

THIRD DIVISION

[G. R. No. 178337, June 25, 2009]

**CARMEN RITUALO Y RAMOS, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

For review is the *Decision*^[1] of the Court of Appeals promulgated on 23 April 2007 in CA-G.R. CR. No. 29393 entitled, "*People of the Philippines v. Carmen Ritualo y Ramos*," affirming with modification, the *Decision*^[2] dated 1 December 2004 of the Regional Trial Court (RTC), Branch 199, Las Piñas City, in Criminal Cases No. 01-0076 and No. 01-0077.

In this Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, petitioner Carmen Ritualo y Ramos (petitioner Ritualo) prays for the reversal of the appellate court's decision affirming with modification the decision of the trial court finding her "guilty beyond reasonable doubt of [committing] the crimes of x x x Simple Illegal Recruitment [defined and punished] under Section 7 of Republic Act No. 8042, otherwise known as the `Migrant Workers Act of 1995,'"^[3] and "Estafa."^[4]

This case originated from two Informations, both dated 2 January 2001, which charged Ritualo with the crimes of Illegal Recruitment defined and penalized by Republic Act No. 8042; and Estafa under Art. 315, par. 2(a) of the Revised Penal Code, respectively. The accusatory portion of the first Information reads as follows:

That on or about the 1st day of May, 2000, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, falsely representing herself to have the capacity and power to contract, enlist and recruit workers for employment abroad, did then and there willfully, unlawfully, and feloniously collect for a fee, recruit and promise employment/job placement abroad to Felix Biacora without first securing the required license or authority from the Department of Labor and Employment.^[5]

The one for Estafa states, *viz*:

That during the periods (sic) from May 1, 2000 to June 1, 2000, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with intent of gain, by means of false pretenses or fraudulent acts executed prior to or simultaneously with the

commission of the fraud, did then and there willfully, unlawfully and feloniously defraud the *Complainant Felix Biacora amounting to P80,000.00* committed in the following manner to wit: *that the Accused represented to the Complainant that she was authorized or licensed by the Department of Labor and Employment to recruit workers for overseas employment and that she could send Complainant to work abroad (Australia) as farm worker as soon as possible, knowing very well that such representation is false and was intended only to get money from the Complainant and the Complainant after relying from the said representations made by the accused, handed to the accused the said amount and the accused, once in possession of the money, misappropriated, misapplied and converted the same for her personal use and benefit, and not withstanding repeated demands failed and refused to pay the said amount of P80,000.00 to the damage and prejudice of the Complainant in the aforementioned amount of P80,000.00.*^[6]

The foregoing were docketed as Criminal Cases No. 01-0076 and No. 0077 and raffled to Branch 275 of the Regional Trial Court (RTC) of Las Piñas City.

Upon arraignment on 24 May 2001, petitioner Ritualo, duly assisted by counsel *de oficio*, pleaded "*Not Guilty*" to the crimes charged.^[7]

On 26 May 2003, during the joint trial of the cases, petitioner Ritualo orally manifested in open court that earnest efforts were being undertaken to settle the civil aspect thereof. Thus, with the conformity of the accused, herein petitioner Ritualo, coupled with the latter's express waiver apropos the attachment of double jeopardy, the RTC ordered^[8] the provisional dismissal of the two cases.

On 13 October 2003, however, the RTC ordered^[9] the revival of the cases upon the motion of the prosecution, on the ground that Ritualo reneged on her undertaking as embodied in a handwritten note entitled, "*Kasunduan*" viz:

May 26, 2003

Kasunduan

Ako si Carmen Ritualo, ay sa araw na ito May 26, 2003, nagbabayad kay Felix Biacora ng halagang Sampung-libong Piso (P10,000.00) at ang natirang Twenty One Thousand Pesos ay babayaran ko sa loob ng Tatlong Buwan magmula ngayon.

(Sgd.)
Carmen Ritualo
Akusado

Sumang-ayon:

(Sgd.)
Felix Biacora

Complainant^[10]

In the ensuing trial, the prosecution presented two witnesses, namely, Felix Biacora, the victim;^[11] and Belen Blones, employee of the Licensing Branch of the Philippines Overseas Employment Agency (POEA). Taken altogether, the evidence of the prosecution established the following facts:

In 1993, Felix Biacora went to Saudi Arabia for overseas employment that was facilitated by one Cynthia Libutan (Libutan) who worked for a recruitment agency.^[12] Several years after his return to the country, Biacora accidentally met Libutan in Baclaran Church sometime in 2000. After they exchanged pleasantries, the former signified to the latter his desire to seek another overseas employment. Libutan then gave Biacora the name, address and contact number of her friend, one Carmen Ritualo, the petitioner herein, who was able to help Libutan's sister find work in Australia. Biacora thereafter called petitioner Ritualo to set up a meeting.

On 1 May 2000, accompanied by his wife, Biacora went to the house of petitioner Ritualo and inquired from her whether she could help him secure overseas employment in Australia. Petitioner Ritualo answered in the affirmative, and to be convincing, brought out travel documents of several people she was able to "help," who were then supposedly scheduled to leave for abroad pretty soon.^[13] Biacora was then assured that:

[He could] leave for Australia [in a month's time] if [he] will give [petitioner Ritualo] a total amount of P160,000.00, and [his] salary would be US\$700.00 per month as a farm worker.^[14]

On the above-quoted representation on the same date, Biacora paid petitioner Ritualo the amount of P40,000.00 as downpayment, with the balance to be completed before he left for Australia. Upon receipt of the money, petitioner Ritualo issued Biacora a *Cash Voucher*^[15] as evidence of said payment. To complete their transaction, Biacora left her a copy of his Bio-data.^[16]

On 4 May 2000, Biacora again gave petitioner Ritualo P20,000.00 as additional payment, making the total amount received by the latter P60,000.00. Again, petitioner Ritualo issued a *Cash Voucher*.^[17]

Subsequently, Biacora was informed by petitioner Ritualo that all he needed in securing an employment in Australia was his Passport and an endorsement from the Representative of his district. Accompanied by petitioner Ritualo and one Anita Seraspe, the assistant^[18] of the former, Biacora went to the *Batasan Pambansa* to secure the necessary endorsement. Thereafter, all three went to the Australian Embassy to apply for Biacora's working visa.

On 1 June 2000, Biacora went to see petitioner Ritualo to follow up the date of his departure. Petitioner Ritualo asked from Biacora another P20,000.00 and told the latter to be patient. As with the other amounts given, proof of payment^[19] was similarly issued to acknowledge receipt thereof.

Several dates were set for Biacora's departure, but none pushed through. To top it all, his Australian Visa application was denied by the Australian Embassy. Consequently, on 9 September 2000, Biacora demanded from petitioner Ritualo the return of the P80,000.00. The latter promised to pay back the money on the 13th of September 2000. None came.

Thereafter, Biacora filed the subject criminal complaints against petitioner Ritualo.

In two Certifications dated 23 October 2000^[20] and 5 November 2003,^[21] respectively, both identified by Belen Blones of the Licensing Division of the POEA, it was confirmed that "per available records of [its] Office, CARMEN RITUALO, in her personal capacity is not licensed by this Administration to recruit workers for overseas employment"^[22]; and that "[a]ny recruitment activity undertaken by [her] is deemed illegal."^[23]

To rebut the foregoing evidence presented by the prosecution, the defense presented a diametrically opposed version of the facts of the present case through the sole testimony of Ritualo.

In her testimony, Ritualo narrated that it was Libutan and Biacora who asked her to introduce them to a certain Anita Seraspe, the person responsible for sending petitioner Ritualo's own sister to Australia;^[24] that she had no agreement with Biacora respecting the latter's employment in Australia; that any talk of money was made among Libutan, Biacora and Seraspe only; that she received a total of P80,000.00 from Biacora, but that the same was merely entrusted to her because Libutan and Biacora had just met Seraspe,^[25] and that she turned over all the payments to Seraspe who acknowledged receipt of the same by writing on pieces of paper said acceptance; that she accompanied Biacora to Batasan Pambansa at his request; that she did not earn any money out of her referral and introduction of Libutan and Biacora to Seraspe; that even if she did not earn any money out of the subject transaction, she returned P10,000.00 and P31,000.00, or a total of P41,000.00, to Biacora out of fear that the latter would file charges against her; that she tried to find Seraspe, but the latter could not be found at her last known address; and that she gave Biacora an additional P6,000.000 to obviate any more scandal befalling her family.^[26]

On 1 December 2004, after trial, the RTC found the evidence presented by the prosecution to be more credible and logical than that presented by the defense and thus, convicted Ritualo for the crimes of Simple Illegal Recruitment and Estafa, defined and penalized under the Migrant Workers and Overseas Filipino Act of 1995 and the Revised Penal Code, respectively. The dispositive portion of the trial court's judgment stated:

WHEREFORE, in view of the foregoing, the Court finds accused CARMEN RITUALO y RAMOS, GUILTY beyond reasonable doubt of the crimes of:

1. Simple Illegal Recruitment (Criminal Case Number 01-0076) under Section 7 of Republic Act No. 8042 otherwise known as the

`Migrant Workers Act of 1995,' and sentences her to suffer an Indeterminate penalty of imprisonment of Six (6) years and ONE (1) day, as minimum, to EIGHT (8) years, as maximum, and to pay a fine of P200,000.00.

2. In Criminal Case Number 01-0077 for Estafa, herein accused is hereby sentenced to suffer an indeterminate penalty of prison term of six (6) months and One (1) day of Prission (sic) Correccional (sic), as minimum, to seven (7) years, eleven (11) months and eleven (11) days of Prision Mayor, as maximum and is ORDERED to indemnify Felix Biacora actual damages in the amount of P66,000.00 which is minus the amount of P14,000.00 which the private complainant admitted to have been refunded to him.

Cost de officio.^[27]

Ritualo's Motion for Reconsideration of the trial court's decision was subsequently denied in an Order^[28] dated 21 January 2005.

In an Order^[29] dated 1 March 2005, the RTC granted and approved the Notice of Appeal^[30] filed by Ritualo.

The Court of Appeals, in its Decision promulgated on 23 April 2007, affirmed the judgment of the RTC insofar as the conviction of Ritualo was concerned. As reasoned by the Court of Appeals, "[a]s against the positive and categorical testimony of the [Biacora], [Ritualo's] denials cannot prevail."^[31] Particularly, the appellate court held that Ritualo's "acts of promising and assuring employment overseas to [Biacora] [fell] squarely within the ambit of recruitment and placement as defined by [The Migrant Workers Act or Republic Act No. 8042]."^[32] With respect to the charge of Estafa under the Revised Penal Code, the appellate court likewise found that all the elements of said crime existed in the case at bar, *i.e.*, "[Ritualo] misrepresented herself to the [Biacora] as the person who could send him to Australia for employment, and by reason of misrepresentations, false assurances and deceit, [Biacora] was induced to part with his money in payment of placement fees, thereby causing him damage and prejudice."^[33]

The penalties imposed on Ritualo by the trial court, however, were modified by the Court of Appeals on the ground that the latter erred in imposing in the Illegal Recruitment case, an indeterminate sentence ranging from six (6) years and one (1) day, as minimum, to eight (8) years, as maximum, and to pay a fine of P200,000.00,"^[34] in view of the penalty prescribed under Sec. 7 of Republic Act No. 8042; and, in the Estafa case, another indeterminate sentence ranging from six (6) months and one (1) day of *prision correccional*, as minimum, to seven (7) years, eleven (11) months and eleven (11) days of *prision mayor*, as maximum, contrary to the wordings of Art. 315 of the Revised Penal Code.

The *fallo* of the Court of Appeals decision is restated: