

FIRST DIVISION

[G.R. No. 130067, September 16, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANICETA "ANNIE" MORENO, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

This is an appeal from the decision of the Regional Trial Court of Baguio City, Branch 6, finding accused-appellant, Aniceta "Annie" Moreno, guilty beyond reasonable doubt of illegal recruitment committed in large scale in Criminal Case No. 12190-R and for two counts of estafa by way of false pretenses in Criminal Cases Nos. 12191-R and 12192-R. Accused-appellant was sentenced to suffer the penalty of life imprisonment and pay a fine of one hundred thousand pesos (P100,000.00) in the illegal recruitment case. She was sentenced to an indeterminate penalty of six (6) months and one (1) day of prision correccional as minimum to six (6) years, eight (8) months and twenty (20) days of prision mayor as maximum for each charge of estafa, to indemnify the offended parties^[1] and pay the cost of suit.

The information in Criminal Case No. 12190-R avers:

"That on or about the 18th day of December, 1992, and subsequent thereto, in the City of Baguio, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, representing herself to have the capacity to contract, enlist and hire and transport Filipino workers for employment abroad, did then and there willfully, unlawfully and feloniously collect fees, recruit and promised employment/job placement to the following persons:

1. Virginia S. Bakian
2. Florence P. Juan
3. Josephine Sotero
4. Felisa Bayani

in Canada without first securing or obtaining license or authority from the proper governmental agency.

"Contrary to law."^[2]

The information^[3] in Criminal Case No. 12191-R reads:

"That on or about the 18th day of December, 1992, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud one VIRGINIA S. BAKIAN by way of false pretenses, which are

executed prior to or simultaneously with the commission of the fraud, as follows, to wit: the accused knowing fully well that she is not [an] authorized job recruiter for persons intending to secure work abroad convinced said VIRGINIA S. BAKIAN and pretended that she could secure a job for her abroad, for and in consideration of the sum of P15,400 when in truth and in fact she could not; the said VIRGINIA S. BAKIAN deceived and convinced by the false pretenses employed by the accused parted away the total sum of P15,400.00 in favor of the accused, to the damage and prejudice of the said VIRGINIA S. BAKIAN in the aforementioned amount of FIFTEEN THOUSAND FOUR HUNDRED pesos (P15,400.00) Philippine Currency.

“Contrary to law.”^[4]

Accused-appellant pled not guilty to the crimes charged and a joint trial of the cases ensued.

Prosecution evidence show that in December 1992, Virginia Bakian, Florence Juan, Josephine Sotero and Felisa Bayani were invited by Magdalena Bolilla at her daughter’s birthday party in a house located at No. 34 Honeymoon Road, Baguio City. Accused-appellant who was present in the party was introduced to them by Bolilla as a recruiter for overseas employment.

Virginia Bakian applied as a baby sitter for Canada. Accused-appellant required Bakian to submit her transcript of records, license certificate and bio-data. She also demanded the payment of four hundred fifty dollars (\$450) or fifteen thousand four hundred pesos (P15,400.00) as placement fee. Bakian paid the amount but was not issued any receipt.^[5]

Felisa Bayani also applied as a baby sitter for Canada. Accused-appellant told her that she is connected with the immigration bureau and had sent workers abroad. Bayani submitted to accused-appellant a photocopy of her license, identification pictures and transcript of records. She also paid fifteen thousand pesos (P15,000), in instalment, as placement fee – three thousand pesos (P3,000.00) and one hundred fifty dollars (\$150) on January 27, 1993, three thousand pesos (P3,000.00) on February 28, 1993, five thousand two hundred fifty pesos (P5,250.00) on March 7, 1993 and one thousand five hundred pesos (P1,500.00) for the processing of her passport. Payments were made at accused-appellant’s house at Dr. Cariño Street.^[6]

Josephine Sotero and Florence Juan applied as domestic helpers for Hong Kong. Sotero paid seven thousand pesos (P7,000.00) as placement fee and one thousand five hundred pesos (P1,500.00) for her passport. A handwritten receipt^[7] for the money was signed by accused-appellant. Juan paid to accused-appellant six thousand five hundred pesos (P6,500.00) on December 29, 1992 and five thousand five hundred pesos (P5,500.00) on December 31, 1992.

Melinda Cadio applied as an overseas worker for Canada. For her passport, she paid two thousand pesos (P2,000.00) to accused-appellant. She demanded another five thousand pesos (P5,000.00), allegedly for the Philippine Overseas Employment Agency (POEA). Cadio gave the money on December 31, 1992. She was assured that she could leave after six (6) months.

In all these cases, accused-appellant represented to the applicants that she was hiring on a direct basis and that their papers would be processed within a period of three (3) months. She promised that they would be deployed for overseas employment by May of 1993. She failed. Repeated follow-ups were made by the applicants, but in vain. Without the knowledge of the applicants, accused-appellant even transferred her residence to Asin Road.

The applicants waited to be deployed for overseas work up to October 1993. As they could no longer find accused-appellant, they reported their plight to the office of the POEA in Baguio. They learned that accused-appellant was not a licensed recruiter.^[8] They obtained a certification^[9] to this effect which was issued by Jose D. Matias.^[10] They then executed a joint affidavit^[11] for the prosecution of accused-appellant. The cases were filed on October 1993.

After the cases were filed, accused-appellant was able to pay the applicants some of their monies. Bakian was paid the amount of one thousand five hundred pesos (P1,500.00) and three hundred dollars (\$300) through Naty Oasan. Bayani was paid her money through Virginia Bakian. Sotero was paid a check in the amount of seven thousand pesos (P7,000.00). Juan was also paid by check the amount of five thousand pesos (P5,000.00).

A warrant for the arrest of accused-appellant was issued on November 5, 1993. It was returned unserved as she could no longer be located in Baguio. An alias warrant was issued for her arrest at Dimasalang, Manila where she reportedly transferred.^[12] She was not likewise located in the said place. Thus, her cases were archived. It was only on April 11, 1996 that accused-appellant was arrested at Asin Road, San Luis, Baguio City.

Accused-appellant denied the charges. She said that she was an agent of Dynasty Travel Agency and that her work involved only the processing of papers for tourist visa. She denied recruiting the applicants for overseas employment. She pointed to Magdalena Bolilla as the one who promised the applicants overseas employment.

She declared that Virginia Bakian was introduced to her by Bolilla. Bolilla was helping Bakian to travel in Canada as a tourist. She merely helped Bakian prepare her papers for travel. She further said that the four hundred fifty dollars (\$450) that Bakian paid was for her professional fee. This was given to her not by Bakian but by Bolilla. She clarified that Bolilla only gave her three hundred dollars (\$300.00). She, however, stopped processing the papers of Bakian after Bolilla told her that the husband of Bakian did not want her to go abroad anymore. Thus, accused-appellant returned the three hundred dollars (\$300) to Bolilla. Months later, she learned that Bolilla went to Texas.^[13]

She said that Bayani, who also wanted to go to Canada, was accompanied to her residence by Bolilla. Accused-appellant specified to her the requirements needed and promised the return of her money in case she would not be admitted as a tourist. Bayani did not have any money to pay for her services at that time but Bolilla requested her to proceed with the processing of her papers. She complied but Bayani failed to submit all the requirements. She pointed to Bolilla as the one who delivered to her the money to be used for the processing of the papers of Bayani.

She was paid ten thousand pesos (P10,000.00) in instalment. Bolilla took back the money as Bayani lost interest in going to Canada. Bayani saw accused-appellant again when she could no longer find Bolilla.^[14]

She averred that she met Florence Juan only once during a birthday party at No. 34 Honeymoon Road. They did not talk to each other, for during this party, accused-appellant had a heated argument with Melinda Cadio. This was because Cadio and Bolilla wanted to send the relatives of the former to Hong Kong, using the visa that would be secured by accused-appellant. Upon reaching Hong Kong, someone would procure jobs for them. Accused-appellant rejected the arrangement. She denied collecting any money from Juan. The check delivered to Juan as payment for her placement fee was a demand draft purchased by Bolilla.^[15]

She declared that Josephine Sotero asked assistance from her as she wanted to go to Hong Kong as a tourist. Allegedly, her sister-in law was waiting for her in Hong Kong. Accused-appellant collected seven thousand pesos (P7,000.00) from her for the plane ticket. She crumpled the receipt written by the husband of Melinda Cadio when she read that said amount was partial payment for the placement fee for employment in Hong Kong.^[16]

Accused-appellant explained that she transferred residence when her husband came because they could no longer be accommodated at their previous house. They moved to a bigger place in Asin Road.

In convicting the accused-appellant of illegal recruitment in large scale, the trial court disbelieved her claims that she was merely assisting the applicants to go abroad as tourists and that the fees collected from them were her professional fees as an agent of Dynasty Travel Agency. It observed that no evidence was presented to prove that Dynasty Travel Agency exists, except for accused-appellant's bare assertions. The trial court did not also give credence to her claim that the applicants were going abroad as tourists. It noted that two of the applicants are plain employees in the Baguio Health Center. The rest were even looking for overseas jobs. It also stressed the fact that accused-appellant disappeared and transferred residence when she failed to deploy the applicants for overseas work.^[17]

In convicting accused-appellant of estafa the trial court pointed out that she employed false pretenses by representing herself as having the power, capacity and authority to deploy workers abroad.

In this appeal, accused-appellant assigns the following errors of the trial court:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF LARGE SCALE ILLEGAL RECRUITMENT.

II

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT