bueron to submit her picture, medical certificate, passport, and NBI clearance, and to pay the processing fee. Appellant told her that her papers could not be processed without first paying the processing fee. Thus, on April 1, 1997, Bueron gave ₱5,000.00 to the appellant as processing fee. Despite submitting all requirements, appellant informed Bueron that she did not get the job since her papers had expired.

Pelipog, the private complainant in Criminal Case No. 47991, testified that together with Oriemo, Pomar and Pastolero, they went to Shirley's house on



February 15, 1997 to apply for work in Brunei. Appellant introduced herself as the principal recruiter of RTY Skills Development Agency and showed a job order and calling card bearing her name. During her interview, appellant asked her if she wanted to leave on the last week of March. Pelipog agreed and paid processing fee in the amount of ₱12,500.00. When Pelipog demanded the receipt, the appellant replied, "*Why, you don't trust me?*" Thereafter, the appellant required her to submit her NBI clearance and medical certificate.

Version of the Defense

The defense presented the appellant as its sole witness. She denied meeting any of the private complainants while she was in Iloilo and maintained that her purpose in going to Iloilo was only to assist Shirley in processing the latter's business license. Appellant likewise denied that she received money from the private complainants; she claimed that it was Shirley who was engaged in recruitment activities.

Ruling of the Regional Trial Court

On September 9, 2002, the RTC of Iloilo City, Branch 38 rendered judgment finding appellant guilty beyond reasonable doubt of violation of Section 6(m) in relation to Section 7, of RA 8042 (illegal recruitment in large scale) in Crim. Case Nos. 47984, 47985, 47987, 47988, 47989, 47990 and 47991 and sentenced her to life imprisonment, to pay a fine of ₱500,000.00 and actual damages in the total amount of ₱68,000.00. The RTC held that the prosecution was able to establish that the appellant engaged in recruitment activities without a valid license or authority when she represented herself to private complainants as a recruiter and promised their deployment abroad after receipt of processing and placement fees; and that despite all these, the private complainants were not given work abroad and their placement/processing fees were not reimbursed. The RTC ruled that the illegal recruitment was in large scale because it was committed against three or more persons. The RTC found appellant's defense of denial as a self-serving negative evidence which cannot be given greater weight than the positive declaration of the prosecution witnesses. However, as regards Crim. Case No. 47986, the RTC found that no sufficient evidence was adduced by the prosecution hence, appellant could not be held criminally liable.

The dispositive part of the RTC's Joint Decision reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused GILDA ABELLANOSA guilty beyond reasonable doubt for the violation of Sec. 6(m) in relation to Sec. 7 of R.A. 8042 otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, in Criminal Cases Nos. 47984, 47985, 47987, 47988, 47989, 47990 and 47991 and hereby sentences her to



serve the penalty of life imprisonment and a fine of five hundred thousand pesos (₱500,000.00) in each of these aforementioned criminal cases.

The accused is further ordered to pay actual damages [to] the following private complainants:

- | | | |
|----------------------|-------|---|
| 1. Gephre Pomar | | Five thousand five hundred pesos (₱5,500.00); |
| 2. Timogen Pastolero | | Five thousand five hundred pesos (₱5,500.00); |
| 3. Zeno M. Catedral | | Twenty thousand pesos (₱20,000.00); |
| 4. Cecilia Orias | | Ten thousand pesos (₱10,000.00); |
| 5. Janet Suobiron | | Ten thousand pesos (₱10,000.00); |
| 6. Nenita Bueron | | Five thousand pesos (₱5,000.00); |
| 7. Elsie Pelipog | | Twelve thousand pesos (₱12,000.00). |

However, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt in Crim. Case No. 47986, judgment is hereby rendered acquitting her of the crime charged therein.

The accused is entitled to the privileges under Art. 29 of the Revised Penal Code.

SO ORDERED.¹²

Aggrieved by the RTC's Decision, appellant appealed to the CA.

Ruling of the Court of Appeals

On March 19, 2014, the CA affirmed the RTC's Decision and held as follows:

WHEREFORE, in light of the foregoing, the appeal is DENIED. The Joint Decision of the Regional Trial Court, Branch 38, 6th Judicial Region, Iloilo City, dated September 9, 2002 in Criminal Cases Nos. 47984, 47985, 47987, 47988, 47989, 47990 and 47991 is hereby AFFIRMED.

SO ORDERED.¹³

Dissatisfied with the CA's Decision, appellant elevated her case to this Court. On February 25, 2015, the Court issued a Resolution¹⁴ requiring the submission of Supplemental Briefs. However, both parties manifested that they would no longer file supplemental briefs since they had exhaustively discussed their arguments before the CA.¹⁵ 

¹² Records, Vol. 1, pp. 573-574.

¹³ CA rollo, p. 211.

¹⁴ Rollo, pp. 31-32.

¹⁵ Id. at 33-41.

Issue

The main issue raised by the appellant is whether the trial court erred in finding that her guilt for the crime charged had been proven beyond reasonable doubt. Appellant maintains that she never met any of the private complainants during her short stay in Iloilo. Appellant lays the blame and points to Shirley as the one engaged in recruitment activities. She insists that she was a mere visitor in the house of Shirley's mother and thus prays for her acquittal.

Our Ruling

After a judicious review of the records of the case, we find the appeal unmeritorious.

Article 13(b) of the Labor Code defines recruitment and placement, *viz.*:

[A]ny 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.

Recruitment becomes illegal when undertaken by non-licensees or non-holders of authority. Article 38 of the Labor Code provides:

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 Secretary 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 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.

Corollary to this, Section 6 of RA 8042 defines illegal recruitment as follows:



[A]ny act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, that any such non-licensee or non-holder who, in any manner offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

x x x x

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

Illegal recruitment x x x is deemed committed in large scale if committed against three or more persons individually or as a group.

We agree with the trial court and the CA that the prosecution was able to establish that appellant was engaged in illegal recruitment in large scale. It was proved that appellant was a non-licensee or non-holder of authority to recruit workers for deployment abroad; she offered or promised employment abroad to private complainants; she received monies from private complainants purportedly as placement or processing fees; that private complainants were not actually deployed to Brunei; that despite demands, appellant failed to reimburse or refund to private complainants their monies; and that appellant committed these prohibited acts against three or more persons, individually or as a group.

To recall, private complainants Pomar, Pastolero, Cathedral, Orias, Suobiron, Bueron, and Pelipog testified that appellant went to Pavia, Iloilo and represented herself as a recruiter who could send them to Brunei for work; that appellant impressed upon them that she had the authority or ability to send them overseas for work by showing them a job order from Brunei and a calling card; and appellant collected processing or placement fees from the private complainants in various amounts ranging from ₱5,000.00 to ₱20,000.00; and that she did not reimburse said amounts despite demands.

In addition, it was proved that appellant does not have any license or authority to recruit workers for overseas employment as shown by the certification issued by the Philippine Overseas Employment Administration.¹⁶



¹⁶ Records, Vol. 1, p. 175.

Finally, appellant recruited seven persons, or more than the minimum of three persons required by law, for illegal recruitment to be considered in large scale.

Verily, the RTC and the CA correctly found the appellant guilty of large scale illegal recruitment.

Section 7 of RA 8042 provides for the penalties for illegal recruitment in large scale as follows:

SEC. 7. PENALTIES –

x x x x

(b) The penalty of life imprisonment and a fine of not less than five hundred thousand pesos (₱500,000.00) nor more than one million pesos (₱1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, that the maximum penalty shall be imposed if x x x committed by a non-licensee or non-holder of authority.

In the case at bar, we note that the RTC, as affirmed by the CA, imposed the penalty of life imprisonment in each of the seven cases. Considering however our finding that the offense involved is illegal recruitment in large scale, it being committed against three or more persons, the penalty of life imprisonment shall apply collectively to all seven cases lumped together, and not individually. The same is true with the accompanying penalty of fine; it must likewise be imposed collectively on all seven cases lumped together, not individually. However, instead of fine of ₱500,000.00, the amount should be increased to ₱1 million, or the maximum amount of fine considering that appellant was a non-licensee or non-holder of authority.¹⁷ However, the trial court, as affirmed by the CA, correctly ordered appellant to reimburse to each private complainant the amount she respectively received from each of them, save for Elsie Pelipog who should be reimbursed the amount of ₱12,500.00 as stated in the Information and proved during trial, and not ₱12,000.00 as stated in the RTC Joint Decision.

WHEREFORE, the appeal is **DISMISSED**. The March 19, 2014 Decision of the Court of Appeals in CA-G.R. CR. HC No. 00179 is **AFFIRMED with MODIFICATION** that appellant Gilda Abellanosa is found **GUILTY** of illegal recruitment in large scale and is sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱1 million, and to reimburse Elsie Pelipog the amount of ₱12,500.00 instead of ₱12,000.00.



¹⁷ See *People v. Chua*, 695 Phil. 16, 34 (2012).

SO ORDERED.

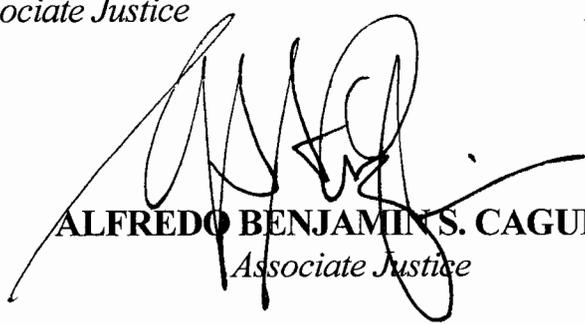

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMINS S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice