

THIRD DIVISION

[G.R. No. 132289, July 18, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BETH N. BANZALES, ACCUSED-APPELLANT.

DECISION

GONZAGA-REYES, J.:

This is an appeal from the decision^[1] of the Regional Trial Court of Quezon City, Branch 215, finding accused-appellant Beth N. Banzales guilty of (1) illegal recruitment committed in large scale and sentencing her to suffer life imprisonment, pay a fine of P100,000.00, with subsidiary imprisonment in case of insolvency; and (2) five (5) counts of estafa for which she was sentenced to suffer an indeterminate prison term of six (6) months and one (1) day of *prision correccional* as minimum to seven (7) years of *prision mayor* as maximum for each count. In another count of estafa, she was sentenced to suffer an indeterminate prison term of six (6) months and one (1) day of *prision correccional* as minimum to eight (8) years of *prision mayor* as maximum inasmuch as the amount involved exceeded Twenty-Two Thousand Pesos (P22,000.00). She was further ordered to indemnify the complainants the following amounts by way of actual damages: 1) P15,000.00 to Elizabeth Bernal; 2) P15,000.00 to Apolinario Baldoza; 3) P15,000.00 to Eva Amada; 4) P25,000.00 to Domingo Mariano; and 5) P15,000.00 to Rizza Oliva.

The Information for Illegal Recruitment in Large Scale docketed as Crim. Case No. Q-94-58106 alleged that Beth N. Banzales, without the requisite license or authority from the POEA, recruited nine (9) individuals, namely, Domingo Mariano, Rizza Oliva, Elizabeth Bernal, Eva Amada, Rodolfo Tolentino, Apolinario Baldoza, Noel V. Mananguil, Angelo Ballester and Dennis M. Guirre for employment abroad and charged them fees in the total amount of P135,000.00. It reads:

"The undersigned accuses BETH N. BANZALES of ILLEGAL RECRUITMENT in Large Scale under Article 38 (a) and 39 (b) of the Labor Code of the Philippines as amended by P.D. 2018, committed as follows:

That in or about and during the period comprised from September 1993 to November 1993, in Quezon City, Philippines, the above-named accused, falsely representing herself to have the capacity to contract, enlist and recruit workers for employment abroad, did then and there willfully, unlawfully and feloniously, for a fee, recruit and promise employment/job place abroad to the following persons:

DOMINGO MARIANO
RIZZA OLIVA
ELIZABETH BERNAL
EVA AMADA
RODOLFO TOLENTINO

APOLINARIO BALDOZA
NOEL V. MANANGGUIL
ANGELO BALLESTER
DENNIS M. GUIRRE

After requiring them to submit certain documentary requirements and exacting from them the total amount of P135,000.00, Philippine Currency, as requirement fee, such activities being done without the required license or authority from the Department of Labor and Employment.

That the crime described above was committed in large scale as the same was perpetrated against more than two (2) persons individually or as a group penalized under Article 38 (a) and 39 (b) as amended by P.D. 2018 of the Labor Law.

CONTRARY TO LAW."^[2]

Seven other informations for estafa were also filed before the same court each charging Beth N. Banzales with estafa under par. 2, subpar. (a), of Art. 315, of the Revised Penal Code. Of the nine (9) complainants in the case for Illegal Recruitment in Large Scale, only two did not file estafa charges, namely, Angelo Ballester and Noel Manangguil.

The estafa cases (naming the complainants and stating the amounts therein involved) include: (1) Criminal Case No. Q-94-58107 (Elizabeth M. Bernal - P15,000.00); (2) Criminal Case No. Q- 94-58108 (Apolinario Baldoza - P15,000.00); (3) Criminal Case No. Q-94- 58109 (Rodolfo Tolentino - P15,000.00); (4) Criminal Case No. Q-94-58110 (Dennis M. Guirre - P15,000.00); (5) Criminal Case No. Q-94- 58111 (Eva G. Amada - P15,000.00); (6) Criminal Case No. Q-94-58112 (Domingo M. Mariano - P25,000.00); and (7) Criminal Case No. Q-94-58113 (Rizza G. Oliva - P15,000.00).

Except for the name of the offended party, the amount involved and the date of the commission of the crime, the following information in Criminal Case No. Q-94-58107 typified the other informations for the crime of estafa:

"The undersigned accuses BETH N. BANZALES of the crime of Estafa, committed as follows:

That in or about the 16th day of November, 1993 in Quezon City, Philippines, the said accused BETH N. BANZALES did then and there willfully, unlawfully and feloniously defraud ELIZABETH M. BERNAL in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said ELIZABETH M. BERNAL to the effect that she had the power and capacity to recruit and employ Factory Workers in Taiwan 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 ELIZABETH M. BERNAL to give and deliver, as in fact gave and deliver to said accused the amount of P15,00.00 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 she did obtain the amount of P15,000.00 which amount once in possession, with intent to defraud ELIZABETH M. BERNAL willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of said ELIZABETH M. BERNAL in the aforesaid amount of P15,000.00 Philippine Currency.

CONTRARY TO LAW."^[3]

As said indictments are founded on the same facts, the cases were tried jointly. On January 9, 1995, accused-appellant Beth N. Banzales entered a plea of not guilty to each of the charges, whereupon trial commenced.

As can be gleaned from the Informations, accused-appellant Beth N. Banzales promised employment in Taiwan to at least nine (9) people, six of whom, namely, Elizabeth Bernal, Domingo Mariano, Apolinario Baldoza, Angelo Ballester, Eva Amada and Rizza Oliva, appeared in court to testify against her. Complainants Rodolfo Tolentino, Noel Mananguil and Dennis Guirre did not appear in court.

We adopt the following summary of the evidence for the prosecution by the Office of the Solicitor General^[4] as it is fully supported by the transcripts of stenographic notes of the testimonies of the complainants:

"Sometime in the middle of September 1993, appellant visited Estrella Casis, the Manager of Adidas, Novaliches, Metro Manila. At such visit, Elizabeth Bernal and her co-employees were then conversing with Casis when appellant arrived. It was then that appellant overheard Bernal and her co-employees' desire to work abroad. Appellant then inquired if Bernal and her co-employees were interested in securing jobs overseas. She informed them that as a recruiter, she sends applicants overseas (pp. 4-5, TSN, May 22, 1995). Casis then questioned her subordinates if they were interested. Appellant also delved from Bernal and her co-employees namely Paul Villanueva and Noel Mananguil if they desire to work abroad. The three apprised her of their interest. Appellant then invited and convinced them to apply for overseas employment by boasting her connections with the POEA. To sweeten her proposal, she left a calling card indicating that she was working with Mariner's Consultant with postal address at Lot 2, Block 2, C. Burgos, Herrera Subdivision, Project 6, Quezon City with Pocketbell No. 7221162 and 817221 Pager No. 122586 (pp. 6-8, TSN, Ibid).

In the last week of September, 1993 appellant went back to Adidas, Novaliches. On that occasion, appellant invited and convinced Bernal and others of her ability to send them abroad as factory workers in Taiwan. Appellant divulged to them that her husband is an employee of ABS-CBN and a "compare" of Noli de Castro and Ted Failon (pp. 8-10, TSN, Ibid). She also detailed them about the requirements such as passport, NBI, Police Clearance, Birth Certificate, 12 (2x2) ID pictures and the placement fee (p. 11, TSN, Ibid). On November 16, 1993, Bernal, relying upon the representation of the appellant that she can leave for Taiwan as a factory worker paid her fifteen thousand pesos (P15,000.0)

and submitted the needed requirements at appellant's residence located at Lot 2, Block 2, Project 6, Quezon City. Appellant affixed her signature in a corresponding receipt in Bernal's presence written as Mrs. E.N. Banzalez. Likewise, appellant also promised Bernal that she would be able to leave for Taiwan in December, 1993. However, Bernal was not able to leave in December 1993 and was informed by appellant that there was no job opening in Taiwan at that time (pp. 12-13, TSN, Ibid). Appellant promised Bernal to wait until January 1994. On January 1994, Bernal and the other applicants were not able to leave the country for the same reasons aforementioned.

Due to appellant's failure to send Bernal and her other co-employees abroad, the latter started getting suspicious and decided to call PRC to check if the appellant was really employed in that government agency. They were shocked to find out that no employee by the name of appellant Elizabeth Banzales works there (p. 14, TSN, Ibid). Bernal and friends also called ABS-CBN to verify the veracity of appellant's assertion that her husband was an employee of that company. It turned out that appellant's husband was only employed as a cameraman but not as a Technical Director. Bernal and her co-applicants asked appellant for the refund of their money. Appellant promised to return their money but failed to comply therewith. Bernal also inquired from the Philippine Overseas Employment Administration (POEA) whether appellant had a license to recruit overseas workers. In response, POEA issued a Certification (Exhibit C) declaring Beth Banzales had no license to operate as a recruiter (pp. 15-17, TSN, Ibid). As a result, the recruits, including Bernal filed a complaint against the appellant (pp. 18-19, TSN, Ibid).

APPELLANT RECRUITED DOMINGO MARIANO

Domingo Mariano was then working at Adidas, Rubberworld Philippines and a co-brother of Elizabeth Bernal in the Charismatic Movement. The Charismatic Movement known as the Lord's Flock was located at the compound of Rubberworld. Due to their sharing of religious beliefs, Bernal and Mariano met often. It was during one of those meetings that Bernal apprised Mariano about the appellant who was recruiting applicants for abroad (p. 10, TSN, July 25, 1995). Bernal then introduced appellant to Mariano who assured him that she was able to send workers before. Based on that promise, appellant was also able to recruit Mariano (p. 6, TSN, Ibid).

On October 12, 1993 at Project 6, Quezon City, and also at Lourdes Herrera Subdivision, Project 6, Quezon City, Mariano gave the amount of twenty five thousand pesos (P25,000.00) to the appellant as evidenced by the receipt issued (Exhibit F) as payment for placement fee abroad. Appellant assured Mariano that he will leave for Taiwan after a month. When Mariano was unable to leave the country, he inquired from POEA and discovered that appellant had no license to recruit as evidenced by a POEA Certification (Exhibit C) (pp. 7-8, TSN, Ibid).

Mariano tried to recover the placement fee from appellant but despite the

latter's assurances, the money never materialized. Mariano's hard-earned money paid to appellant was for the subsistence of his family (p. 9, TSN, Ibid).

APPELLANT RECRUITED APOLINARIO BALDOZA

Apolinario Baldoza, an employee of Rubberworld Adidas, Novaliches, Quezon City was introduced to appellant during the latter's visit to Estrella Casis, the former's Section Head in the same office sometime in September 1993. Appellant convinced Baldoza, Noel Mananguil, Elizabeth Bernal and Rodolfo Tolentino to avail of her offer to send them abroad (p. 3, TSN, September 19, 1995).

On that same month of September 1993, Casis, Bernal, Tolentino and Mananguil went to the house of appellant located at Lot 2, Block 2, C. Lourdes Herrera, Project 6, Quezon City (pp. 6-7, TSN, Ibid). Appellant gave them assurance that she could send them as workers abroad. A calling card (Exhibit A) was given to Baldoza by appellant with the information that he had to pay P30,000.00 as placement fee and to comply with the requirements such as securing Police Clearance, NBI and a Passport. Appellant also instructed Baldoza to partially pay the amount of P15,000.00 as a recruitment fee. Due to the representation of appellant, Baldoza paid P15,000.00 on October 28, 1993. A corresponding receipt was issued by the appellant (Exhibit G, G-1) and the receipt issued to Baldoza was signed by the appellant in the presence of Rodolfo Tolentino. On December 1993, Baldoza was not able to leave for Taiwan together with his co-employees, Bernal, Mananguil and Tolentino. Baldoza then decided to inquire from POEA and learned that the appellant is an illegal recruiter based on a certification dated April 27, 1994 (Exhibit C) (pp. 8-14, TSN, Ibid).

APPELLANT RECRUITED ANGELO BALLESTER

On October 1993, Angelo Ballester was introduced to the appellant at her residence by Maria Concepcion Dionisio, the former's fellow charismatic member. Before appellant's introduction, Dionisio known as "Macon" learned that Angelo Ballester was applying abroad as a seaman. Macon then informed Ballester that the appellant, who is an employee of Mariner's Consultant might be able to send him abroad (pp. 2-4, TSN, October 25, 1995). On October 10, 1993, receipts were issued by appellant to Ballester totalling P10,000.00 for the processing of his papers (p. 8, TSN, Ibid).

APPELLANT RECRUITED EVA AMADA PERALTA

Eva Amada Peralta is the sister of Maria Concepcion Dionisio known as "Macon". Macon who was then working at Adidas, Novaliches, Quezon City met appellant sometime in September 1993. On November 16, 1993, Peralta, accompanied by her sister Macon went to appellant's house in Quezon City. Peralta came to know there that appellant can send factory workers abroad, especially Taiwan. Further, appellant namedropped Noli de Castro as her kumpare and that her husband is