

THIRD DIVISION

[G.R. No. 190970, November 24, 2014]

**VILMA M. SULIMAN, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

PERALTA, J.:

Assailed in the present petition for review on *certiorari* is the Resolution^[1] of the Court of Appeals (CA) dated July 21, 2009, in CA-G.R. CR No. 30693 which denied herein petitioner's Motion to Admit Attached Motion for Reconsideration, as well as the appellate court's Resolution^[2] dated January 8, 2010, which likewise denied petitioner's Motion for Reconsideration of the CA Resolution dated July 21, 2009.

The factual and procedural antecedents of the case are as follows:

In six (6) Informations,^[3] all dated June 6, 2003, herein petitioner and one Luz P. Garcia were charged before the Regional Trial Court (RTC) of Manila with two (2) counts of illegal recruitment under Section 6, paragraphs (a), (1) and (m) of Republic Act No. 8042, otherwise known as the *Migrant Workers and Overseas Filipinos Act of 1995*, as well as four (4) counts of *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code.

Only petitioner was brought to trial as her co-accused, Garcia, eluded arrest and remained at-large despite the issuance of a warrant for her arrest.

The six cases were consolidated and, after trial, the RTC of Manila, Branch 21, rendered judgment finding petitioner guilty beyond reasonable doubt of two (2) counts of illegal recruitment and three (3) counts of *estafa*. The dispositive portion of the RTC Decision,^[4] dated June 7, 2006, reads as follows:

WHEREFORE, premises considered, the Court finds as follows:

1) In Crim. Case Nos. 03-216188 and 03-216189, accused VILMA SULIMAN GUILTY beyond reasonable doubt as principal of the crimes charged and is hereby sentenced to suffer the indeterminate penalty of SIX (6) YEARS each and to pay fine of P200,000.00 for each count.

2) In Crim. Case No. 03-216190, accused VILMA SULIMAN GUILTY beyond reasonable doubt as principal of the crime charged and is hereby sentenced to suffer the penalty of SIX (6) MONTHS and ONE (1) DAY to TWO (2) YEARS and ONE (1) DAY of prision correccional (sic) and to indemnify Anthony Mancera y Rey the amount of P120,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.

3) In Crim. Case No. 03-216191, accused VILMA SULIMAN GUILTY beyond reasonable doubt as principal of the crime of Estafa and is hereby sentenced to suffer the penalty of FOUR (4) YEARS and TWO (2) MONTHS of prision correctional (sic) and to indemnify private complainant Perlita A. Prudencio the amount of PI 32,460.00 without subsidiary imprisonment in case of insolvency and to pay the costs.

4) In Crim. Case No. 03-216192, for failure of the prosecution to prove the guilt beyond reasonable doubt, accused VILMA SULIMAN is hereby ACQUITTED of the crime charged.

5) In Crim. Case No. 03-216193, accused VILMA SULIMAN is GUILTY beyond reasonable doubt as principal of the crime charged and is hereby sentenced to suffer the indeterminate penalty of SIX (6) MONTHS and ONE (1) DAY of prision correctional (sic) and to indemnify Jimmy Tumabcao the amount of P21,400.00 without subsidiary imprisonment in cases of insolvency and to pay the cost.

Accordingly, the bond posted for her provisional liberty is hereby CANCELLED.

Considering that the accused Vilma Suliman was detained from January 6, 2003 to July 23, 2004 prior to her posting bond for her provisional liberty, her period of detention shall be credited in the service of her sentence.

Considering that Luz Garcia has not been apprehended nor voluntarily surrendered to date, let warrant be issued for her arrest and let the case against her be ARCHIVED to be reinstated upon her apprehension.

SO ORDERED.^[5]

Petitioner filed a Motion for Reconsideration,^[6] but the RTC denied it in its Order^[7] dated January 23, 2007 for lack of merit.

Petitioner then filed an appeal with the CA.

On May 21, 2009, the CA promulgated its Decision, the dispositive portion of which reads, thus:

WHEREFORE, in view of the foregoing premises, the appeal filed in this case is hereby **DENIED** and consequently, **DISMISSED**. The assailed Decision dated June 7, 2006 of the Regional Trial Court, Branch 21, in the City of Manila in Criminal Cases Nos. 03-216188, 03-216189, 03-216190, 03-216191 and 03-216193 are hereby **AFFIRMED** with the following modifications:

1. In Criminal Case Nos. 03-216188 and 03-216189 for illegal recruitment, the Court sentences accused-appellant VILMA SULIMAN to

suffer the indeterminate penalty of six (6) years and one (1) day, as minimum, to twelve (12) years, as maximum, and to pay a fine of Two Hundred Thousand Pesos (P200,000.00) for each count.

2. In Criminal Case No. 03-216190 for estafa involving private complainant Anthony Mancera, the Court sentences accused-appellant Vilma Suliman to suffer a minimum period of six (6) months and one (1) day of *prison correccional* to a maximum term of fifteen (15) years, eight (8) months and twenty-one (21) days of *reclusion temporal*.

3. In Criminal Case No. 03-216191 for estafa involving private complainant Perlita A. Prudencio, the Court sentences accused-appellant Vilma Suliman to suffer the minimum period of four (4) years and two (2) months of *prison correccional* to maximum term of seventeen (17) years, eight (8) months and twenty-one (21) days of *reclusion temporal*.

4. In Crim. Case No. 03-216193 for estafa involving private complainant Jimmy Tumabcao, the Court sentences accused-appellant Vilma Suliman to suffer the minimum term of six (6) months and one (1) month and twenty-one (21) days of prison mayor.

SO ORDERED.^[8]

Petitioner's counsel received a copy of the above CA Decision on May 26, 2009.^[9] However, neither petitioner nor her counsel filed a motion for reconsideration within the 15-day reglementary period for filing the said motion. Hence, on June 11, 2009, the subject CA Decision became final.

On July 3, 2009, petitioner, through her new collaborating counsel, filed a Motion to Admit Attached Motion for Reconsideration^[10] praying that the same be admitted in the higher interest of "substantial justice and due process." Petitioner contended that her former counsel committed gross and inexcusable neglect of his duty as counsel in failing to immediately inform petitioner about his receipt of the subject CA Decision, thereby depriving petitioner of her right to file a motion for reconsideration which, in turn, is a violation of her right to due process.

On July 21, 2009, the CA issued a Resolution denying petitioner's Motion to Admit Attached Motion for Reconsideration.

Petitioner filed a Motion for Reconsideration, ^[11] but the CA denied it in its Resolution dated January 8, 2010.

Hence, the instant petition based on the following grounds:

THE HONORABLE COURT OF APPEALS ERRED IN NOT ADMITTING THE MOTION FOR RECONSIDERATION OF THE PETITIONER

THE HONORABLE COURT OF APPEALS ERRED IN NOT HOLDING [THAT] PETITIONER SHOULD NOT BE BOUND BY THE GROSS NEGLIGENCE OF ATTY. MAYO IN NOT INFORMING HER ABOUT HIS RECEIPT OF THE

DECISION OF THE COURT OF APPEALS ADVERSE TO HER ON MAY 26, 2009 OR IN NOT FILING A MOTION FOR RECONSIDERATION TO PROTECT THE RIGHTS AND INTEREST OF THE PETITIONER^[12]

The petition lacks merit.

The Court is not persuaded by petitioner's contention that she should not be bound by her counsel's gross neglect of duty in not informing her of the adverse decision of the CA. The Court agrees with the observation of the CA that petitioner is not entirely blameless as he was not vigilant in monitoring the progress of her case. Evidence of her negligence is the fact that she did not make any effort to personally follow up her appeal with her counsel. Instead, she merely relied on a certain Conrad Lucero, the person who referred her to her counsel, regarding updates of her appeal with the CA. In this respect, the Court's ruling in *Bejarasco, Jr. v. People*^[13] is instructive, to wit:

The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel within the scope of the authority is regarded in the eyes of the law, as the act or omission of the client himself. A recognized exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law. For the exception to apply, however, the gross negligence should not be accompanied by the client's own negligence or malice, considering that the client has the duty to be vigilant in respect of his interests by keeping up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against him.

Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the process and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.^[14]

It may not be amiss to add that this Court notes the propensity of petitioner and her counsel to disregard the Rules and directives of the Court. In a Resolution^[15] issued by this Court on March 14, 2011, petitioner's counsel was admonished for his failure to file petitioner's Reply to Comment which was required in an earlier Resolution issued by this Court.

Moreover, it is a settled rule that the right to appeal is neither a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provision of law.^[16] An appeal being a purely statutory right, an appealing party must strictly comply with the requisites

laid down in the Rules of Court. Deviations from the Rules cannot be tolerated.^[17] The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases.^[18] In an age where courts are bedevilled by clogged dockets, the Rules need to be followed by appellants with greater fidelity.^[19] Their observance cannot be left to the whims and caprices of appellants. In the instant case, petitioner remained obstinate in her non-observance of the said Rules. Such obstinacy is incongruous with her late plea for liberality in construing the Rules. On the above basis alone, the Court finds that the instant petition is dismissible.

In any case, even if the Court bends its Rules to allow the present petition, as it appears that petitioner assails not only the denial by the CA of her motion to admit her belated Motion for Reconsideration but likewise seeks the reversal of her conviction for illegal recruitment and *estafa*, the Court still finds no cogent reason to depart from the assailed ruling of the CA. Indeed, after a careful and thorough review of the evidence on record, the Court finds that the lower courts did not commit any error in convicting petitioner of the crimes of illegal recruitment and *estafa*.

At this point, it bears reiterating that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, the factual findings of the RTC, especially when affirmed by the CA, are generally held binding and conclusive on the Court.^[20] We emphasize that while jurisprudence has provided exceptions^[21] to this rule, the petitioner carries the burden of proving that one or more exceptional circumstances are present in the case.^[22] The petitioner must additionally show that the cited exceptional circumstances will have a bearing on the results of the case.^[23] In the instant case, the Court finds that none of the exceptions are present. Thus, there is no cogent reason to depart from the findings of both the RTC and the CA that petitioner is guilty beyond reasonable doubt of the crimes charged.

The crime of illegal recruitment is defined under Section 6 of RA 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, which provides as follows:

Sec. 6. DEFINITIONS. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-license 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 such non-license 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 persons, whether a non-licensee, non-holder, licensee or holder of authority.

(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay