

THIRD DIVISION

[G.R. No. 125903, November 15, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMULO SAULO, AMELIA DE LA CRUZ, AND CLODUALDO DE LA
CRUZ, ACCUSED.**

ROMULO SAULO, accused-appellant.

D E C I S I O N

GONZAGA-REYES, J.:

Accused-appellant, together with Amelia de la Cruz and Clodualdo de la Cruz, were charged with violation of Article 38 (b) of the Labor Code^[1] for illegal recruitment in large scale in an information which states -

CRIM. CASE NO. Q-91-21911

The undersigned Assistant City Prosecutor accuses ROMULO SAULO, AMELIA DE LA CRUZ and CLODUALDO DE LA CRUZ, of the crime of ILLEGAL RECRUITMENT IN LARGE SCALE (ART. 38(b) in relation to Art. 39(a) of the Labor Code of the Philippines, as amended by P.D. No. 2018, committed as follows:

That on or about the period comprised from April 1990 to May 1990 in Quezon City, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, by falsely representing themselves to have the capacity to contract, enlist and recruit workers for employment abroad, did, then and there, wilfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad to LEODEGARIO MAULLON, BENY MALIGAYA and ANGELES JAVIER, without first securing the required license or authority from the Department of Labor and Employment, in violation of said law.

That the crime described above is committed in large scale as the same was perpetrated against three (3) persons individually or as [a] group penalized under Articles 38 and 39 as amended by PD 2018 of the Labor Code (P.D. 442).

CONTRARY TO LAW.^[2]

In addition, accused were charged with three counts of estafa (Criminal Case Nos. Q-91-21908, Q-91-21909 and Q-91-21910). Except for the names of the

complainants, the dates of commission of the crime charged, and the amounts involved, the informations^[3] were identical in their allegations -

CRIM. CASE NO. Q-91-21908

The undersigned Assistant City Prosecutor accuses ROMULO SAULO, AMELIA DE LA CRUZ AND CLODUALDO DE LA CRUZ of the crime of ESTAFA (Art. 315, par. 2 (a) RPC), committed as follows:

That on or about the period comprised from April 1990 to May 1990, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent of gain, by means of false pretenses and/or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did, then and there wilfully, unlawfully and feloniously defraud one BENY MALIGAYA, in the following manner, to wit: on the date and in the place aforementioned, accused falsely pretended to the offended party that they had connection and capacity to deploy workers for overseas employment and that they could secure employment/placement for said Beny Maligaya and believing said misrepresentations, the offended party was later induced to give accused, as in fact she did give the total amount of P35,000.00, Philippine Currency, and once in possession of the said amount and far from complying with their commitment and despite repeated demands made upon them to return said amount, did, then and there wilfully, unlawfully and feloniously and with intent to defraud, misappropriate, misapply and convert the same to their own personal use and benefit, to the damage and prejudice of said offended party in the aforementioned amount and in such amount as may be awarded under the provisions of the Civil Code.

CONTRARY TO LAW.

Upon arraignment, accused-appellant pleaded not guilty to all the charges against him. Meanwhile accused Amelia de la Cruz and Clodualdo de la Cruz have remained at large.

During trial, the prosecution sought to prove the following material facts and circumstances surrounding the commission of the crimes:

Benny Maligaya, having learned from a relative of accused-appellant that the latter was recruiting workers for Taiwan, went to accused-appellant's house in San Francisco del Monte, Quezon City, together with Angeles Javier and Amelia de la Cruz, in order to discuss her chances for overseas employment. During that meeting which took place sometime in April or May, 1990, accused-appellant told Maligaya that she would be able to leave for Taiwan as a factory worker once she gave accused-appellant the fees for the processing of her documents. Sometime in May, 1990, Maligaya also met with Amelia de la Cruz and Clodualdo de la Cruz at their house in Baesa, Quezon City and they assured her that they were authorized by the Philippine Overseas Employment Administration (POEA) to recruit workers for

Taiwan. Maligaya paid accused-appellant and Amelia de la Cruz the amount of P35,000.00, which is evidenced by a receipt dated May 21, 1990 signed by accused-appellant and Amelia de la Cruz (Exhibit A in Crim. Case No. Q-91-21908). Seeing that he had reneged on his promise to send her to Taiwan, Maligaya filed a complaint against accused-appellant with the POEA.^[4]

Angeles Javier, a widow and relative by affinity of accused-appellant, was told by Ligaya, accused-appellant's wife, to apply for work abroad through accused-appellant. At a meeting in accused-appellant's Quezon City residence, Javier was told by accused-appellant that he could get her a job in Taiwan as a factory worker and that she should give him P35,000.00 for purposes of preparing Javier's passport. Javier gave an initial amount of P20,000.00 to accused-appellant, but she did not ask for a receipt as she trusted him. As the overseas employment never materialized, Javier was prompted to bring the matter before the POEA.^[5]

On April 19, 1990, Leodigario Maullon, upon the invitation of his neighbor Araceli Sanchez, went to accused-appellant's house in order to discuss his prospects for gaining employment abroad. As in the case of Maligaya and Javier, accused-appellant assured Maullon that he could secure him a job as a factory worker in Taiwan if he paid him P30,000.00 for the processing of his papers. Maullon paid P7,900.00 to accused-appellant's wife, who issued a receipt dated April 21, 1990 (Exhibit A in Crim. Case No. Q-91-21910). Thereafter, Maullon paid an additional amount of P6,800.00 in the presence of accused-appellant and Amelia de la Cruz, which payment is also evidenced by a receipt dated April 25, 1990 (Exhibit B in Crim. Case No. Q-91-21910). Finally, Maullon paid P15,700.00 to a certain Loreta Tumalig, a friend of accused-appellant, as shown by a receipt dated September 14, 1990 (Exhibit C in Crim. Case No. Q-91-21910). Again, accused-appellant failed to deliver on the promised employment. Maullon thus filed a complaint with the POEA.^[6]

The prosecution also presented a certification dated July 26, 1994 issued by the POEA stating that accused are not licensed to recruit workers for overseas employment (Exhibit A in Crim. Case No. Q-91-21911).^[7]

In his defense, accused-appellant claimed that he was also applying with Amelia de la Cruz for overseas employment. He asserts that it was for this reason that he met all three complainants as they all went together to Amelia de la Cruz' house in Novaliches, Quezon City sometime in May, 1990 in order to follow up their applications. Accused-appellant flatly denied that he was an overseas employment recruiter or that he was working as an agent for one. He also denied having received any money from any of the complainants or having signed any of the receipts introduced by the prosecution in evidence. It is accused-appellant's contention that the complainants were prevailed upon by accused-appellant's mother-in-law, with whom he had a misunderstanding, to file the present cases against him.^[8]

The trial court found accused-appellant guilty of three counts of estafa and of illegal recruitment in large scale. It adjudged:

WHEREFORE, this Court finds the accused Romulo Saulo:

A. In Criminal Case No. Q-91-21908, guilty beyond reasonable doubt of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code as amended, without any mitigating or aggravating circumstances, and this Court hereby sentences the accused Romulo Saulo to suffer the indeterminate penalty of imprisonment of three (3) years, four (4) months and one (1) day of prision correccional as minimum to seven (7) years and one (1) day of prision mayor as maximum, and to indemnify the complainant Beny Maligaya in the amount of P35,000.00, with interest thereon at 12% per annum until the said amount is fully paid, with costs against the said accused.

B. In Criminal Case No. Q-91-21909, guilty beyond reasonable doubt of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code as amended, without any mitigating or aggravating circumstances, and this Court hereby sentences the accused Romulo Saulo to suffer the indeterminate penalty of imprisonment of two (2) years, four (4) months and one (1) day of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum, and to indemnify the complainant Angeles Javier in the amount of P20,000.00 with interest thereon at 12% per annum until the said amount is fully paid, with costs against said accused.

C. In Criminal Case No. Q-91-21910, guilty beyond reasonable doubt of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code as amended, without any mitigating or aggravating circumstances, and this Court hereby sentences the accused Romulo Saulo to suffer the indeterminate penalty of imprisonment of two (2) years, four (4) months and one (1) day of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum, and to indemnify the complainant Leodigario Maullon in the amount of P30,400.00 with interest thereon at 12% per annum until the said amount is fully paid, with costs against said accused.

D. In Criminal Case No. Q-91-21911, guilty beyond reasonable doubt of Illegal Recruitment in Large Scale as defined and punished under Article 38 (b) in relation to Article 39 (a) of the Labor Code of the Philippines as amended, and this Court sentences the accused Romulo Saulo to suffer the penalty of life imprisonment and to pay a fine of One Hundred Thousand Pesos (P100,000.00).

Being a detention prisoner, the accused Romulo Saulo shall be entitled to the benefits of Article 29 of the Revised Penal Code as amended.

SO ORDERED.^[9]

The Court finds no merit in the instant appeal.

The essential elements of illegal recruitment in large scale, as defined in Art. 38 (b) of the Labor Code and penalized under Art. 39 of the same Code, are as follows:

(1) the accused engages in the recruitment and placement of workers, as defined under Article 13 (b) or in any prohibited activities under Article 34 of the Labor Code;

(2) accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of a license or an authority to recruit and deploy workers, whether locally or overseas; and

(3) accused commits the same against three (3) or more persons, individually or as a group.^[10]

Under Art. 13 (b) of the Labor Code, recruitment and placement refers to "any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not; Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement."

After a careful and circumspect review of the records, the Court finds that the trial court was justified in holding that accused-appellant was engaged in unlawful recruitment and placement activities. The prosecution clearly established that accused-appellant promised the three complainants - Benny Maligaya, Angeles Javier and Leodigario Maullon - employment in Taiwan as factory workers and that he asked them for money in order to process their papers and procure their passports. Relying completely upon such representations, complainants entrusted their hard-earned money to accused-appellant in exchange for what they would later discover to be a vain hope of obtaining employment abroad. It is not disputed that accused-appellant is not authorized^[11] nor licensed^[12] by the Department of Labor and Employment to engage in recruitment and placement activities. The absence of the necessary license or authority renders all of accused-appellant's recruitment activities criminal.

Accused-appellant interposes a denial in his defense, claiming that he never received any money from the complainants nor processed their papers. Instead, accused-appellant insists that he was merely a co-applicant of the complainants and similarly deceived by the schemes of Amelia and Clodualdo de la Cruz. He contends that the fact that Benny Maligaya and Angeles Javier went to the house of Amelia and Clodualdo de la Cruz in Novaliches, Quezon City, to get back their money and to follow-up their application proves that complainants knew that it was the de la Cruz' who received the processing fees, and not accused-appellant. Further, accused-appellant argues that complainants could not have honestly believed that he could get them their passports since they did not give him any of the necessary documents, such as their birth certificate, baptismal certificate, NBI clearance, and marriage contract.

Accused-appellant's asseverations are self-serving and uncorroborated by clear and convincing evidence. They cannot stand against the straightforward and explicit testimonies of the complainants, who have identified accused-appellant as the person who enticed them to part with their money upon his representation that he had the capability of obtaining employment for them abroad. In the absence of any evidence that the prosecution witnesses were motivated by improper motives, the