

THIRD DIVISION

[G.R. No. 168651, March 16, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDITH RAMOS ABAT, ACCUSED-APPELLANT.

RESOLUTION

BERSAMIN, J.:

Faced with the real prospect of spending the remainder of her natural life behind bars, the accused appeals the decision promulgated on April 29, 2005,^[1] whereby the Court of Appeals (CA) affirmed her conviction beyond reasonable doubt of the crime of large scale illegal recruitment as defined by Article 13(b) and penalized by Article 39(a), both of the *Labor Code*, handed down by the Regional Trial Court (RTC), Branch 42, in Dagupan City, sentencing her to suffer life imprisonment and to pay a fine of P100,000.00, and ordering her to reimburse to the four complainants the respective amounts they had paid to the accused on their recruitment.^[2]

The accused was arraigned and tried under the information dated March 5, 2001, which alleged:

That sometime in the months of November and December 2000 in the Municipality of Calasiao, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused not being a licensee or holder of authority, did then and there, willfully (sic), unlawfully and feloniously undertake and perform recruitment activities in large scale by recruiting MARIA CORAZON AGAS GARCIA, JOCELYN GEMINIANO FLORES, SONNY YABOT y ANTONIO, BALTAZAR ARGEL y VALLEDOR, LETECIA RINONOS MARCELO, PABLITO S. GALUMAN, TARCILA M. UMAGAT, CAROLINE U. CALIX, PERCY C. FUERTES, to a supposed job abroad, particularly in Taiwan, for a fee, without first securing the necessary license or permit to do the same.

CONTRARY TO PD 442 as amended by PD 2018.

In her appeal, the accused denies having any participation in the recruitment of the nine named complainants for employment in Taiwan, asserting that the CA erred in thus affirming her conviction despite the totality of evidence pointing to no other conclusion than her innocence. She urges the review of the CA's ruling on the credibility of the witnesses in view of the two opposing versions of the facts involved.

In support of her appeal, she argues that the sums she exacted and received from the complainants represented only the reimbursement of the expenses incurred

during her trips upon the advice of Sister Araceli, a faith healer, that took her and the complainants to Cebu City, Iligan City, Ozamis City and Cagayan de Oro City, not in consideration of the employment in Taiwan supposedly offered to the complainants; that for her not to be reimbursed would be most unfair because she had defrayed the expenses for the trips with the complainants with her husband's money; that the failure of the complainants to produce receipts showing that she had collected money from them in connection with her assurances of their employment in Taiwan was fatal to the State's case against her; and that although only four of the nine named complainants had appeared and testified in court, the Prosecution did not explain why the five other complainants had desisted from testifying against her.

After having examined the records, however, we reject the accused's denial of having any part in the recruitment of the complainants and affirm the decision of the CA. We affirm her conviction,

Article 13(b) of the *Labor Code*, defines "recruitment and placement" as referring:

xxx to 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; Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

Article 38 of the Labor Code specifically defines what activities or acts constitute illegal recruitment and illegal recruitment by a syndicate or in large scale, viz:

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.

(c) The Secretary of Labor and Employment or his duly authorized representatives shall have the power to cause the arrest and detention of such non-licensee or non-holder of authority if after investigation it is determined that his activities constitute a danger to national security and

public order or will lead to further exploitation of job-seekers. The Secretary shall order the search of the office or premises and seizure of documents, paraphernalia, properties and other implements used in illegal recruitment activities and the closure of companies, establishments and entities found to be engaged in the recruitment of workers for overseas employment, without having been licensed or authorized to do so.

The acts committed by the accused constituted illegal recruitment in large scale, whose essential elements are the following:

(a) The accused engages in acts of recruitment and placement of workers defined under Article 13(b) of the *Labor Code* or in any prohibited activities under Article 43 of the *Labor Code*;

(b) The accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of license or an authority to recruit and deploy workers, either locally or overseas; and

(c) The accused commits the unlawful acts against three or more persons individually or as a group.^[3]

It is the lack of the necessary license or authority to recruit and deploy workers, either locally or overseas, that renders the recruitment activity unlawful or criminal.

^[4] To prove illegal recruitment, therefore, the State must show that the accused gave the complainants the distinct impression that she had the power or ability to deploy the complainants abroad in a manner that they were convinced to part with their money for that end.

In addition to her admission that she did not have any license or authority from the Department of Labor and Employment (DOLE) to recruit and deploy workers, either locally or overseas, the explicit certification issued on January 10, 2001 by Atty. Adonis Peralta, the DOLE District Officer in Dagupan City, attesting that the accused did not possess any permit to recruit workers for overseas employment in Pangasinan, including the cities of Dagupan, San Carlos, Urdaneta and Alaminos, confirmed her lack of the license or authority required by law.^[5]

Our review shows that the State competently established that the accused, despite having no license or authority to recruit and deploy workers, either locally or overseas, had represented to the complainants that she could secure their employment in Taiwan either as factory workers or as computer operators at a monthly salary of NT\$45,000.00 each; and that the complainants had relied on her representation and given her the amounts she had demanded in the expectation of their placement. We note that in order to make her representation more convincing, she had also told the complainants about her being related to the Philippine Ambassador to Taiwan, as well as to President Ramos and President Estrada.

The accused admitted having received various sums of money from the