

## THIRD DIVISION

[ G.R. NO. 169076, January 27, 2007 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSEPH JAMILOSA, APPELLANT.**

### DECISION

**CALLEJO, SR., J.:**

This is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Quezon City in Criminal Case No. Q-97-72769 convicting appellant Joseph Jamilosa of large scale illegal recruitment under Sections 6 and 7 of Republic Act (R.A.) No. 8042, and sentencing him to life imprisonment and to pay a P500,000.00 fine.

The Information charging appellant with large scale illegal recruitment was filed by the Senior State Prosecutor on August 29, 1997. The inculpatory portion of the Information reads:

That sometime in the months of January to February, 1996, or thereabout in the City of Quezon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, representing to have the capacity, authority or license to contract, enlist and deploy or transport workers for overseas employment, did then and there, willfully, unlawfully and criminally recruit, contract and promise to deploy, for a fee the herein complainants, namely, Haide R. Ruallo, Imelda D. Bamba, Geraldine M. Lagman and Alma E. Singh, for work or employment in Los Angeles, California, U.S.A. in Nursing Home and Care Center without first obtaining the required license and/or authority from the Philippine Overseas Employment Administration (POEA).

Contrary to law.<sup>[2]</sup>

On arraignment, the appellant, assisted by counsel, pleaded not guilty to the charge.

The case for the prosecution, as synthesized by the Court of Appeals (CA), is as follows:

The prosecution presented three (3) witnesses, namely: private complainants Imelda D. Bamba, Geraldine M. Lagman and Alma E. Singh.

Witness Imelda D. Bamba testified that on January 17, 1996, she met the appellant in Cubao, Quezon City on board an aircon bus. She was on her way to Shoemart (SM), North EDSA, Quezon City where she was working as a company nurse. The appellant was seated beside her and introduced himself as a recruiter of workers for employment abroad. The appellant told her that his sister is a head nurse in a nursing home in Los

Angeles, California, USA and he could help her get employed as a nurse at a monthly salary of Two Thousand US Dollars (\$2,000.00) and that she could leave in two (2) weeks time. He further averred that he has connections with the US Embassy, being a US Federal Bureau of Investigation (FBI) agent on official mission in the Philippines for one month. According to the appellant, she has to pay the amount of US\$300.00 intended for the US consul. The appellant gave his pager number and instructed her to contact him if she is interested to apply for a nursing job abroad.

On January 21, 1996, the appellant fetched her at her office. They then went to her house where she gave him the photocopies of her transcript of records, diploma, Professional Regulatory Commission (PRC) license and other credentials. On January 28 or 29, 1996, she handed to the appellant the amount of US\$300.00 at the McDonalds outlet in North EDSA, Quezon City, and the latter showed to her a photocopy of her supposed US visa. The appellant likewise got several pieces of jewelry which she was then selling and assured her that he would sell the same at the US embassy. However, the appellant did not issue a receipt for the said money and jewelry. Thereafter, the appellant told her to resign from her work at SM because she was booked with Northwest Airlines and to leave for Los Angeles, California, USA on February 25, 1996.

The appellant promised to see her and some of his other recruits before their scheduled departure to hand to them their visas and passports; however, the appellant who was supposed to be with them in the flight failed to show up. Instead, the appellant called and informed her that he failed to give the passport and US visa because he had to go to the province because his wife died. She and her companions were not able to leave for the United States. They went to the supposed residence of the appellant to verify, but nobody knew him or his whereabouts. They tried to contact him at the hotel where he temporarily resided, but to no avail. They also inquired from the US embassy and found out that there was no such person connected with the said office. Thus, she decided to file a complaint with the National Bureau of Investigation (NBI).

Prosecution witness Geraldine Lagman, for her part, testified that she is a registered nurse by profession. In the morning of January 22, 1996, she went to SM North EDSA, Quezon City to visit her cousin Imelda Bamba. At that time, Bamba informed her that she was going to meet the appellant who is an FBI agent and was willing to help nurses find a job abroad. Bamba invited Lagman to go with her. On the same date at about 2:00 o'clock in the afternoon, she and Bamba met the appellant at the SM Fast-Food Center, Basement, North EDSA, Quezon City. The appellant convinced them of his ability to send them abroad and told them that he has a sister in the United States. Lagman told the appellant that she had no working experience in any hospital but the appellant assured her that it is not necessary to have one. The appellant asked for US\$300.00 as payment to secure an American visa and an additional amount of Three Thousand Four Hundred Pesos (P3,400.00) as processing fee for other documents.

On January 24, 1996, she and the appellant met again at SM North EDSA, Quezon City wherein she handed to the latter her passport and transcript of records. The appellant promised to file the said documents with the US embassy. After one (1) week, they met again at the same place and the appellant showed to her a photocopy of her US visa. This prompted her to give the amount of US\$300.00 and two (2) bottles of Black Label to the appellant. She gave the said money and liquor to the appellant without any receipt out of trust and after the appellant promised her that he would issue the necessary receipt later. The appellant even went to her house, met her mother and uncle and showed to them a computer printout from Northwest Airlines showing that she was booked to leave for Los Angeles, California, USA on February 25, 1996.

Four days after their last meeting, Extelcom, a telephone company, called her because her number was appearing in the appellant's cellphone documents. The caller asked if she knew him because they were trying to locate him, as he was a swindler who failed to pay his telephone bills in the amount of P100,000.00. She became suspicious and told Bamba about the matter. One (1) week before her scheduled flight on February 25, 1996, they called up the appellant but he said he could not meet them because his mother passed away. The appellant never showed up, prompting her to file a complaint with the NBI for illegal recruitment.

Lastly, witness Alma Singh who is also a registered nurse, declared that she first met the appellant on February 13, 1996 at SM North EDSA, Quezon City when Imelda Bamba introduced the latter to her. The appellant told her that he is an undercover agent of the FBI and he could fix her US visa as he has a contact in the US embassy. The appellant told her that he could help her and her companions Haidee Raullo, Geraldine Lagman and Imelda Bamba find jobs in the US as staff nurses in home care centers.

On February 14, 1996 at about 6:30 in the evening, the appellant got her passport and picture. The following day or on February 15, 1996, she gave the appellant the amount of US\$300.00 and a bottle of cognac as "grease money" to facilitate the processing of her visa. When she asked for a receipt, the appellant assured her that there is no need for one because she was being directly hired as a nurse in the United States.

She again met the appellant on February 19, 1996 at the Farmers Plaza and this time, the appellant required her to submit photocopies of her college diploma, nursing board certificate and PRC license. To show his sincerity, the appellant insisted on meeting her father. They then proceeded to the office of her father in Barrio Ugong, Pasig City and she introduced the appellant. Thereafter, the appellant asked permission from her father to allow her to go with him to the Northwest Airlines office in Ermita, Manila to reserve airline tickets. The appellant was able to get a ticket confirmation and told her that they will meet again the following day for her to give P10,000.00 covering the half price of her plane ticket. Singh did not meet the appellant as agreed upon. Instead, she went to Bamba to inquire if the latter gave the appellant the same amount and

found out that Bamba has not yet given the said amount. They then paged the appellant through his beeper and told him that they wanted to see him. However, the appellant avoided them and reasoned out that he could not meet them as he had many things to do. When the appellant did not show up, they decided to file a complaint for illegal recruitment with the NBI.

The prosecution likewise presented the following documentary evidence:

Exh. "A" – Certification dated February 23, 1998 issued by Hermogenes C. Mateo, Director II, Licensing Branch, POEA.

Exh. "B" – Affidavit of Alma E. Singh dated February 23, 1996.

[3]

On the other hand, the case for the appellant, as culled from his Brief, is as follows:

Accused JOSEPH JAMILOSA testified on direct examination that he got acquainted with Imelda Bamba inside an aircon bus bound for Caloocan City when the latter borrowed his cellular phone to call her office at Shoe Mart (SM), North Edsa, Quezon City. He never told Bamba that he could get her a job in Los Angeles, California, USA, the truth being that she wanted to leave SM as company nurse because she was having a problem thereat. Bamba called him up several times, seeking advice from him if Los Angeles, California is a good place to work as a nurse. He started courting Bamba and they went out dating until the latter became his girlfriend. He met Geraldine Lagman and Alma Singh at the Shoe Mart (SM), North Edsa, Quezon City thru Imelda Bamba. As complainants were all seeking advice on how they could apply for jobs abroad, lest he be charged as a recruiter, he made Imelda Bamba, Geraldine Lagman and Alma Singh sign separate certifications on January 17, 1996 (Exh. "2"), January 22, 1996 (Exh. "4"), and February 19, 1996 (Exh. "3"), respectively, all to the effect that he never recruited them and no money was involved. Bamba filed an Illegal Recruitment case against him because they quarreled and separated. He came to know for the first time that charges were filed against him in September 1996 when a preliminary investigation was conducted by Fiscal Dañosos of the Department of Justice. (TSN, October 13, 1999, pp. 3-9 and TSN, December 8, 1999, pp. 2-9)[4]

On November 10, 2000, the RTC rendered judgment finding the accused guilty beyond reasonable doubt of the crime charged.[5] The *fallo* of the decision reads:

WHEREFORE, judgment is hereby rendered finding accused guilty beyond reasonable doubt of Illegal Recruitment in large scale; accordingly, he is sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00), plus costs.

Accused is ordered to indemnify each of the complainants, Imelda Bamba, Geraldine Lagman and Alma Singh the amount of Three Hundred US Dollars (\$300.00).

SO ORDERED.[6]

In rejecting the defenses of the appellant, the trial court declared:

To counter the version of the prosecution, accused claims that he did not recruit the complainants for work abroad but that it was they who sought his advice relative to their desire to apply for jobs in Los Angeles, California, USA and thinking that he might be charged as a recruiter, he made them sign three certifications, Exh. "2," "3" and "4," which in essence state that accused never recruited them and that there was no money involved.

Accused's contention simply does not hold water. Admittedly, he executed and submitted a counter-affidavit during the preliminary investigation at the Department of Justice, and that he never mentioned the aforesaid certifications, Exhibits 2, 3 and 4 in said counter-affidavit. These certifications were allegedly executed before charges were filed against him. Knowing that he was already being charged for prohibited recruitment, why did he not bring out these certifications which were definitely favorable to him, if the same were authentic. It is so contrary to human nature that one would suppress evidence which would belie the charge against him.

Denials of the accused can not stand against the positive and categorical narration of each complainant as to how they were recruited by accused who had received some amounts from them for the processing of their papers. Want of receipts is not fatal to the prosecution's case, for as long as it has been shown, as in this case, that accused had engaged in prohibited recruitment. (People v. Pabalan, 262 SCRA 574).

That accused is neither licensed nor authorized to recruit workers for overseas employment, is shown in the Certification issued by POEA, Exh. "A."

In fine, the offense committed by the accused is Illegal Recruitment in large scale, it having been committed against three (3) persons, individually.<sup>[7]</sup>

Appellant appealed the decision to this Court on the following assignment of error:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF ILLEGAL RECRUITMENT IN LARGE SCALE DESPITE THE FACT THAT THE LATTER'S GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT BY THE PROSECUTION.<sup>[8]</sup>

According to appellant, the criminal Information charging him with illegal recruitment specifically mentioned the phrase "for a fee," and as such, receipts to show proof of payment are indispensable. He pointed out that the three (3) complaining witnesses did not present even one receipt to prove the alleged payment of any fee. In its eagerness to cure this "patent flaw," the prosecution resorted to presenting the oral testimonies of complainants which were "contrary to the ordinary course of nature and ordinary habits of life [under Section 3(y), Rule 131 of the Rules on Evidence] and defied credulity." Appellant also pointed out that complainants' testimony that they paid him but no receipts were issued runs counter to the presumption under Section [3](d), Rule 131 of the Rules on Evidence that