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THIRD DIVISION

[G.R. No. 183879, April 14, 2010]

ROSITA SY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

R E S O L U T I O N

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision [1] dated July 22, 2008 of the Court of Appeals (CA) in CA-G.R. CR No. 30628.

Rosita Sy (Sy) was charged with one count of illegal recruitment in Criminal Case No. 02-0537 and one count of *estafa* in Criminal Case No. 02-0536. In a joint decision of the Regional Trial Court (RTC), Sy was exonerated of the illegal recruitment charge. However, she was convicted of the crime of *estafa*. Thus, the instant appeal involves only Criminal Case No. 02-0536 for the crime of *estafa*.

The Information[2] for *estafa* reads:

> That sometime in the month of March 1997, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously defraud Felicidad Mendoza-Navarro y Landicho in the following manner, to wit: the said accused by means of false pretenses and fraudulent representation which she made to the said complainant that she can deploy her for employment in Taiwan, and complainant convinced by said representations, gave the amount of P120,000.00 to the said accused for processing of her papers, the latter well knowing that all her representations and manifestations were false and were only made for the purpose of obtaining the said amount, but once in her possession[,] she misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of Felicidad Mendoza-Navarro y Landicho in the aforementioned amount of P120,000.00.
>
> CONTRARY TO LAW.[3]

On May 27, 2007, Sy was arraigned and pleaded not guilty to the crimes charged. Joint trial ensued thereafter.

As summarized by the CA, the facts of the case are as follows:

Version of the Prosecution

Sometime in March 1997, appellant, accompanied by Corazon Miranda (or ***"Corazon"***), went to the house of Corazon's sister, Felicidad Navarro (or ***"Felicidad"***), in Talisay, Batangas to convince her (Felicidad) to work abroad. Appellant assured Felicidad of a good salary and entitlement to a yearly vacation if she decides to take a job in Taiwan. On top of these perks, she shall receive compensation in the amount of Php120,000.00. Appellant promised Felicidad that she will take care of the processing of the necessary documents, including her passport and visa. Felicidad told appellant that she will think about the job offer.

Two days later, Felicidad succumbed to appellant's overseas job solicitation. With Corazon in tow, the sisters proceeded to appellant's residence in Better Homes, Moonwalk, Las Piñas City. Thereat, Felicidad handed to appellant the amount of Php60,000.00. In the third week of March 1997, Felicidad returned to appellant's abode and paid to the latter another Php60,000.00. The latter told her to come back the following day. In both instances, no receipt was issued by appellant to acknowledge receipt of the total amount of Php120,000.00 paid by Felicidad.

On Felicidad's third trip to appellant's house, the latter brought her to Uniwide in Sta. Cruz, Manila, where a male person showed to them the birth certificate that Felicidad would use in applying for a Taiwanese passport. The birth certificate was that of a certain Armida Lim, born to Margarita Galvez and Lim Leng on 02 June 1952. Felicidad was instructed on how to write Armida Lim's Chinese name.

Subsequently, appellant contacted Felicidad and thereafter met her at the Bureau of Immigration office. Thereat, Felicidad, posing and affixing her signature as Armida G. Lim, filled out the application forms for the issuance of Alien Certificate of Registration (ACR) and Immigrant Certificate of Registration (ICR). She attached to the application forms her own photo. Felicidad agreed to use the name of Armida Lim as her own because she already paid to appellant the amount of Php120,000.00.

In December 1999, appellant sent to Felicidad the birth certificate of Armida Lim, the Marriage Contract of Armida Lim's parents, ACR No. E128390, and ICR No. 317614. These documents were submitted to and eventually rejected by the Taiwanese authorities, triggering the filing of illegal recruitment and estafa cases against appellant.

Version of the Defense

Appellant denied offering a job to Felicidad or receiving any money from her. She asserted that when she first spoke to Felicidad at the latter's house, she mentioned that her husband and children freely entered Taiwan because she was a holder of a Chinese passport. Felicidad commented that many Filipino workers in Taiwan were holding Chinese passports.

> Three weeks later, Felicidad and Corazon came to her house in Las Piñas and asked her if she knew somebody who could help Felicidad get a Chinese ACR and ICR for a fee.
>
> Appellant introduced a certain Amelia Lim, who, in consideration of the amount of Php120,000.00, offered to Felicidad the use of the name of her mentally deficient sister, Armida Lim. Felicidad agreed. On their second meeting at appellant's house, Felicidad paid Php60,000.00 to Amelia Lim and they agreed to see each other at Uniwide the following day. That was the last time appellant saw Felicidad and Amelia Lim.[4]

On January 8, 2007, the RTC rendered a decision,[5] the dispositive portion of which reads:

> WHEREFORE, premises considered the court finds the accused Rosita Sy NOT GUILTY of the crime of Illegal Recruitment and she is hereby ACQUITTED of the said offense. As regards the charge of Estafa, the court finds the accused GUILTY thereof and hereby sentences her to an indeterminate penalty of four (4) years of prision correctional as minimum to 11 years of prision mayor, as maximum. The accused is ordered to reimburse the amount of sixty-thousand (Php60,000.00) to the private complainant.
>
> SO ORDERED.[6]

Aggrieved, Sy filed an appeal for her conviction of *estafa*. On July 22, 2008, the CA rendered a Decision,[7] affirming with modification the conviction of Sy, *viz*.:

> WHEREFORE**,** with the MODIFICATION sentencing accused-appellant to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to seventeen (17) years of *reclusion temporal*, as maximum, the appealed decision is AFFIRMED in all other respects.
>
> SO ORDERED.[8]

Hence, this petition.

The sole issue for resolution is whether Sy should be held liable for *estafa*, penalized under Article 315, paragraph 2(a) of the Revised Penal Code (RPC).[9]

Swindling or *estafa* is punishable under Article 315 of the RPC. There are three ways of committing *estafa*, *viz*.: (1) with unfaithfulness or abuse of confidence; (2) by means of false pretenses or fraudulent acts; or (3) through fraudulent means. The three ways of committing *estafa* may be reduced to two, *i.e*., (1) by means of abuse of confidence; or (2) by means of deceit.