

SECOND DIVISION

[G.R. Nos. 149014-16, February 05, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROSE DUJUA (AT LARGE); EDITHA S. SING (AT LARGE); GUILLERMO "WILLY" SAMSON (AT LARGE); RAMON SAMSON DUJUA, ACCUSED,

RAMON SAMSON DUJUA, APPELLANT.

D E C I S I O N

TINGA, J.:

Ramon Dujua appeals from the decision of the Regional Trial Court (RTC of Manila, Branch 51), finding him guilty of Illegal Recruitment in Large Scale and of two counts of estafa.

Ramon, his mother Rose Dujua, his aunt Editha Singh, and his uncle Guillermo "Willy" Samson were charged in Criminal Case No. 92-108910, with Illegal Recruitment in Large Scale in an *Information* alleging —

That in or about and during the period comprised between August, 1991 and March 14, 1992, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, being then private individuals and representing themselves to have the capacity to contract, enlist, and transport Filipino workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment/job placement to the following applicants, namely: Jaime Cabus y Co, Beldon S. Caluten, Fernando P. Cunanan, Paulino B. Correa, Martin D. Nacion, Romulo Partos y Tuangco, Jesus B. Briagas, Arturo Torres, Roberto A. Perlas, Ronald Alvarez and Vivencio L. Batiquin without first having secured the required license or authority from the Department of Labor as required by law.

CONTRARY TO LAW.^[1]

The four were also charged in Criminal Case Nos. 92-108912 and 92-108920 with separate counts of estafa committed against Roberto Perlas and Jaime Cabus. Except for the date of the commission, the name of the victim, and the amount involved, the two *Informations* in the estafa cases make similar allegations against the accused. The *Information* in Criminal Case No. 92-108912 states:

That on or about October 28, 1991, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously defraud Roberto A. Perlas in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which they made to said Roberto A. Perlas to the effect that they had the power and

capacity to recruit and employ him abroad 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 Roberto A. Perlas to give and deliver, as in fact gave and delivered to said accused the amount of P17,000.00 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 P17,000.00 which amount once in possession, with intent to defraud they, willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Roberto A. Perlas in the aforesaid amount of P17,000.00, Philippine currency.

CONTRARY TO LAW.^[2]

That in Criminal Case No. 92-108920 reads:

That in or about and during the comprised [period] between October 1991 and March 14, 1992, inclusive, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another did then and there willfully, unlawfully and feloniously defraud Jaime Cabus y Co in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which they made to said Jaime Cabus y Co to the effect that they had the power and capacity to recruit and employ him abroad 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 Jaime Cabus y Co to give and deliver, as in fact he gave and delivered to said accused the amount of P47,000.00 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 P47,000.00 which amount once in possession, with intent to defraud they, willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Jaime Cabus y Co in the aforesaid amount of P47,000.00, Philippine currency.

CONTRARY TO LAW.^[3]

Of the four accused, only Ramon Dujua was arrested and arraigned. His mother, aunt and uncle remain at large. Ramon entered a plea of not guilty to each of the charges, whereupon trial commenced. While the *Information* for illegal recruitment named several persons as having been promised jobs by the accused, only four of them testified.

In August 1991, private complainant Beldon Caluten, accompanied by his cousin, went to the accused's office, the World Pack Travel and Tours located in Suite 28, Manila Midtown Arcade, Adriatico Street, Ermita, Manila.^[4] Upon Beldon's inquiry, Ramon Dujua said that he sends applicants abroad and gave Beldon an application form. Beldon filled up the form and submitted it to Ramon, who told him that he

must pay a processing fee and make an advance payment.^[5]

Beldon was promised work as a factory worker in Japan.^[6] On August 15, 1991, he paid Ramon the processing fee of P1,000.00 and, the next day, an advance payment of P10,000.00.^[7] Beldon paid Ramon an additional P15,000.00 on August 21, 1991 as placement fee.^[8] For these payments, Beldon was issued receipts^[9] signed by Ramon's mother Rose Dujua.^[10] On the last week of August 1991, Beldon gave another P10,000.00 to Benita Valdes, another applicant in the accused's office, but no receipt was issued for the amount.^[11] Finally, Beldon gave P41,000.00 to Rose Dujua but when Beldon asked for a receipt for the latter payment, Rose said she already gave him one.^[12]

When, despite such payments, the promise to send Beldon to work in Japan remained unfulfilled, Beldon asked Ramon to give him back his money.^[13] Beldon never recovered his payments, however, prompting him and his fellow applicants to file a complaint at the National Bureau of Investigation (NBI).^[14]

Private complainant Jaime Cabus was introduced to Ramon on the first week of October 1991 by Jaime's neighbor who worked in front of the accused's office.^[15] Ramon said they were deploying workers to Taiwan and that if Jaime could afford the placement fee of P45,000.00, plus the passport and processing fee, he could leave for Taiwan in a few weeks.^[16]

The following day, Jaime gave Ramon P2,000.00 at the latter's office, the World Pack Travel and Tours at Suite 28, Manila Midtown Arcade, Adriatico St., Ermita, Manila, for the processing of his passport.^[17] Jaime was not issued a receipt for his payment but was assured that the passport's processing would take just two days.^[18] Indeed, Jaime was able to see his passport.^[19]

In the latter part of October 1991, Jaime paid P10,000.00 as down payment for the placement fee.^[20] Jaime gave Ramon the sum inside the accused's office.^[21] On March 16, 1994, when they were about to leave for the airport Jaime handed Rose P47,000.00 representing the balance of the placement fee.^[22]

At the airport, Ramon told Jaime that the tickets were still being processed.^[23] Feeling that his and the other thirty applicants' flight would not push through, Jaime asked for a refund. Ramon and his mother refused to pay him back^[24] because the money was supposedly going to be used in the processing of their tickets.^[25] Rose assured him, though, that they would be able to leave the following day.^[26]

The flight and the job never materialized, however, so after a week Jaime decided to file a complaint with the NBI.^[27]

Another complainant, Roberto Perlas, was introduced to Ramon Dujua by his *compadre*, complainant Jaime Cabus, in the first week of October 1991.^[28] Roberto went to the accused's office at Midtown Plaza in Ermita to apply for a job abroad.^[29] Ramon told him that they were deploying factory workers to Taiwan.^[30]

Convinced, Roberto accomplished the bio-data form given by Ramon.^[31] Roberto also paid a total of P30,000.00 as placement fee.^[32] On separate occasions, Roberto gave Ramon P7,000.00 and P10,000.00, for which he was issued the corresponding receipts by Rose Dujua.^[33] The balance of the P30,000.00 he later gave to Rose, who did not issue a receipt therefor because at the time a lot of people were milling about.^[34]

Notwithstanding payment, Roberto was not able to leave for Taiwan.^[35] Rose and Ramon kept on telling him that he would leave the following day but Roberto waited in vain.^[36] The money he gave was never refunded.^[37] Finally, he decided to file a complaint against the accused.^[38]

In August 1991, private complainant Romulo Partos was introduced to Ramon Dujua at the latter's office at the World Pack Travel and Tours in the Manila Midtown Arcade, Adriatico St., Manila, by one Baby Ramos.^[39] Baby, like Romulo, was an applicant for deployment to Taiwan.^[40] Ramon told Romulo about "the work in Taiwan and in Japan." Ramon said that Romulo would get the job he was applying for and leave within a week if he paid P45,000.00.

Romulo and his wife Melodea Villanueva then decided that Romulo would withdraw his application and that Melodea would be the one to leave for abroad.^[41] The amount of P45,000.00 that Romulo was supposed to pay was changed to P25,000.00, payable upon application.^[42] Romulo also had to pay P50,000.00 upon the release of the visa and another P75,000.00 upon departure.^[43]

Romulo paid Ramon P18,000.00 for his wife's application, and Rose Dujua issued the corresponding receipt.^[44] Subsequently, Romulo gave another P7,000.00 to complete the required P25,000.00.^[45] No receipt was issued for the latter payment.^[46]

Romulo's wife raised another P50,000.00, which was given to Rose, for her Japanese visa.^[47] As nothing came about of the employment promised, Romulo decided to file a complaint with the NBI.^[48]

The prosecution also presented a Certification^[49] dated March 27, 1998, issued by Hermogenes C. Mateo, Director II, Licensing Branch of the POEA, stating that Ramon Dujua is not licensed or authorized by the POEA to recruit workers abroad. Another Certification,^[50] of even date shows that neither is the World Pack Travel and Tours authorized to recruit workers abroad.

The accused Ramon Dujua admitted having met private complainants^[51] but denied that he was a recruiter.^[52] He claimed that he was a mere janitor, messenger and errand boy of the World Pack Travel and Tours, where he worked from October 28, 1991 up to June 20, 1992.^[53] The company is owned by his aunt, Editha Singh, and managed by his mother Rose Dujua.^[54]

While admitting that he did not have a license to recruit,^[55] Ramon acknowledged receiving the money given by complainants but denied knowing what it was for.^[56] He said, however, that his mother only asked him to count the money.^[57] He further maintained that he did not sign any receipt relative to the payments made by private complainants.^[58] The accused claimed that he was being charged only because complainants were angry with his mother.^[59]

Zenaida Perez, who used to work for World Pack Travel and Tours, corroborated Ramon's claim that he was a janitor/messenger in said office.^[60]

On February 28, 2001, the RTC rendered its *Decision* convicting Ramon Dujua of illegal recruitment in large scale, committed against Jaime Cabus, Beldon Caluten and Roberto Perlas, and of two counts of estafa, committed against Cabus and Perlas. The dispositive portion of the RTC *Decision* reads:

WHEREFORE, the Court, finding the accused Ramon Dujua guilty beyond reasonable doubt of the offense in Criminal Case 92-108910 which is for Illegal Recruitment for Violation of Art. 38 (a and b) in relation to Art. 39 of PD 442, as amended by PD 1412 and further amended by PD 1920 and PD 2018, hereby sentences him to suffer the penalty of life imprisonment and to pay fine in the amount of P100,000.00. He is further ordered to pay the private complainants a) Jaime Cabus the amount of P47,000.00; b) Benton [sic] C. Caluten the amount of P26,000.00; and c) Roberto Perlas the amount of P17,000.00. In so far as Romulo Partos is concerned, his case is dismissed. With costs.

With respect to Criminal Case No. 92-108912 and Criminal Case No. 92-108920 involving private complainants Roberto Perlas and Jaime Cabus, respectively, the Court, finding the accused Ramon Dujua guilty beyond reasonable doubt of the crime charged which is for Estafa, hereby sentences him to suffer the indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of prision correccional as minimum to four (4) years and two (2) months of prision correccional as maximum for each of the cases. Considering that the accused had been ordered to pay private complainant Roberto Perlas the amount of P17,000.00 and private complainant Jaime Cabus the amount of P47,000.00 in Criminal Case No. 92-108910 for Illegal Recruitment they should not be awarded again the said amounts in these Estafa cases. With costs.

Considering that the accused Ramon Dujua is a detention prisoner, he shall be credited in the service of his sentence with the full time during which he has undergone preventive imprisonment.

As against accused Rose Dujua, Editha S. Sing [sic] and Guillermo "Willy" Samson who remained at-large, their cases were archived [sic] (Order dated November 23, 1992).

SO ORDERED.^[61]