

FIRST DIVISION

[G.R. No. 121777, January 24, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CAROL M. DELA PIEDRA, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

Accused-appellant Carol M. dela Piedra questions her conviction for illegal recruitment in large scale and assails, as well, the constitutionality of the law defining and penalizing said crime.

The Court affirms the constitutionality of the law and the conviction of the accused, but reduces the penalty imposed upon her.

The accused was charged before the Regional Trial Court of Zamboanga City in an information alleging:

That on or about January 30, 1994, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having previously obtained from the Philippine Overseas Employment Administration, a license or authority to engage in recruitment and overseas placement of workers, did then and there, wilfully, unlawfully and feloniously, offer and promise for a fee employment abroad particularly in Singapore thus causing Maria Lourdes Modesto [y] Gadrino, Nancy Araneta y Aliwanag and Jennelyn Baez y Timbol, all qualified to apply, in fact said Maria Lourdes Modesto had already advanced the amount of P2,000.00 to the accused for and in consideration of the promised employment which did not materialized [sic] thus causing damage and prejudice to the latter in the said sum; furthermore, the acts complained of herein tantamount [sic] to economic sabotage in that the same were committed in large scale.^[1]

Arraigned on June 20, 1994, the accused pleaded not guilty^[2] to these charges.

At the trial, the prosecution presented five (5) witnesses, namely, Erlic Ramos, SPO2 Erwin Manalopilar, Eileen Ferminadoza, Nancy Araneta and Lourdes Modesto. The succeeding narration is gathered from their testimonies:

On January 30, 1994, at exactly 10:00 in the morning, Erlic Ramos, Attorney II of the Philippine Overseas Employment Agency (POEA), received a telephone call from an unidentified woman inquiring about the legitimacy of the recruitment conducted by a certain Mrs. Carol Figueroa. Ramos, whose duties include the surveillance of suspected illegal recruiters, immediately contacted a friend, a certain Mayeth Bellotindos, so they could both go to No. 26-D, Tetuan Highway, Sta. Cruz,

Zamboanga City, where the recruitment was reportedly being undertaken. Upon arriving at the reported area at around 4:00 p.m., Bellotindos entered the house and pretended to be an applicant. Ramos remained outside and stood on the pavement, from where he was able to see around six (6) persons in the house's sala. Ramos even heard a woman, identified as Carol Fegueroa, talk about the possible employment she has to provide in Singapore and the documents that the applicants have to comply with. Fifteen (15) minutes later, Bellotindos came out with a bio-data form in hand.

On February 1, 1994, Ramos conferred with a certain Capt. Mendoza of the Criminal Investigation Service (CIS) to organize the arrest of the alleged illegal recruiter. Also present were other members of the CIS, including Col. Rodolfo Almonte, Regional Director of the PNP-CIS for Region IX, Eileen Ferminadoza, and a certain SPO3 Santos. The group planned to entrap the illegal recruiter the next day by having Ferminadoza pose as an applicant.^[3]

On February 2, 1994, at around 8:00 p.m., Col. Almonte directed the case to SPO2 Erwin Manalopilar, a member of the Philippine National Police who was assigned as an investigator of the CIS, to conduct a surveillance of the area to confirm the report of illegal recruitment. Accordingly, he, along with Eileen Ferminadoza, immediately proceeded to Tetuan Highway. The two did not enter the house where the recruitment was supposedly being conducted, but Ferminadoza interviewed two people who informed them that some people do go inside the house. Upon returning to their office at around 8:30 a.m., the two reported to Capt. Mendoza who organized a team to conduct the raid.

The raiding team, which included Capt. Mendoza, SPO2 Manalopilar, Ferminadoza and a certain Oscar Bucol, quickly set off and arrived at the reported scene at 9:30 that morning. There they met up with Erlie Ramos of the POEA. Ferminadoza then proceeded to enter the house while the rest of the team posted themselves outside to secure the area. Ferminadoza was instructed to come out after she was given a bio-data form, which will serve as the team's cue to enter the house.^[4]

Ferminadoza introduced herself as a job applicant to a man and a woman, apparently the owners of the house, and went inside. There, she saw another woman, later identified as Jasmine, coming out of the bathroom. The man to whom Ferminadoza earlier introduced herself told Jasmine that Ferminadoza was applying for a position. Jasmine, who was then only wearing a towel, told her that she would just get dressed. Jasmine then came back and asked Ferminadoza what position she was applying for. Ferminadoza replied that she was applying to be a babysitter or any other work so long as she could go abroad. Jasmine then gave her an application form.

A few minutes later, a certain Carol arrived. Jasmine informed Carol that Ferminadoza was an applicant. Ferminadoza asked Carol what the requirements were and whether she (Ferminadoza) was qualified. Carol told Ferminadoza that if she had a passport, she could fill up the application papers. Ferminadoza replied that she had no passport yet. Carol said she need not worry since Jasmine will prepare the passport for her. While filling up the application form, three women who appeared to be friends of Jasmine arrived to follow up the result of their applications and to give their advance payment. Jasmine got their papers and put them on top of a small table.

Ferminadoza then proceeded to the door and signaled to the raiding party by raising her hand.

Capt. Mendoza asked the owners of the house, a married couple, for permission to enter the same. The owners granted permission after the raiding party introduced themselves as members of the CIS. Inside the house, the raiding party saw some supposed applicants. Application forms, already filled up, were in the hands of one Mrs. Carol Figueroa. The CIS asked Figueroa if she had a permit to recruit. Figueroa retorted that she was not engaged in recruitment. Capt. Mendoza nevertheless proceeded to arrest Figueroa. He took the application forms she was holding as the raiding party seized the other papers^[5] on the table.^[6]

The CIS team then brought Figueroa, a certain Jasmine Alejandro, and the three women suspected to be applicants, to the office for investigation.^[7]

In the course of their investigation, the CIS discovered that Carol Figueroa had many aliases, among them, Carol Llena and Carol dela Piedra. The accused was not able to present any authority to recruit when asked by the investigators.^[8] A check by Ramos with the POEA revealed that the accused was not licensed or authorized to conduct recruitment.^[9] A certification^[10] dated February 2, 1994 stating thus was executed by Renegold M. Macarulay, Officer-in-Charge of the POEA.

The CIS likewise interviewed the supposed applicants, Lourdes Modesto, Nancy Araneta and Jennelyn Baez, all registered nurses working at the Cabato Medical Hospital, who executed their respective written statements.^[11]

At the trial, Nancy Araneta, 23, recounted that she was at Jasmine Alejandro's house in the afternoon of January 30, 1994. Araneta had learned from Sandra Aquino, also a nurse at the Cabato Medical Hospital, that a woman was there to recruit job applicants for Singapore.

Araneta and her friends, Jennelyn Baez and Sandra Aquino, arrived at Jasmine's house at around 4:30 p.m. Jasmine welcomed them and told them to sit down. They listened to the "recruiter" who was then talking to a number of people. The recruiter said that she was "recruiting" nurses for Singapore. Araneta and her friends then filled up bio-data forms and were required to submit pictures and a transcript of records. They were also told to pay P2,000, and "the rest will be salary deduction." Araneta submitted her bio-data form to Carol that same afternoon, but did not give any money because she was "not yet sure."

On the day of the raid on February 2, 1994, Araneta was again at the Alejandro residence to submit her transcript of records and her picture. She arrived at the house 30 minutes before the raid but did not witness the arrest since she was at the porch when it happened.^[12]

Maria Lourdes Modesto, 26, was also in Jasmine Alejandro's house on January 30, 1994. A friend of Jasmine had informed her that there was someone recruiting in Jasmine's house. Upon arriving at the Alejandro residence, Lourdes was welcomed by Jasmine.

Lourdes recalled that Carol Figueroa was already briefing some people when she

arrived. Carol Figueroa asked if they would like a "good opportunity" since a hospital was hiring nurses. She gave a breakdown of the fees involved: P30,000 for the visa and the round trip ticket, and P5,000 as placement fee and for the processing of the papers. The initial payment was P2,000, while P30,000 will be by salary deduction.

Lourdes filled up the application form and submitted it to Jasmine. After the interview, she gave the initial payment of P2,000 to Jasmine, who assured Lourdes that she was authorized to receive the money. On February 2, 1994, however, Lourdes went back to the house to get back the money. Jasmine gave back the money to Lourdes after the raid.^[13]

Denial comprised the accused's defense.

Carol dela Piedra, 37, is a housewife and a resident of Cebu City. Her husband is a businessman from Cebu, the manager of the Region 7 Branch of the Grolier International Encyclopedia. They own an apartment in Cebu City, providing lodging to students.

The accused claimed that she goes to Singapore to visit her relatives. She first traveled to Singapore on August 21, 1993 as a tourist, and came back to the Philippines on October 20 of the same year. Thereafter, she returned to Singapore on December 10, 1993.

On December 21, 1993, while in Singapore, the accused was invited to a Christmas party sponsored by the Zamboanga City Club Association. On that occasion, she met a certain Laleen Malicay, who sought her help. A midwife, Malicay had been working in Singapore for six (6) years. Her employer is a certain Mr. Tan, a close friend of Carol.

According to the accused, Malicay sent P15,000 home for her father who was then seriously ill. Malicay was not sure, however, whether her father received the money so she requested the accused to verify from her relatives receipt thereof. She informed the accused that she had a cousin by the name of Jasmine Alejandro. Malicay gave the accused Jasmine's telephone number, address and a sketch of how to get there.

The accused returned to the country on January 21, 1994. From Cebu City, the accused flew to Zamboanga City on January 23, 1994 to give some presents to her friends.

On January 30, 1994, the accused called up Jasmine Alejandro, Laleen Malicay's cousin, to inform her that she would be going to her house. At around noon that day, the accused, accompanied by her friend Hilda Falcasantos, arrived at the house where she found Jasmine entertaining some friends. Jasmine came down with two of her friends whom she introduced as her classmates. Jasmine told them that the accused was a friend of Laleen Malicay.

The accused relayed to Jasmine Malicay's message regarding the money the latter had sent. Jasmine assured her that they received the money, and asked Carol to tell Malicay to send more money for medicine for Malicay's mother. Jasmine also told her that she would send something for Malicay when the accused goes back to Singapore. The accused replied that she just needed to confirm her flight back to

Cebu City, and will return to Jasmine's house. After the meeting with Jasmine, the accused went shopping with Hilda Falcasantos. The accused was in the house for only fifteen (15) minutes.

On February 2, 1994, the accused went to the Philippine Airlines office at 7:30 in the morning to confirm her 5:30 p.m. flight to Cebu City. She then proceeded to Jasmine's residence, arriving there at past 8 a.m.

Inside the house, she met a woman who asked her, "Are you Carol from Singapore?" The accused, in turn, asked the woman if she could do anything for her. The woman inquired from Carol if she was recruiting. Carol replied in the negative, explaining that she was there just to say goodbye to Jasmine. The woman further asked Carol what the requirements were if she (the woman) were to go to Singapore. Carol replied that she would need a passport.

Two (2) minutes later, three (3) girls entered the house looking for Jasmine. The woman Carol was talking with then stood up and went out. A minute after, three (3) members of the CIS and a POEA official arrived. A big man identified himself as a member of the CIS and informed her that they received a call that she was recruiting. They told her she had just interviewed a woman from the CIS. She denied this, and said that she came only to say goodbye to the occupants of the house, and to get whatever Jasmine would be sending for Laleen Malicay. She even showed them her ticket for Cebu City.

Erlie Ramos then went up to Jasmine's room and returned with some papers. The accused said that those were the papers that Laleen Malicay requested Jasmine to give to her (the accused). The accused surmised that because Laleen Malicay wanted to go home but could not find a replacement, one of the applicants in the forms was to be her (Malicay's) substitute. Ramos told the accused to explain in their office.

The accused denied in court that she went to Jasmine's residence to engage in recruitment. She claimed she came to Zamboanga City to visit her friends, to whom she could confide since she and her husband were having some problems. She denied she knew Nancy Araneta or that she brought information sheets for job placement. She also denied instructing Jasmine to collect P2,000 from alleged applicants as processing fee.^[14]

The accused presented two witnesses to corroborate her defense.

The first, Jasmine Alejandro, 23, testified that she met the accused for the first time only on January 30, 1994 when the latter visited them to deliver Laleen Malicay's message regarding the money she sent. Carol, who was accompanied by a certain Hilda Falcasantos, stayed in their house for 10 to 15 minutes only. Carol came back to the house a few days later on February 2 at around 8:00 in the morning to "get the envelope for the candidacy of her daughter." Jasmine did not elaborate.

Jasmine denied that she knew Nancy Araneta or Lourdes Modesto. She denied that the accused conducted recruitment. She claimed she did not see Carol distribute bio-data or application forms to job applicants. She disclaimed any knowledge regarding the P2,000 application fee.^[15]