

FIRST DIVISION

[G.R. No. 184058, March 10, 2010]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MELISSA CHUA,
APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

Melissa Chua (appellant) was indicted for Illegal Recruitment (Large Scale) and was convicted thereof by the Regional Trial Court (RTC) of Manila. She was also indicted for five counts of Estafa but was convicted only for three. The Court of Appeals, by Decision^[1] dated February 27, 2008, affirmed appellant's conviction.

The Information^[2] charging appellant, together with one Josie Campos (Josie), with Illegal Recruitment (Large Scale), docketed as Criminal Case No. 04-222596, reads:

The undersigned accuses JOSIE CAMPOS and MELISSA CHUA of violation of Article 38 (a) PD 1413, amending certain provisions of Book I, PD 442, otherwise known as the New Labor Code of the Philippines, in relation to Art. 13 (b) and (c) of said Code, as further amended by PD Nos. 1693, 1920 and 2019 and as further amended by Sec. 6 (a), (1) and (m) of RA 8042 committed in a [*sic*] large scale as follows:

That sometime during the month of September, 2002, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, representing themselves to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully, unlawfully and knowingly for a fee, recruit and promise employment/job placement abroad to ERIK DE GUIA TAN, MARILYN O. MACARANAS, NAPOLEON H. YU, JR., HARRY JAMES P. KING and ROBERTO C. ANGELES for overseas employment abroad without first having secured the required license from the Department of Labor and Employment as required by law, and charge or accept directly from:

ERIK DE GUIA-	P73,000.00
TAN	
MARILYN D.-	83,000.00
MACARANAS	
NAPOLEON H.-	23,000.00
YU, JR.	
HARRY JAMES P.-	23,000.00
KING	
ROBERTO C.-	23,000.00

ANGELES

For purposes of their deployment, which amounts are in excess of or greater than that specified in the schedule of allowable fees as prescribed by the POEA, and without valid reasons and without the fault of said complainants, failed to actually deploy them and failed to reimburse expenses incurred in connection with their documentation and processing for purposes of their deployment.

x x x x

The five Informations^[3] charging appellant and Josie with Estafa, docketed as Criminal Case Nos. 04-222597-601, were similarly worded and varied only with respect to the names of the five complainants and the amount that each purportedly gave to the accused. Thus each of the Information reads:

x x x x

That on or about . . . in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, did then and there willfully, unlawfully and feloniously defraud xxx in the following manner, to wit: the said accused by means of false manifestations which they made to the said . . . to the effect that they had the power and capacity to recruit the latter as factory worker to work in Taiwan and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said xxx to give and deliver, as in fact he gave and delivered to the said accused the amount of . . . on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the amount of . . . which amount once in their possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage of said . . . in the aforesaid amount of . . ., Philippine Currency.

x x x x

Appellant pleaded not guilty on arraignment. Her co-accused Josie remained at large. The cases were consolidated, hence, trial proceeded only with respect to appellant.

Of the five complainants, only three testified, namely, Marilyn D. Macaranas (Marilyn), Erik de Guia Tan (Tan) and Harry James King (King). The substance of their respective testimonies follows:

Marilyn's testimony:

After she was introduced in June 2002 by Josie to appellant as capacitated to deploy

factory workers to Taiwan, she paid appellant P80,000 as placement fee and P3,750 as medical expenses fee, a receipt^[4] for the first amount of which was issued by appellant.

Appellant had told her that she could leave for Taiwan in the last week of September 2002 but she did not, and despite appellant's assurance that she would leave in the first or second week of October, just the same she did not.

She thus asked for the refund of the amount she paid but appellant claimed that she was not in possession thereof but promised anyway to raise the amount to pay her, but she never did.

She later learned in June 2003 that appellant was not a licensed recruiter, prompting her to file the complaint against appellant and Josie.

Tan's testimony:

After he was introduced by Josie to appellant at the Golden Gate, Inc., (Golden Gate) an agency situated in Paragon Tower Hotel in Ermita, Manila, he underwent medical examination upon appellant's assurance that he could work in Taiwan as a factory worker with a guaranteed monthly salary of 15,800 in Taiwan currency.

He thus paid appellant, on September 6, 2002, P70,000^[5] representing placement fees for which she issued a receipt. Appellant welched on her promise to deploy him to Taiwan, however, hence, he demanded the refund of his money but appellant failed to. He later learned that Golden Gate was not licensed to deploy workers to Taiwan, hence, he filed the complaint against appellant and Josie.

King's testimony:

His friend and a fellow complainant Napoleon Yu introduced him to Josie who in turn introduced appellant as one who could deploy him to Taiwan.

On September 24, 2002,^[6] he paid appellant P20,000 representing partial payment for placement fees amounting to P80,000, but when he later inquired when he would be deployed, Golden Gate's office was already closed. He later learned that Golden Gate's license had already expired, prompting him to file the complaint.

Appellant denied the charges. Claiming having worked as a temporary cashier from January to October, 2002 at the office of Golden Gate, owned by one Marilyn Calueng,^[7] she maintained that Golden Gate was a licensed recruitment agency and that Josie, who is her godmother, was an agent.

Admitting having received P80,000 each from Marilyn and Tan, receipt of which she issued but denying receiving any amount from King, she claimed that she turned over the money to the documentation officer, one Arlene Vega, who in turn remitted the money to Marilyn Calueng whose present whereabouts she did not know.

By Decision of April 5, 2006, Branch 36 of the Manila RTC convicted appellant of Illegal Recruitment (Large Scale) and three counts of Estafa, disposing as follows: