

FIRST DIVISION

[G.R. No. 179934, May 21, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERLINDA ABORDO
AND VINA CABANLONG, APPELLANTS.**

D E C I S I O N

CARPIO, J.:

The Case

This is an appeal from the 21 June 2007 Decision^[1] of the Court of Appeals in CA-G.R. CR HC No. 01701. The Court of Appeals affirmed with modification the 10 May 2001 Decision^[2] of the Regional Trial Court of Villasis, Pangasinan, Branch 50, convicting Erlinda Abordo (Abordo) of estafa in Criminal Case No. V-0654 and of illegal recruitment in Criminal Case No. V-0655, and convicting Abordo and Vina Cabanlong (Cabanlong) of estafa in Criminal Case Nos. V-0767, V-0769, and V-0772 and of illegal recruitment in Criminal Case Nos. V-0768, V-0770, and V-0771.

The Facts

The Informations against the accused read as follows:

Criminal Case No. V-0654 (Estafa).

That during the period from February 3, 1994 to March 3, 1994, at Poblacion Zone II, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo), by means of deceit, deliberately misrepresenting herself to be capable of causing the employment of laborers abroad, knowing fully well that she is not duly or legally authorized to recruit laborers for employment abroad, did then and there willfully, unlawfully and feloniously demand and receive from Jesus Rayray y Bascos the sum of P14,000.00, Philippine currency with the undertaking of working for his employment abroad and thereafter, despite repeated demands, the said accused who failed to cause complainant's employment abroad, failed and refused to return the said amount of P14,000.00, thereby appropriating and converting the same for her own use and benefit to the damage and prejudice of said Jesus Rayray y Bascos in the said amount.^[3]

Criminal Case No. V-0655 (Illegal Recruitment).

That during the period from February 3, 1994 to March 3, 1994 at Barangay Poblacion Zone II, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable

Court, the above-named accused (Erlinda Abordo), did then and there willfully, unlawfully and feloniously recruit Jesus Rayray y Bascos for employment abroad, without first securing the requisite license or authority from the Department of Labor and Employment.^[4]

Criminal Case No. V-0767 (Estafa).

That during the month of December, 1994 at Barangay San Blas, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo and Vina Cabanlong), conspiring, confederating and mutually helping one another, by means of deceit, deliberately misrepresenting [themselves] to be capable of causing the employment of laborers abroad, knowing fully well that they are not duly or legally authorized to recruit laborers for employment abroad, did then and there willfully, unlawfully and feloniously demand and receive from Jaime Fernandez y Simon the sum of P45,000.00, Philippine currency with the undertaking of working for his employment abroad and thereafter, despite repeated demands, the said accused who failed to cause complainant's employment abroad, failed and refused to return the said amount of P45,000.00, thereby appropriating and converting the same for their own use and benefit to the damage and prejudice of said Jaime Fernandez y Simon in the said amount.^[5]

Criminal Case No. V-0768 (Illegal Recruitment).

That during the month of December, 1994 at Barangay San Blas, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo and Vina Cabanlong), conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously recruit Jaime Fernandez y Simon for employment abroad, without first securing the requisite license or authority from the Department of Labor and Employment.^[6]

Criminal Case No. V-0769 (Estafa).

That during the month of December, 1994 at Barangay San Blas, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo and Vina Cabanlong), conspiring, confederating and mutually helping one another, by means of deceit, deliberately misrepresenting [themselves] to be capable of causing the employment of laborers abroad, knowing fully well that they are not duly or legally authorized to recruit laborers for employment abroad, did then and there willfully, unlawfully and feloniously demand and receive from Exequiel Mendoza y Olivar the sum of P45,000.00, Philippine currency with the undertaking of working for his employment abroad and, thereafter, despite repeated demands, the said accused who failed to cause complainant's employment abroad, failed and refused to return the said amount of P45,000.00, thereby appropriating and converting the same

for their own use and benefit to the damage and prejudice of said Exequiel Mendoza y Olivar in the said amount.^[7]

Criminal Case No. V-0770 (Illegal Recruitment).

That during the month of December, 1994 at Barangay San Blas, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo and Vina Cabanlong), conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously recruit Exequiel Mendoza y Olivar for employment abroad, without first securing the requisite license or authority from the Department of Labor and Employment.^[8]

Criminal Case No. V-0771 (Illegal Recruitment).

That during the month of September, 1994 at Barangay San Blas, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo and Vina Cabanlong), conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously recruit Esmenia Cariño y Millano for employment abroad, without first securing the requisite license or authority from the Department of Labor and Employment.^[9]

Criminal Case No. V-0772 (Estafa).

That during the month of September, 1994 at Barangay San Blas, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused (Erlinda Abordo and Vina Cabanlong), conspiring, confederating and mutually helping one another, by means of deceit, deliberately misrepresenting [themselves] to be capable of causing the employment of laborers abroad, knowing fully well that they are not duly or legally authorized to recruit laborers for employment abroad, did then and there willfully, unlawfully and feloniously demand and receive from Esmenia Cariño y Millano the sum of P15,000.00, Philippine currency with the undertaking of working for [her] employment abroad and, thereafter, despite repeated demands, the said accused who failed to cause complainant's employment abroad, failed and refused to return the said amount of P15,000.00, thereby appropriating and converting the same for their own use and benefit to the damage and prejudice of said Esmenia Cariño y Millano in the said amount.^[10]

The prosecution established that sometime in January 1994, Abordo recruited Jesus Rayray (Rayray) for possible employment abroad and collected a total of P14,000 as placement fee. Abordo assured Rayray that he could soon leave for abroad. Rayray was unable to leave as promised and only saw Abordo again when she was already in jail.^[11]

Sometime in September 1994, Abordo and Cabanlong went to the house of Esmenia

Cariño (Cariño) in Lipay, Villasis, Pangasinan, to persuade her to work as a domestic helper in Hong Kong. Cariño and Cabanlong used to be neighbors in San Blas, Villasis, Pangasinan. Upon being convinced by the accused, Cariño gave a total of P15,000 as placement fee. Despite this payment, Cariño was unable to leave for abroad.^[12]

Sometime in December 1994, Abordo and Cabanlong went to the house of Segundina Fernandez (Segundina) in Caramitan, Villasis, Pangasinan. Cabanlong and Segundina are first cousins. Cabanlong introduced Abordo as a recruiter. The accused told Segundina that they could secure employment for her son, Jaime, in Hong Kong upon payment of the placement fee. Segundina and Jaime agreed to the proposition. Segundina gave the accused cash and other valuables amounting to P45,000. Abordo gave a plane ticket to Jaime, which turned out to be fake; hence, Jaime was unable to leave for abroad.^[13]

Sometime in December 1994, the accused went to the house of Exequiel Mendoza (Mendoza) in San Blas, Villasis, Pangasinan to convince him to work in Hong Kong as a security guard. Mendoza agreed to be recruited and to pay P45,000 as placement fee. Abordo assured him that as soon as he could pay the placement fee, he could work abroad. Mendoza gave Abordo cash and pieces of jewelry amounting to P39,000. Despite several promises from Abordo, Mendoza was unable to leave for Hong Kong. Thus, he demanded from the accused the return of his money and pieces of jewelry, but to no avail.^[14]

Adonis Peralta, Dagupan District Officer of the Department of Labor and Employment, issued certifications dated 29 September 1993 and 3 August 1993 stating that the accused were not included in the Philippine Overseas and Employment Agency list of those licensed to recruit in Pangasinan.^[15]

The accused denied the charges against them. In their brief, the accused claimed that they could not be held liable for estafa under Article 315, 2(a) of the Revised Penal Code since the element of deceit was not established. They alleged that they received the placement fees on behalf of the travel agency. They argued that it was unclear whether the false statements or fraudulent representations were made prior to or simultaneously with the delivery of the money by the complainants.

The Ruling of the Trial Court

After the trial, the Regional Trial Court, Branch 50, Villasis, Pangasinan rendered a Decision dated 10 May 2001 disposing of the cases as follows:

WHEREFORE, foregoing premises considered, the Court finds the accused Erlinda Abordo and Vina Cabanlong guilty beyond reasonable doubt of the crime of Illegal Recruitment in large scale in Crim. Case Nos. V-0655, V-0768, V-0770 and V-0771, defined and penalized under Art. 38, par. (a) in relation to Art. 39, par. (a) of the Labor Code of the Philippines, as amended by P.D. 2018, and hereby sentences them to suffer the penalty of life imprisonment and to pay, jointly and severally, fine of ONE HUNDRED THOUSAND PESOS (100,000.00).

Accused Erlinda Abordo is, likewise, found guilty beyond reasonable

doubt of the crime of Estafa in Crim. Case No. V-0654, as provided under Art. 315, par. 2(a), and hereby sentences her to suffer the indeterminate penalty of SIX (6) MONTHS and ONE (1) DAY of prision correccional in its minimum and medium periods, as the minimum, to FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional in its maximum period to prision mayor in its minimum period, as the maximum, and to reimburse Jesus Rayray the amount of FOURTEEN THOUSAND PESOS (P14,000.00).

Further, accused Erlinda Abordo and Vina Cabanlong are found guilty beyond reasonable doubt of three (3) counts of estafa and hereby sentences them to suffer the indeterminate penalty of:

1) SIX (6) MONTHS and ONE (1) DAY of prision correccional in its minimum and medium periods, as the minimum to TEN (10) YEARS of prision mayor, medium, as the maximum and to reimburse Jaime Fernandez the amount of FORTY FIVE THOUSAND PESOS (P45,000.00) in Crim. Case No. V-0767;

2) SIX (6) MONTHS and ONE (1) DAY of prision correccional in its minimum and medium periods, as the minimum, to NINE (9) YEARS of prision mayor, medium, as the maximum and to reimburse Exequiel Mendoza the amount of THIRTY NINE THOUSAND PESOS (P39,000.00) in Crim. Case No. V-0769; and

3) SIX (6) MONTHS and ONE (1) DAY of prision correccional in its minimum and medium periods, as the minimum to FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional in its maximum period to prision mayor in its minimum period, as the maximum, and to reimburse Esmenia Carino the amount of FIFTEEN THOUSAND PESOS (P15,000.00) in Crim. Case No. V-0772.

SO ORDERED.^[16]

The Ruling of the Court of Appeals

The Court of Appeals found that the prosecution sufficiently established the accused's guilt for illegal recruitment. The accused cooperated with each other in convincing complainants to pay placement fees for employment abroad. The accused received money from the complainants. The act of the accused of recruiting complainants for employment abroad without the necessary license from the POEA constitutes the offense of illegal recruitment.

The Court of Appeals also found that the prosecution has established accused's guilt for estafa. The Court of Appeals stated that the very same evidence proving the accused's commission of the offense of illegal recruitment also established that the accused connived in defrauding complainants by misrepresenting that they had the power, influence, agency and business to obtain overseas employment for complainants upon payment of placement fees. Complainants suffered damages to the extent of the various sums of money they delivered to accused.