

SECOND DIVISION

[G.R. No. 194255, June 13, 2012]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NURFRASIR HASHIM Y SARABAN A.K.A "FRANZ/FRANS,"
MAKDUL JAMAD Y BUKIN (AL) A.K.A. "MACKY," A CERTAIN
"TAS," AND A CERTAIN "JUN," ACCUSED, BERNADETTE
PANSACALA A.K.A. "NENENG AWID," ACCUSED-APPELLANT.**

DECISION

SERENO, J.:

On appeal is the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00644-MIN promulgated on 20 July 2010, which affirmed the conviction of herein accused-appellant Bernadette Pansacala a.k.a Neneng Awid, together with co-accused Nurfrasir Hashim y Saraban a.k.a "Franz/Frans," Makdul Jamad y Bukin a.k.a. "Macky," a certain "Tas" and a certain "Jun" for the crime of illegal recruitment as defined under Section 6 in relation to Section 7(b) of Republic Act. No. (R.A.) 8042 or the Migrant Workers and Overseas Filipinos Act of 1995.

The Facts

On 10 March 2004, accused-appellant was charged as follows:^[2]

That on or about June 11, 2003 and for sometime prior or subsequent thereto, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, mutually aiding and assisting with one another without having previously obtained from the Philippine Overseas Employment Administration, license or authority to engage in the recruitment and deployment of overseas workers, did then and there willfully [sic], unlawfully and feloniously, illegally recruit for a promised employment abroad particularly in Brunei and Malaysia, thus causing and prompting the persons of BBB and AAA^[3] to apply which employment however did not materialize because in truth and in fact, the promised employment is non-existent, in flagrant violation of the above-mentioned law and causing damage and prejudice to said complainants; further, the commission of the above stated offense tantamount to economic sabotage in that the same was committed by a syndicate.

Only accused-appellant and Nurfrasir Hashim y Saraban were arrested, and both entered a plea of "not guilty" when arraigned.

Private complainants AAA and BBB, Police Chief Inspector Ronald Añonuevo, and

police officers Edmond Ranel Villareal and Renato Rabuya dela Peña were presented by the prosecution to prove the following:

On 10 June 2003, accused-appellant approached AAA, who was then doing her job as a waitress at a stall in Paseo de Zamboanga, Buenavista, Zamboanga City, to encourage AAA to work in Malaysia, as accused-appellant knew certain persons who would soon be leaving for that country.

On the next day, 11 June 2003, private complainant BBB was at her house in Talon-talon Loop, Zamboanga City, when accused-appellant paid her a visit and invited her to work as a saleslady in Brunei. After being assured that the prospective employment was above board and that she would be well compensated, BBB accepted the invitation.

The day after, accused-appellant, together with co-accused Makdul Amad y Bukin a.k.a. "Macky" (Macky) and a certain "Jun," returned to the house of BBB. Accused-appellant informed BBB that the latter would be escorted to Malaysia by the two men, and that they would meet the next day at 1:00 p.m. at Plaza Pershing, Zamboanga City.

On 13 June 2003, BBB, Macky and Jun met as planned. They proceeded to Shop-O-Rama, where they met with co-accused Nurfrasir Hashim, a.k.a. "Franz" (Franz), who assured BBB that she would be easily hired because of her beauty and height. They then agreed to meet at 3:00 p.m. that same day at Paseo de Zamboanga.

At Paseo de Zamboanga, BBB, accused-appellant, Macky, and Jun met with AAA, a certain CCC (allegedly another recruit) and Arlene (allegedly AAA's employer). Then at 7:00 p.m. of that same day, they all proceeded to the wharf, where they met accused Franz and a certain Cristy, who was also allegedly invited by accused-appellant to work in Malaysia.

Thereafter, AAA, BBB, CCC, Cristy, Macky and Jun boarded the *M/V Grand Flora* and were given pieces of paper containing a name. Franz, accused-appellant Bernadette and a certain Titing did not board the boat. Accused-appellant informed private complainants and their companions that she and Franz would follow and bring their passports. We quote the Decision of the CA to describe the journey of the group after boarding the *M/V Flora* bound for Bongao, Tawi-Tawi, at 10:00 p.m.:^[4]

On June 14, 2003, they (BBB, AAA, CCC, Cristy, accused Macky) and Jun disembarked at Bongao, Tawi-Tawi, and then they proceeded to Sitangkai, Tawi-Tawi where they stayed for two days. On June 16, 2003, they went to Pundohan, which is a terminal going to Lahad Datu, Sabah, Malaysia.

On June 17, 2003, at 6:00 o'clock [sic] in the morning[,] they arrived at Lahad Datu and soon thereafter [sic] they boarded a van going to Samporna, Malaysia where they met accused Macky's cousin named Pat. They waited at Samporna until 5:00 o'clock [sic] in the afternoon when accused Franz and Tash[,] who was allegedly their financier[,] arrived. Accused Franz then distributed to AAA, BBB, CCC and Cristy their respective passports.

Thereafter, they boarded a bus going to Kota Kinabalu, Malaysia, and they arrived thereat at 7:00 o'clock [sic] in the morning of June 18, 2003. Later, they boarded again a bus going to Minumpo, Malaysia and then a barge going to Labuan, Malaysia where they stayed at a hotel [the Classic Hotel] for three nights or from the night of June 18, 2003 until June 20, 2003.

On June 21, 2003, accused Franz instructed BBB, AAA, CCC and Cristy to wear "sexy clothes" because they were going to meet their supposed boss named Bunso at Cape Imperial located at Labuan, Malaysia.

When they arrived at Cape Imperial, accused Macky and Jun talked to Bunso but they failed to reach an agreement on the purported compensation of the four girls. So, accused Macky and Jun brought the girls to Golden Lotus Barber Salon (Salon for brevity) where the latter were introduced to a certain person named Mommy Cindy, the alleged owner of the salon, and their purported manager Hako who was called Mommy Susan.

The prosecution also alleged that while the group was staying at the Classic Hotel in Labuan, BBB was forced on numerous occasions to have sexual intercourse with Franz at his bidding, even in the presence of other people. She followed his orders for fear that he would inflict physical harm on her.

At first, private complainants were not aware of the circumstances surrounding their employment at the Golden Lotus. It was only after they agreed to stay there for employment that they were forced to become sex workers to earn money and pay off the debts they incurred from their travel from Zamboanga City to Labuan, Malaysia.

Thus, from 21 June 2003 to 13 July 2003, AAA and BBB worked as prostituted women. Each of the girls would be booked to a customer for the whole night for 300 Ringgit at a certain hotel near the Golden Lotus. Meanwhile, during the day, they would be hired by customers for a "short time" for 150 Ringgit in one of the rooms of the Golden Lotus. The girls were told that they would be made to pay a fine of 150 Ringgit if they refused to have sexual intercourse with the customers.

On 12 July 2003, BBB had a customer who was a law enforcer at Kota Kinabalu, Malaysia. She sought his help for her return to the Philippines, and he agreed.

The following day, on 13 July 2003, the Golden Lotus was raided by the Immigration Officers of Kota Kinabalu, Malaysia, and the prostituted Filipino women, including AAA and BBB, were detained at the Balay Polis (Police Department) in Labuan until all the women were deported to the Philippines.

The defense, on the other hand, presented three witnesses: accused-appellant Bernadette, her common-law partner Majujie Jailya Misuari, and co-accused Franz.

According to accused-appellant, she and BBB were friends and neighbors in Talon-talon, Zamboanga City. Sometime in April 2003, when asked by BBB why accused-

appellant returned to the Philippines from Malaysia, the latter said that she had been made a prostituted woman in Malaysia.

Accused-appellant denied having offered BBB a job in Malaysia, a denial corroborated by Majujie Jailya Misuari. Accused-appellant also denied knowing AAA and Franz. She claimed that she only met AAA when the latter, together with BBB, visited her in jail and offered to withdraw the case if accused-appellant would give them money.

Co-accused Franz merely denied knowing AAA, BBB or accused-appellant.

On 27 June 2008, after trial on the merits, the Regional Trial Court (RTC) of Zamboanga City rendered a Decision,^[5] the dispositive portion of which states:^[6]

WHEREFORE, the Court finds both accused NURFRASIR HASHIM y SARABAN a.k.a "FRANZ/FRAS" and BERNADETTE PANSACALA a.k.a "NENENG AWID" **GUILTY BEYOND REASONABLE DOUBT** of the crime of ILLEGAL RECRUITMENT defined under Section 6 and penalized under Section 7(b) of Republic Act No. 8042 otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995", as principals by direct participation, committed by a syndicate, against BBB and AAA, and **SENTENCES** each of said accused to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine of P1,000,000.00 each;^[7] to pay each of the above victims P50,000.00 as moral damages; P300,000.00 as exemplary damages, and to pay the costs.

SO ORDERED.

The trial court considered that, in the course of the trial, the prosecution and the defense had entered into a stipulation that neither accused-appellant Bernadette nor Franz had a license or an authority to recruit or deploy workers for overseas employment.

Moreover, the trial court found that the crime was committed in conspiracy by the accused and other persons. It painstakingly enumerated the overt acts of the accused-appellant showing her direct participation in the commission of the crime. These acts included inducing AAA and BBB to work in Malaysia; introducing Macky, Jun and Franz to the victims; and escorting them to the wharf, where the victims boarded the vessel that took them away from their families and their country and brought them to Malaysia, where – heretofore unbeknownst to them – they were made to work as prostituted women.

It further held that the credible and positive testimonies of the witnesses for the prosecution prevailed over those of the defense of mere denial, absent any showing that the witnesses for the prosecution had any ill motive to falsely testify and implicate the accused in the commission of the crime charged.

On appeal, the CA affirmed the findings of fact of the trial court in the former's assailed Decision, but modified the award of damages, to wit:^[8]