

## THIRD DIVISION

[ G.R. No. 138431-36, September 12, 2001 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DIOSCORO M. ARABIA AND FRANCISCA L. TOMAS, ACCUSED-  
APPELLANTS.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court of Quezon City, Branch 102, finding accused-appellants Dioscoro M. Arabia and Francisca L. Tomas both guilty of illegal recruitment in large scale and sentencing them to each suffer the penalty of life imprisonment and to each pay a fine of P100,000.00; and five (5) counts each of estafa for which both were sentenced to suffer an indeterminate prison term of one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* as minimum, to five (5) years, five (5) months and eleven (11) days of *prision correccional* as maximum for each of the four counts. In another count of estafa, they were each sentenced to suffer an indeterminate prison term of two (2) years, eleven (11) months and eleven (11) days of *prision correccional* as minimum, to six (6) years, eight (8) months and twenty-one (21) days of *prision correccional* as maximum. They were further ordered to solidarily pay the complainants the following amounts by way of actual damages: (1) P23,000.00 to Rolando Rustia; (2) P16,000.00 to Noel de la Cruz; (3) P16,000.00 to Teresita Julva Lorenzo; (4) P16,000.00 to Violeta S. de la Cruz; and (5) P16,000.00 to Remelyn Nona Jacinto.

The Information for Illegal Recruitment in Large Scale docketed as Crim. Case No. Q-93-48585 alleged that Dioscoro M. Arabia and Francisca L. Tomas, without the requisite license or authority from the POEA recruited six (6) individuals, namely, Violeta S. De La Cruz, Noel De La Cruz, Pelagia Dela Cruz, Remelyn Jacinto, Teresita Lorenzo and Rolando Rustia for employment abroad. It reads:

"The undersigned accuses DIOSCORA M. ARABIA and FRANCISCA T. TOMAS of the crime of Illegal Recruitment in Large Scale (Art. 38 (a) in relation to Art. 39 (b) of the Labor Code of the Philippines, as amended by P.D. 2018), committed as follows:

That on or about the period comprised from October 1992 to January 16, 1993, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, by falsely representing themselves to have the capacity to contract, enlist and recruit workers for employment abroad, did, then and there willfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad to VIOLETA S. DE LA CRUZ, NOEL DE LA CRUZ, PELAGIA DE LA CRUZ, REMELYN JACINTO, TERESITA LORENZO and

ROLANDO RUSTIA, without first securing the required license or authority from the Department of Labor and Employment, in violation of said law.

That the crime described above is committed in large scale as the same was perpetrated against three or more persons individually or as group as penalized under Article 38 and 39 of the Labor Code as amended by PD 2018.

Contrary to law."<sup>[2]</sup>

Five other informations for estafa were also filed before the same court each charging Dioscora Arabia and Francisca Tomas with estafa under par. 2, subpar. (a), of Art. 315, of the Revised Penal Code. Of the six (6) complainants in the case for Illegal Recruitment in Large Scale, only one, Pelagia de la Cruz, did not file a case for estafa.

The estafa cases (naming the complainants and stating the amounts therein involved) include: (1) Criminal Case No. Q-93-48584 (Rolando Rustia-P23,000.00); (2) Criminal Case No. Q-93-48586 (Noel De La Cruz-P16,000.00); (3) Criminal Case No. Q-93-48587 (Teresita Julva Lorenzo-P16,000.00); (4) Criminal Case No. Q-93-48588 (Violeta S. De La Cruz-P16,000.00); (5) Criminal Case No. Q-93-48589 (Remelyn Nona Jacinto-P16,000.00).

Except for the name of the offended party, the amount involved and the date of the commission of the crime, the following information in Criminal Case No. Q-93-48584 typified the other informations for the crime of estafa:

"The undersigned accuses DIOSCORA M. ARABIA and FRANCISCA L. TOMAS of the crime of Estafa, committed as follows:

That on or sometime in the month of October, 1992, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, did then and there willfully, unlawfully and feloniously defraud ROLANDO RUSTIA in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which they made to said Rolando Rustia to the effect that they had the power and capacity to recruit and employ Rolando Rustia and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said Rolando Rustia to give and deliver, as in fact he gave and delivered to said accused the amount of P23,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the amount of P23,000.00, which amount once in possession, with intent to defraud Rolando Rustia, willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Rolando Rustia in the aforesaid amount of P23,000.00, Philippine Currency."<sup>[3]</sup>

As said indictments were founded on the same facts, the cases were tried jointly. On December 13, 1993, accused-appellants Dioscora Arabia and Francisca Tomas both entered a plea of not guilty to each of the charges,<sup>[4]</sup> whereupon trial commenced.

As can be gleaned from the Informations, accused-appellants Dioscora Arabia and Francisca Tomas promised employment to at least six (6) people, four (4) of whom, namely, Violeta De La Cruz, Remelyn Jacinto, Teresita Lorenzo and Pelagia de la Cruz, appeared in court to testify against them.

We adopt the following summary of the evidence for the prosecution by the Office of the Solicitor General, *viz*:

"In October 1992, private complainants Violeta de la Cruz, Remelyn Jacinto, Teresita Lorenzo, Rolando Rustia and Noel de la Cruz were introduced by the latter's mother, private complainant Pelagia de la Cruz, to appellant Dioscora Arabia, a recruiter of job applicants for a factory in Taiwan.

They all saw appellants at the residence of Arabia at Block 22, Lot 25, Villanova Subdivision, Quezon City (TSN, July 13, 1994, pp. 4-6). Then and there, appellants convinced them and other applicants to apply for jobs in Taiwan that would give them a monthly pay of P22,000.00 with two (2) months advance salary to boot. Service fees for processing and placement, private complainants were told by appellants Arabia and Tomas, would be P16,000.00 for each of them (Ibid., pp. 6-8).

Three (3) days later, appellants themselves went to the Dela Cruz residence where they convinced private complainants to give the amount of P16,000.00 each so that they could leave for Taiwan by December 18, 1992. On November 6, 1992, each of the private complainants, except Roland Rustia who gave P23,000.00, gave P16,000.00 to Arabia at the latter's residence and in the presence of Tomas. Arabia, however, did not issue any receipt upon her assurance that she would not fool them (Ibid., pp. 8-10; August 31, 1994, p. 6).

Private complainants were told to prepare for their departure and that the P16,000.00 placement fee would be reimbursed by their employer in Taiwan. Various requirements, such as pictures, passports and bio-data, were submitted by private complainants (Ibid., July 13, 1994, pp. 10-11).

On December 18, 1992, however, private complainants were not able to leave for Taiwan because appellants told them that the person who was supposed to accompany them to Taiwan did not arrive. The departure date was thus reset to January 16, 1993, but private complainants were still unable to leave because of the same excuse that appellants gave (Ibid., pp. 11-12).

Private complainants asked for the return of their money as they were no

longer interested in working abroad. They were informed by Arabia's sister, however, that appellants were arrested by the NBI and detained at the Quezon City Jail (Ibid., p. 12). Records also showed that appellants were neither licensed nor authorized to recruit workers for overseas employment (Ibid., March 14, 1994, p. 4; May 4, 1994, p. 5).

Upon a joint complaint filed with the Quezon City Prosecutor's Office, the corresponding Informations were filed with the Regional Trial Court (RTC, Decision, pp. 1-4)."<sup>[5]</sup>

Upon the other hand, accused-appellants denied having recruited the complainants. Dioscora Arabia claimed that the complainants went to her house "para magpahilot." She denied that she got money from them and claimed that she herself was a victim of an illegal recruiter. She applied for employment abroad with a certain Rebecca de Jesus who was also the recruiter of the complainants. She paid Rebecca de Jesus P30,000.00, and consequently, she filed a complaint for estafa and illegal recruitment against Rebecca de Jesus in February 1993. Similarly, Francisca Tomas claimed that she was a job applicant and she met Dioscora Arabia at the house of Rebecca de Jesus. She also saw the complainants as applicants for a job there. At the time of their arrest in March 11, 1993, she was with living with Arabia. According to her, she also filed complaints against Rebecca de Jesus.

Assessing the evidence, the trial court gave full credit to the version of the prosecution and found unmeritorious accused-appellants' defense. The trial found accused-appellants guilty beyond reasonable doubt of illegal recruitment in large scale and of five counts of estafa. The court explained thus:

"After an evaluation of the evidence adduced by the parties, the court finds the evidence sufficient to prove the guilt of the accused beyond reasonable doubt.

As testified to by the complaining witnesses, accused Arabia convinced the complaining witnesses to apply for employment in Taiwan by making representations that they will be getting a salary of P20,000.00 a month, and upon arrival in Taiwan, they will be paid their two months salary in advance. Accused likewise told them that they will be leaving on December 18, 1992. It was also accused Arabia who demanded the payment of P16,000.00 placement fee from each complainant.

Undoubtedly, therefore, accused Arabia and Tomas were engaged in recruiting workers for employment abroad.

The evidence adduced by the prosecution likewise shows that accused Arabia was neither licensed or authorized by the POEA to recruit workers for overseas employment as shown by the certification issued by the Chief Licensing Division, POEA, Veneranda Guerrero (Exh. A).

Neither is accused Francisca Tomas licensed nor authorized to recruit workers for overseas employment (Exh. B).

It was likewise sufficiently shown that both accused recruited more than three persons - the five (5) complaining witnesses in this case.

The only defense of the accused Arabia and Tomas is denial. They claim that, like the complainants, they too, accused Arabia and Tomas, were job applicants and their recruiter was one Rebecca de Jesus; that they were likewise victimized by Rebecca de Jesus. As a matter of fact, according to the accused, like them, complainants also filed a case against said illegal recruiter, Rebecca de Jesus.

However, accused Arabia and Tomas failed to present proof that they indeed filed a case against Rebecca de Jesus for illegal recruitment. Neither did they present proof that complainants also filed a case against said Rebecca de Jesus. Accused Arabia presented supposed complainant-affidavits against Rebecca de Jesus, however, it was not shown that herein complainants are among those persons who executed an affidavit-complaint.

Accused Arabia admits that sometime during the last week of November, 1992, the complainants went to her house. However, she claimed they went there not because they wanted to see her but because one Rebecca de Jesus, the alleged illegal recruiter told the complainants to meet her (Rebecca) there because Rebecca happened to be a client of accused Arabia as "manghihilot". Accused Arabia later on stated that she first saw these complainants during the last week of December 1992.

Accused Arabia further stated the case they filed against Rebecca de Jesus is with the sala of then Judge Costales of Br. 93 of Quezon City. However, the evidence showed that the case then pending in the sala of Judge Costales was the case filed by other complainants against herein accused Arabia and Tomas (Exh. G-1).

The allegation of accused witness, one Atty. Layaoen, who allegedly assisted herein accused in filing their complaint against Rebecca de Jesus with the Prosecutor's Office in Quezon City was belied by the prosecution's rebuttal witness, Mr. Ronald Feliciano, an employee of the City Prosecutor's Office, Quezon City, assigned at the Records Division of said office, who testified that based on their records, there are nine (9) cases of estafa and illegal recruitment filed in their office against Rebecca de Jesus, but not one of them was filed by herein accused Arabia and Tomas, and/or by complainants in the present case (against Arabia and Tomas).

Besides, if Atty. Layaoen indeed assisted the accused in filing the case against Rebecca de Jesus, how come he does not even know what happened to said case if there was really a case filed against said Rebecca de Jesus.

Witness Layaoen further stated that as far as he knows accused could not have been involved in any case of estafa or illegal recruitment. However, accused Arabia and Tomas admitted that they have already been convicted by an RTC court in Quezon City, then presided by Judge