

SECOND DIVISION

[G.R. No. 108027, March 04, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRISTINA M. HERNANDEZ, ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

Accused-appellant Cristina Hernandez, together with Alexander Gaerlan, Engineer Rizalino Mendez, Engineer Pangilinan [sic], and Annie Bernardino, was charged with the crime of illegal recruitment committed in large scale in violation of Article 38 (a) and (b)^[1] in relation to Article 39 (a)^[2] and Article 13 (b) and (c)^[3] of the Labor Code (PD. 442 as amended), committed as follows:

"That on or about the period comprised from January 1986 and March 1986, inclusive, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, being private individuals represented themselves to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there wilfully, unlawfully and feloniously for a fee, recruit and promise employment or job placements to job applicants, namely: Ferdinand Calara, Pedro Bonifacio, Saturnino Agbayani, Ernesto Cruz, Inocencio Padilla, Edwin Mendello, Eugenio dela Cruz, Miguel Bernabe, Joel Mozon, Lucas Mangagil, Alberto Salvatierra, Graciano A. Daga and Luisito B. Mariñas, without first securing the required license or authority from the Department of Labor and Employment.

Contrary to law."^[4]

On March 31, 1989, accused-appellant Hernandez and accused Mendez were arraigned. Both pleaded not guilty. Trial on the merits ensued, with the prosecution presenting four (4) witnesses, namely: Ferdinand Calara, Pedro Bonifacio, Ernesto Cruz and Luisito Mariñas. Thereafter, prosecution rested its case. Defense then presented accused-appellant Hernandez as its sole witness. Accused Mendez did not present any evidence on his behalf.

Prosecution witness Ferdinand Calara testified that he met accused-appellant through Annie Bernardino who brought him to Min-Asia Management Services (Min-Asia for brevity). Accused-appellant was introduced to Bernardino as the owner of the company. He likewise met Engineer Mendez and Alexander Gaerlan as Operations Managers and Engineer Pangilinan as Liaison Officer. Accused-appellant and her staff requested Calara, together with other recruits, to pay their placement and agent's fees, and to submit requirements such as medical certificate, AIDS test, photos, passport, certificate of employment, NBI and police clearances. He was promised by the accused-appellant that he would be deployed abroad anytime

within one week minimum to one month maximum. His placement location with be purportedly with ARAMCO in Saudi Arabia as general foreman and later as general skilled worker.^[5]

Another applicant who testified was Pedro Bonifacio; he stated that he met accused-appellant through his neighbor, Calara. Initially, the job vacancy offered to him was for a waiter. However, he was later informed that there was no more opening for said position. Instead, the post of general skilled worker at ARAMCO would be given to him. He likewise paid the necessary processing fees and submitted the necessary requirements.^[6]

Ernesto Cruz, another witness, testified that he was introduced to accused-appellant by her agent, Bernardino. When he was at Min-Asia preparing his application, he met several other applicants all accompanied by Bernardino. He was likewise made to pay the processing fees.^[7]

The last witness, Luisito Mariñas, testified that as an applicant he met accused-appellant in Min-Asia through Diwang Tolentino. Mariñas was promised employment abroad as a laborer. He paid a portion of the processing fees in cash, but no receipt was issued. When his employment did not materialize, Mariñas sought to withdraw his money. Accused-appellant issued a check which bounced upon presentation for encashment, by reason of insufficient funds.^[8]

Payments made by the witnesses for processing of their applications as evidenced by receipts were submitted as exhibits for the prosecution.^[9]

On the part of the defense, accused-appellant was presented as lone witness. She claimed that she held office in the same building as Min-Asia, and that she was engaged in the business of retailing Magnolia Chicken. According to her, she sub-leased to Min-Asia one-half of her office space but without a written lease contract between the parties. Her testimony mainly denied the averment that she was connected with Min-Asia (other than as a sub-lessor). She denied all allegations of holding any position with, or being an officer of, the recruitment agency. She further denied being a stockholder of said agency. Although she testified as to the names of the owners of the agency, she denied any knowledge of their current whereabouts. Neither did she admit to ever personally meeting any of the complainants. She admitted to having met co-defendant Mendez, but only because he was an employee of the agency and used to report for work at Min-Asia. She denied as her own the signatures appearing in the exhibits presented to her.^[10]

After weighing the testimonies and evidence presented, the trial court found the accused-appellant's defense, which consisted mainly of denying the allegations presented by the witnesses for the prosecution, unconvincing. The trial judge pointed out that, as it has been consistently held by this Court, "the defense of denial is inherently weak and cannot prevail over the positive and credible testimonies of the prosecution witnesses that the accused recruited the applicants with the intention to defraud them of their placement fees."^[11] Hence, the trial court held that the guilt of the accused-appellant was proven beyond reasonable doubt, and disposed as follows:

"WHEREFORE, premises considered, this Court hereby finds that the accused CRISTINA HERNANDEZ and RIZALINO MENDEZ, [are] guilty beyond reasonable doubt of the crime of illegal recruitment, committed in a large scale, as defined in Article 38 (a) and (b) of Presidential Decree No. 1412, amending certain provisions of Book I, P.D. 442, otherwise known as the New Labor Code of the Philippines, in relation to Article 13 (b) and (c) of said Code as further amended by P.D. Nos. 169, 1920 and 2018, accordingly sentences both accused to suffer the penalty of life imprisonment (RECLUSION PERPETUA) with the accessory penalties provided for by law, each to pay a fine of ONE HUNDRED THOUSAND (P100,000.00) PESOS without subsidiary imprisonment in case of insolvency; to return and pay, jointly and solidarily, to Calara the sum of FIFTEEN THOUSAND (P15,000.00) PESOS; to Bonifacio the sum of THIRTEEN THOUSAND FIVE HUNDRED (P13,500.00) PESOS; to Cruz the sum of TWELVE THOUSAND (P12,000.00) PESOS; to Mariñas the sum of SIX THOUSAND THREE HUNDRED (P6,300.00) PESOS; also without subsidiary imprisonment in case of insolvency; and to pay the costs.

Manila, Philippines, November 20, 1991."^[12]

Records of the case were forwarded to this Court by the Regional Trial Court of Manila, Branch 12, in view of the fact that penalty in this case is life imprisonment.

^[13] She now seeks a reversal of the judgment of conviction on the sole ground that the lower court erred in appreciating the evidence presented by the prosecution in its favor, and disregarding the denial asserted by her.

In her brief, appellant maintains that she has no personal connection in any way with Min-Asia, either as an officer or as a stockholder thereof. However, she admits that she was lessor of the office space at Don Santiago Building in Taft Avenue but that she sub-leased half of her space to said agency. The names of the recruiters, Bernardino and Tolentino came up in the testimonies of the complainants but they were never apprehended nor brought to trial, thus she contends that she was held to answer for the charge being allegedly the only link to Bernardino who remains still at large. She denies the signatures indicated in several cash vouchers and receipts as her own. According to her, the fact that she was always seen at the agency, was a mistaken presumption of her connection with Min-Asia. Moreover, she explains the reason she was always within the vicinity of the agency was that the other half of the space rented out was her office. She further states that, it is "unusual and unnatural for the complainants who were all college graduates to entrust their hard earned money to a sexagenarian, [o]n the other hand, it is against human experience that a 64-year-old woman would risk being incarcerated by engaging in illegal recruitment."^[14]

After a thorough study and consideration of the evidence on record, we are inclined to affirm the trial court's judgment. We find appellant, despite her denial, to have been engaged in the practice of illegal recruitment in large scale and thus violated the provisions of Article 38 (a) and (b) in relation to Article 39 (a) and Article 13 (b) and (c) of the Labor Code.^[15]

Appellant's argument is less than convincing. In the face of direct and positive evidence presented by four complainants against her, the appellant could interpose