

THIRD DIVISION

[G.R. Nos. 116905-908, August 06, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO BALLESTEROS, ACCUSED-APPELLANT.**

D E C I S I O N

CARPIO, J.:

This is an appeal from the Decision^[1] dated July 6, 1994 of the Regional Trial Court of Manila, Branch 49, in Criminal Cases Nos. 93-121321, 93-121322, 93-121323 and 93-121324, convicting appellant Eduardo Ballesteros ("Appellant" for brevity) of the crimes of *illegal recruitment in large-scale and estafa*. The trial court sentenced appellant to life imprisonment plus three indeterminate penalties ranging from two years, eleven months and ten days of *prision correccional* as minimum to nine years, eight months and one day of *prision mayor* as maximum.

The Charge

On May 26, 1993, the Assistant City Prosecutor of Manila filed an Information^[2] charging appellant with the crime of illegal recruitment in large-scale,^[3] docketed as Criminal Case No. 93-121321, as follows:

"That on or about May 23, 1992, November 27, 1992 and January 3, 1993, in the City of Manila, Philippines, the said accused representing himself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there wilfully and unlawfully for a fee, recruit and promise employment job placement in Japan to the following persons: Arnel Viloria y Viloria, Santiago Ricamonte y Leocario and Nenita Sorita y Ramos, without first having secured the required license or authority from the Department of Labor.

Contrary to law."

The Assistant City Prosecutor also charged appellant, based on the same incident, of three counts of *estafa* committed on each of the private complainants under Criminal Cases Nos. 93-121322,^[4] 93-121323^[5] and 93-121324.^[6] The Informations were identical, except for the name of the private complainants, as follows:

"That on or about May 23, 1992, the accused, did then and there willfully, unlawfully and feloniously defraud ARNEL VILORIA Y VILORIA in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which he/they/she made to said ARNEL VILORIA Y VILORIA to the effect that he had the power and capacity to recruit and employ ARNEL VILORIA Y VILORIA 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 ARNEL VILORIA Y VILORIA to give and deliver, as in fact he gave and delivered to said accused the amount of P50,000.00 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 he did obtain the amount of P50,000.00 which amount once in his possession, with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of said ARNEL VILORIA Y VILORIA in the aforesaid amount of P50,000.00, Philippine Currency.

Contrary to law.”

Arraignment and Plea

Upon arraignment on June 18, 1983 for each of the charges, appellant, assisted by counsel de parte, entered a plea of “Not Guilty” to all the charges. Trial then followed.

The Trial

The prosecution presented as its witnesses the three private complainants, Arnel Vilorio (“Viloria” for brevity), Santiago Ricamonte (“Ricamonte” for brevity), and Nenita Sorita (“Sorita” for brevity), as well as SPO4 Benjamin Lotivio. The defense presented appellant as its lone witness.

Version of the Prosecution

The facts^[7] of the case are as follows:

Santiago Ricamonte, Arnel Vilorio and Nenita Sorita all dreamt of seeking “greener pastures” in foreign shores. It was most unfortunate for them to have fallen into the deceptive acts and machinations of the appellant who lured them into a false sense of security with promises of foreign employment in Japan.

Santiago Ricamonte was a driver at the Monte Merchandizing when he thought of applying as a construction worker in Japan. Ricky de la Torre (hereinafter “dela Torre”), who was a cousin of Ricamonte’s friend, introduced him to Engineer Jose Mendoza, a recruiter of workers to Japan. On November, 1992, dela Torre and Mendoza brought Ricamonte to an office in the Army and Navy Club, located at T. M. Kalaw St., Manila, and introduced him to appellant, Cecilia Legarbes Zabala (hereinafter “Zabala”) and Alfredo Hunsayan, Jr. (hereinafter “Hunsayan”). When inside the office, Ricamonte saw, on one of the tables, a name plate bearing the name of ‘Judge Cornejo’. He found out that the office belonged to a former fiscal named Crisanto Cornejo, who was on vacation at that time, and who allowed the appellant to hold office there while he was away.

Once introduced, Ricamonte was informed of each of the person’s duties in that office. He found out that Zabala was in charge of arranging papers of recruits to Japan while Hunsayan was the one who had contacts in Japan and that both of them were associated in the business of recruiting workers for employment in Japan. The appellant told Ricamonte that there was a job offer in Japan and that Zabala knew everything about the recruitment. The appellant also impressed upon Ricamonte that the recruitment of persons for employment in Japan was a transaction of people

with money so that if he did not have any money, he might as well forget setting foot in Japan. The appellant added that Ricamonte needed to prepare P80,000.00 for the processing of his employment papers and his plane ticket.

On November 23, 1992, in the office of the appellant, Ricamonte gave P20,000.00, as the first installment of his payment, to de la Torre who counted the money and thereafter gave it to Zabala who then issued a receipt for the amount (Exhibits 'A' and '3'). The appellant and Mendoza were present and witnessed the transaction. Ricamonte thereafter signed an application for employment which would be allegedly sent by Zabala to his prospective employer in Japan.

On another occasion, Ricamonte again went to the office of the appellant to give an additional P50,000.00. The same process was followed. The money was given to Zabala who issued a receipt for the amount while the appellant, Mendoza, dela Torre, and Hunsayan were present as witnesses. Zabala then told him that his visa would be released soon and asked him to return on a specified date.

When Ricamonte returned to the office of the appellant on the specified date, Zabala was nowhere to be found. He asked the appellant, who was in the office at that time, where Zabala was, but the appellant told him that he had nothing to do with Zabala and that it was up to him to look for her. When Ricamonte returned to the office of the appellant sometime in December 1992, he found the office already padlocked.

Nenita Sorita was 56 years old and had already worked in Bahrain for some time, when she, too, was promised an employment in Japan.

On April, 1992, Sorita's nephew and niece borrowed money from her and asked her to pay the money to a certain recruitment agency where she met Engineer Mendoza. Mendoza offered Sorita a job in Japan but she initially refused since she was not yet interested at that time. However, it was not long after that first conversation when she gave in to the offer of employment in a garment factory in Japan. Mendoza showed her a letter of invitation from his contact in Japan for persons to work there and assured her that this contact person would be responsible for everything.

Convinced, Sorita paid P10,000.00 to Mendoza for the processing of her papers and her visa for which Mendoza signed a receipt (Exhibits 'G' and '6'). He was able to get a passport for Sorita as a tourist but still, after a long wait, failed to send her to Japan. Mendoza told Sorita that he had a misunderstanding with his Japanese contact so he could not procure employment for her in Japan but, nevertheless, assured her that he had friends who could secure employment for her in Japan.

So, on November 20, 1992, Mendoza brought Sorita to the house of the appellant in Singalong, Manila where she met Cecilia Legarbes Zabala. The appellant and Zabala told Sorita that she would have to pay P60,000.00 for the processing of her employment papers, visa and her plane tickets to and from Japan. However, the P10,000.00 which she had earlier paid Mendoza would be deducted from the amount. After laying down the terms and conditions of their agreement, Sorita was asked to deliver the money to the office of the appellant at the Army and Navy Club.

On January 3, 1993, Sorita went to the office of the appellant with only P21,500.00. This notwithstanding, the appellant and Mendoza instructed her to give the money to Zabala. Once inside the office, Sorita saw the name plate of "Judge Cornejo" on

one table and that of the appellant, "Captain" on another table. After giving them the P21,000.00, Sorita told the three that she could not produce the rest of the money because the person who was supposed to buy her personal properties, the proceeds of which she would use to pay the balance of her recruitment fee, failed to do so. Nevertheless, the three told Sorita to bring her personal properties to the office so that they could buy them from her for P30,000.00.

On the same day, Sorita brought her personal properties to the office of the appellant consisting of: 1 Ladies' ring with Tampok; 1 wedding band; a 24 karat necklace; 1 14" colored TV (Goldmaster brand); and 1 Sony Walkman (Exhibits '5' and 'H'). The appellant, Zabala and Mendoza were still there when Sorita arrived. Zabala then gave Sorita a signed receipt for the cash amount of P21,000.00 and her personal properties (Exhibits 'H' and '5'). However, Zabala instructed Sorita to bring her Sony Walkman and television to the house of the appellant where he himself received the items. Sorita, however, never got any receipt for the items since Zabala assured her that there was no more problem. Zabala then told her that she would procure a tourist visa for her and enable her to work as a 'TNT' (tago ng tago) in Japan and guaranteed her that she, together with the others, would endeavor to bring her to Japan.

However, the day of Sorita's departure never came. Like Ricamonte, when she returned to the office of the appellant, the office was already padlocked.

Arnel Vilorio was a 5th year Engineering student at the Technological Institute of the Philippines when he fell into the same "employment trap."

Viloria's mother and Nenita Sorita were close friends. On one occasion when Viloria went to the house of Sorita, he met Engineer Jose Mendoza. About a month thereafter, because of Mendoza's incessant efforts, Viloria was convinced to apply for a construction job in Japan. It was also upon the prodding of Mendoza that Viloria no longer enrolled for the incoming semester in school.

On November 23, 1992, Viloria, together with his parents and Sorita, went to the office of the appellant at the Army and Navy Club to apply as a construction worker in Japan. Once there, Mendoza introduced Viloria to the appellant and Zabala and informed him that these people were his associates and that Zabala was the one responsible for the processing and approval of his employment application. The appellant informed Viloria that he had to pay P80,000.00 for his employment papers and plane ticket. Viloria paid the total amount of P50,000.00 in three installments for which he was given receipts by Zabala (Exhibits M-3, L, M, J) and was also given the same assurance that he would soon be leaving for Japan.

However, as the same story goes, when Viloria returned to the office of the appellant to claim his visa and employment papers, the office was already closed. Viloria then inquired from the Philippine Overseas Employment Administration if the appellant, Zabala and Mendoza were licensed to procure workers for employment in Japan and was informed that they were not. Upon learning this, Viloria tried to contact the appellant but, naturally, the latter refused to see him. When Viloria finally managed to talk to the appellant over the telephone, the appellant got mad at him and told him that he had nothing to do with his problem.

Finally, Santiago Ricamonte, Arnel Viloria and Nenita Sorita, after conferring with each other and realizing that they were defrauded, executed a "Joint Affidavit of

Complaint” against the appellant with the Western Police District (Exhibit ‘D’) on May 11, 1993.

On the same date, members of the Western Police District arrested the appellant. After the Inquest Investigation, the Investigator recommended that the appellant be charged of *estafa* and illegal recruitment (large-scale) (Exhibit ‘0-2’). Two days after the appellant was arrested, Cecilia Zabala was also arrested upon information received by the police that she was staying at the Arevalo Building in Manila. The police found the passports of Arnel Vilorio and Santiago Ricamonte and the receipts signed by the appellant (Exhibits ‘E’ and ‘E-2’) in her possession and turned them over to Vilorio and Ricamonte. An Inquest Investigation was conducted on May 14, 1993. However, a month thereafter, Zabala managed to escape from the Western Police and is, up to now, still at large.

Version of the Defense

The facts,^[8] according to the defense, are as follows:

Appellant categorically denies having recruited or having been involved in the recruitment of the offended parties to Japan. He, however, admits that he and Mendoza were once close friends, having worked together in a vessel, appellant as the Captain, and Mendoza, as his Engineer. However, appellant claims that the relations between them became strained when Mendoza refused to repay appellant for his expenses in the baptism of Mendoza’s son.

Appellant narrates that he was the Chairman of the Board of Directors of PSBN Marine Salvage, Inc., a company he established, with offices at No. 2336 Espiritu St., Singalong, Manila, which was also his residence at that time. Appellant claims that his relations with Mendoza became further strained when he found out that the latter tampered with his company’s Articles of Incorporation by erasing the name of one of the Directors and replacing it with his own (Exhibits 19 and 19-B).

Appellant also states that he transferred his office to the Army and Navy Club upon the permission of a former Assistant City Fiscal Crisanto Cornejo, who originally rented the office, and who was on vacation at that time. Appellant claims that he arranged to pay for the rentals of the office, in exchange for its use since Cornejo was three months in arrears in its payment.

Appellant narrates that sometime in November 1992, Mendoza, Zabala, and Almonte arrived in his office and sought to rent one table for a monthly rental of P2,000.00. He claims that Mendoza and Zabala were brokers besides being engaged in the recruitment of workers for employment abroad. However, appellant claims that he never meddled in their business and tended to his own. Appellant also asserts that Cornejo knew of this arrangement and insisted that money transactions should not be done inside the office. Accordingly, whenever Mendoza, Zabala and Almonte had business conferences with their clients, they went to the canteen inside the club, about 25 meters away from the office.

It was also in November 1992, on different occasions, that Sorita, Vilorio and Ricamonte, who were applicants for employment abroad, were brought to the office by Mendoza and the other recruiters. In the process, appellant admitted that “he advised the three that if they had no money or somebody to finance their employment abroad they might as well forget any plans of working abroad.”