

SECOND DIVISION

[G.R. No. 110391, February 07, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE,
VS. DOLORES DE LEON Y MISAJON, ACCUSED-APPELLANT.
D E C I S I O N**

ROMERO, J.:

Appellant Dolores de Leon was charged with violation of Article 38 (a) of Presidential Decree 1412 in relation to Article 15 (b) and (c) of the Labor Code in an information which reads:

"That in or about and during the period comprised between July 6, 1992 and September 30, 1992, 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 in Jeddah/Saudi Arabia, did then and there wilfully and unlawfully for a fee, recruit and promise employment/job placement in said country to Roberto Porio y Silva, Ambrosio Miler y dela Cruz, Rafael Laurente y Enriquez, Olimpia Guillena y Daliopac, Cipriano Perez y Bongoy, Charlene Tatlonghari y Sota, Elvira Banta y Puno, Purita Joaquin y Flores, Loreta Tatlonghari y Toboro, Joseph Chavez y Cater, Analiza Tatlonghari y Toboro, Jaime Indaya y Lambozon, Manuel Cabusao y Parungao, Edgardo Alagao y dela Cruz, Raymunda Miguellles y Balaba, Desiree dela Cruz y Laconsay, Felicidad Galvez y Ducusin, Exequiel Miguellles y Cirunay, Rosenda Jose y Perez, Guillermo Lampa y Tansueco, Edmar Alagao y dela Cruz, Rommel Lozano y Cortez, Rodante Sunico y Galvez and Romeo Porio y Silva, without first having secured the required license or authority from the Department of Labor and Employment."

The prosecution's evidence shows that:

Appellant is a former overseas contract worker placed by All Seasons Manpower for employment as a midwife in Kuwait from 1989 to September 1991 and as a nursing aide in Jeddah from February 1992 to June 1992.

On August 14, 1992, appellant went to the house of Mr. Tatlonghari and offered him and his daughter-in-law, Charlene Tatlonghari, placement in Jeddah, Saudi Arabia. Although Charlene already had a pending application in another agency, she still submitted her bio-data to appellant.

On August 15, 1992, appellant told Charlene that she would be hired as a clerk with a monthly salary of US\$450.00. On August 16, 1992, Charlene withdrew her passport from the other agency and gave it to appellant together with P1,000.00, which was P400.00 short of the amount

required by appellant allegedly for travel tax. No receipt was issued but appellant promised Charlene's departure on August 28, 1992.^[1]

The scheduled departure was postponed as were the succeeding schedules, prompting Charlene and the other applicants to go to All Seasons Manpower in Makati. They saw appellant there and she advised them to attend a seminar at the Philippine Overseas Employment Agency (POEA). However, they were warned not to talk with anyone in the said government agency. Subsequently, she learned that appellant was arrested in one of the lodging houses in Sta. Cruz, Manila where all the applications and other documents were found beneath the bed. When she saw appellant at the police station, appellant told Charlene not to join the other accusers who caused her arrest.^[2]

Rodante Sunico, a food server at Jollibee along Rizal Avenue, Manila met appellant on August 15, 1992. Appellant was introduced as a recruiter who had already sent five workers to the Middle East. Sunico gave appellant his bio-data and other documents after she promised him that he would be included as a nurse in the second batch of workers for Saudi Arabia.

On August 21, 1992, Sunico went to the house of Mr. Tatlonghari where he gave appellant the amount of P5,400.00 allegedly for processing his passport and payment of travel tax.^[3] Sunico was not issued a receipt but appellant required him to come back on the eve of his scheduled departure on August 28, 1992. This "departure" was, however, postponed several times. Later, Sunico learned from Charlene Tatlonghari that appellant was arrested and detained by the police. Sunico confronted appellant who promised to settle the obligation but failed;^[4] whereupon he went to All Seasons Manpower in Makati where he was told that the said agency did not know appellant.

Guillermo Lampa, a tricycle driver, was recruited by appellant on August 4, 1992. He was offered a janitorial job in Jeddah, Saudi Arabia with a monthly salary of US\$300.00. Lampa and his wife gave appellant P1,000.00 for medical expenses and another P1,000.00 for a joint account with his wife. No receipt was issued by appellant but she promised him that he would leave in two weeks' time and that All Seasons Manpower would pay for his plane ticket.^[5] Lampa never left as promised and on September 27, 1992, he learned that appellant had been arrested. At police headquarters, appellant promised to refund Lampa's money but failed to do so.

Manuel Cabusao, a carpenter, met appellant through one Desiree de la Cruz. Also present then were his brother Leonardo Cabusao, Guillermo Lampa, Rommel Losano, Joseph Chavez and Analiza Tatlonghari. Appellant offered him a janitorial job in a hospital in Saudi Arabia with a monthly salary of US\$300.00. He gave appellant P2,700.00 for the processing of the travel documents. No receipt was issued by appellant allegedly because the amount involved was small and because the amount he should have paid was P5,000.00. Appellant scheduled his

departure on September 11, 1992 but postponed the same. He then started looking for appellant until he learned that she was staying in a hotel in Bambang, Jose Abad Santos, Tondo, Manila. He relayed the information to his co-applicants who sought the help of the Barangay Chairman in arresting appellant.^[6] During the preliminary investigation, appellant promised to refund the amount he paid, but failed to do so.

Joseph Chavez, a bakery caretaker in Bambang Market, met appellant on September 6, 1992 through the wife of his co-applicant Guillermo Lampa. Appellant represented herself as a recruiter of All Seasons Manpower in Makati and offered him a janitorial job in Bahrain because two applicants were rejected. He gave appellant P6,500.00 supposedly for medical, processing and placement fees. Appellant did not issue a receipt because she was in a hurry. His departure was scheduled on September 22, 1992 and when nothing happened, he waited for appellant. Later, he learned that she had been arrested by barangay officials. Like the other applicants, he executed a sworn statement.^[7]

Roberto Porio, an electrician, went to the house of appellant on July 9, 1992 in the belief that appellant, as alleged owner of All Seasons Manpower in Makati, was recruiting workers for abroad. He applied as nursing aide and gave appellant his NBI clearance, passport, pictures and P2,300.00.^[8] Since he trusted appellant, he did not ask her for a receipt. Thereafter, appellant disappeared.

On September 27, 1992, he saw appellant at police headquarters where she promised to refund his money. He executed an affidavit stating the circumstances of the illegal recruitment.

The prosecution also presented POEA records, duly identified by Visitacion Carreon, POEA Senior Officer, showing that All Seasons Manpower International Services is a licensed placement agency.^[9] However, appellant's name was not among the list of personnel submitted by said agency to the POEA.

On April 28, 1993, the trial court rendered a decision, the dispositive portion of which states:

"WHEREFORE, judgment is hereby rendered finding the accused Dolores de Leon guilty of the crime of Illegal Recruitment in large scale and hereby sentences her to suffer the penalty of life imprisonment and to pay a fine of P100,000.00, and further, for the said accused to indemnify the complainants as follows -

1. To Rodante Sunico the sum of P5,400.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;
2. To Charlene Tatlonghari the sum of P1,000.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;
3. To Guillermo Lampa the sum of P2,000.00 with interest at the legal rate from October 22, 1992 until the same is fully paid;