

## SECOND DIVISION

[ G.R. No. 232623, October 05, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OLIVER  
IMPERIO Y ANTONIO, ACCUSED-APPELLANT.**

### **D E C I S I O N**

**HERNANDO, J.:**

This is an appeal from the February 10, 2017 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08232, which denied the appeal brought therewith and affirmed the March 16, 2016 Judgment<sup>[2]</sup> of the Regional Trial Court (RTC) of Pasig City, Branch 166 in Criminal Case No. 146959. The RTC convicted Oliver Imperio y Antonio (appellant) of Illegal Recruitment in Large Scale under Republic Act No. (RA) 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995."

#### **Factual Antecedents**

The Information<sup>[3]</sup> in Criminal Case No. 146959 alleged as follows:

On or about January 11, 2012, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, representing himself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad to the following persons, namely:

1. Cherry Beth A. Barabas
2. John Daryl V. De Leon
3. Edralin D. Sta Maria
4. Shane S. Llave
5. Megallan III L. Concrenio
6. Annavey C. Flores
7. Maricor Ventura
8. Ma. Camella C. Luzana
9. Gregorio C. Daluz

without first securing the required license and authority from the Philippine Overseas Employment Administration (POEA) and said accused failed to actually deploy without valid reasons said complainants abroad and to reimburse the expenses incurred by them in connection with their documentation and processing for purposes of deployment abroad, to their damage and prejudice.

Contrary to law.<sup>[4]</sup>

Appellant pleaded *not guilty* to the charge. Thereafter, trial on the merits ensued.<sup>[5]</sup>

The prosecution presented seven witnesses, namely: (1) Shane S. Llave (Llave), (2) National Bureau of Investigation (NBI) Agent Yehlen Agus (Agent Agus), (2) Edralin Sta. Maria (Sta. Maria), (4) Marcelo Maningding, (5) Juliet Mahilum, (6) Magellan Concrenio III (Concrenio), and (7) Rodolfo Oliverio. Appellant was the sole witness in his defense.

### **Version of the Prosecution:**

Sometime between June 2011 and July 2011, appellant informed Llave that his aunt, who was based in California, United States of America (USA), was hiring a data encoder with a salary of US\$3,000.00. Due to appellant's representations, Llave forwarded her resume to appellant, and paid him the amount of P7,000.00 as processing fee for her visa application with the United States Embassy, for which no receipt was issued. Upon appellant's request for other referrals, Llave recommended Concrenio, Cherry Beth Barabas (Barabas), John Daryl De Leon (De Leon), Sta. Maria, and a certain Michelle<sup>[6]</sup> (applicants).

Appellant offered Concrenio overseas employment in Canada as a utility worker. Meanwhile, like Barabas and De Leon, appellant offered Sta. Maria overseas employment with a salary of P90,000.00. In consideration for their employment abroad, appellant collected from these applicants certain amounts of money.<sup>[7]</sup> Testimonies of the prosecution witnesses revealed that appellant received P7,000.00 each from Llave, Sta. Maria, Barbara, and De Leon, and P10,000.00<sup>[8]</sup> from Concrenio.

Despite the applicants' repeated inquiries, and the lapse of a considerable length of time, appellant failed to secure overseas employment for them as promised. The foregoing notwithstanding, he demanded an additional amount of P1,500.00 from each of the applicants as notarization fee for their papers submitted to the United States Embassy.

These circumstances prompted Llave, Concrenio, Barabas, De Leon, and Sta. Maria, together with the other private complainants, to file their respective complaints against appellant before the NBI. Upon further investigation by NBI Agent Agus, it was revealed that appellant has no license or authority to recruit applicants for overseas employment as certified by the Philippine Overseas Employment Agency (POEA).<sup>[9]</sup>

On January 11, 2012, appellant was arrested via an entrapment operation conducted by the NBI. It was during the entrapment operation that appellant received from Barabas, De Leon, and Sta. Maria payment for their processing fees collectively amounting to P21,000.00 as evidenced by a written receipt executed by appellant.<sup>[10]</sup>

### **Version of the Defense:**

In his defense, appellant vehemently denied the allegations against him. Appellant alleged that he met Llave on June 3, 2011 when the latter applied for work at his office. It is through their continued friendship that Llave was able to secure a loan

from appellant in the amount of P35,000.00 with an agreed interest rate of 20%. Despite repeated demands, Llave failed to pay her obligation to appellant. Appellant further claimed that he came to know the other private complainants through Llave, and, on one occasion, had an altercation with them at the latter's house. While appellant later admitted that he received various amounts from private complainants, he claimed that all these were made as payment for Llave's outstanding obligation to him.

Appellant further testified that after the entrapment operation, and subsequent to his arrest, NBI Agent Agus instructed him to prepare and issue an acknowledgment receipt stating therein that he received from Barabas, De Leon, and Sta. Maria a sum of money amounting to P21,000.00 as processing fee for their overseas employment in California, USA.

### **Ruling of the Regional Trial Court:**

In a Judgment<sup>[11]</sup> rendered on March 16, 2016, the RTC found appellant guilty beyond reasonable doubt of Illegal Recruitment in Large Scale. The RTC held that:

The prosecution was able to prove that accused, indeed, is not a license holder or had any authority to engage in recruitment and placement activities. The defense failed to rebut this evidence presented by the prosecution but plainly denied and posed an alibi that the money he received represented payment for the loan obtained from him by private complainant, Shane Llave, without presenting further evidence to back up his claim. The fact that accused Imperio, who has no authority or license to recruit for work overseas, actually recruited the private complainants for work in California, U.S.A. and Canada, for a fee. x x x

x x x x

The Information stated that there were nine (9) private complainants who executed their respective complaint affidavits against accused. Out of these nine (9) private complainants, the prosecution was able to present three (3) of them, particularly, Shane Llave, Edralin Sta. Maria and Magellan Concrenio III, whose testimonies corroborated one another and strengthen the evidence of guilt of the accused beyond reasonable doubt. As undoubtedly proven by the prosecution, the act committed by the accused falls within the ambit of illegal recruitment in large scale as defined under the law.<sup>[12]</sup>

The dispositive portion of the Judgment states:

**WHEREFORE**, premises considered, judgment is hereby rendered finding accused, Oliver Imperio y Antonio, **GUILTY** beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale.

Accordingly, pursuant to Sec. 7(b) of R.A. 8042, "Migrant Workers and Overseas Filipinos Act of 1995", accused Oliver Imperio y Antonio is sentenced to suffer the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (Php500,000.00). He is likewise ordered to pay the private complainants the following amounts as actual damages, to

wit: 1) Shane Llave - Php 7,000.00; 2) Edralin Sta. Maria - Php7,000.00; and 3) Magellan Concrenion III - Php10,000.00

Let a mittimus order be issued to transfer custody of the accused to National Bilibid Prisons, Muntinlupa City.

**SO ORDERED.**<sup>[13]</sup>

Aggrieved, appellant appealed the Judgment to the CA.

### **Ruling of the Court of Appeals:**

On February 10, 2017, the CA rendered its assailed Decision<sup>[14]</sup> affirming with modifications the Judgment of the RTC. The dispositive portion of the CA Decision reads:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The March 16, 2016 Judgment of the Regional Trial Court, Branch 166, Pasig City in Criminal Case No. 146959 is hereby **AFFIRMED**. In addition, accused-appellant is obliged to pay the interest of 6% *per annum* on the respective sums due to each of the complainants, to be reckoned from the finality of this decision until fully paid considering the amount to be restituted became determinate only through this adjudication.

**SO ORDERED.**<sup>[15]</sup>

The CA held that the appellant's testimony is self-serving and uncorroborated, and that his denial of any illegal recruitment activity "cannot stand against the prosecution witnesses' positive identification of appellant as the person who induced them to part with their money upon the misrepresentation and false promise of deployment abroad."<sup>[16]</sup> The appellate court also gave respect to the RTC's factual findings and assessment of the credibility of the prosecution's witnesses. It noted that the prosecution witnesses corroborated each others testimonies-that appellant represented to the private complainants of his resources and ability to send them abroad for employment. The CA also found that appellant was, in no manner, authorized by law to engage in the recruitment and placement of workers, as evidenced by a Certification<sup>[17]</sup> issued by the POEA. It also held that there were at least three (3) victims in this case who all testified before the RTC in support of their respective complaints, which therefore made appellant liable for Illegal Recruitment in Large Scale.

### **Proceedings before this Court:**

Appellant now seeks affirmative relief from this Court and pleads for his acquittal.

This Court, in its October 2, 2017 Resolution,<sup>[18]</sup> notified the parties that they may file their supplemental briefs, if they so desire. However, both parties manifested<sup>[19]</sup> that in lieu of filing supplemental briefs, they were adopting their respective briefs filed before the CA.

### **Issue**

The main issue raised by appellant is whether the RTC erred in finding that his guilt for the crime charged had been proven beyond reasonable doubt.

Appellant maintains that the RTC gravely erred in giving weight to the testimonies of the prosecution witnesses despite their inconsistencies, which therefore casts doubt on the veracity and credibility of their declarations. In particular, appellant points out that the testimony of Llave is unclear as to when she came to know of appellant.

Appellant also claims that: (1) Llave's failure to request from appellant a receipt for the amounts supposedly paid to him; and (2) Concrenio's act of paying appellant the sum of P10,000.00 as processing fee for his papers with the United States Embassy, but which pertains to his employment in Canada, are unnatural and contrary to human experience, which therefore cast doubt on the veracity of their accounts.

Appellant further denies promising any kind of overseas employment to Sta. Maria, and that the latter "parted with his money because of what he learned from [De Leon] and [Barabas] and not because of any representations made by [appellant]."

[20] Appellant also faults the RTC for disregarding his defense of denial.

### **Our Ruling**

We find the appeal unmeritorious.

#### **Illegal recruitment in large scale:**

Article 13(b) of the Labor Code, as amended, [21] defines recruitment and placement as "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." Recruitment, as defined in the Labor Code, becomes illegal when undertaken by non-licensees or non-holders of authority. In this regard, Article 38 of the Labor Code provides:

ARTICLE 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 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.