

FIRST DIVISION

[G.R. No. 118815, August 18, 1997]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANITA MELGAR-MERCADER Y TONGCO, ACCUSED-APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

This is an appeal from the decision of the RTC - Br. 219, Quezon City, in Crim. Case No. 94-56815, convicting accused-appellant Anita Melgar-Mercader y Tongco of Illegal Recruitment in Large Scale under pertinent provisions of the Labor Code, and sentencing her to life imprisonment.^[1]

The Information charged that between January 1993 to April 1994 the accused Anita Melgar-Mercader y Tongco, for a fee but without any authority of law, feloniously recruited and promised employment and/or job placement abroad to (a) Florida Mendoza-Rampas, (b) Lilia Manlolo-Macaraeg, (c) Samuel Domingo, (d) Fernando Alijano, (e) Ferdinand Alijano, (f) Alfredo Dapitan, (g) Guy Forte, and (h) Ofelia Petrache-Germono without first obtaining the required license and/or authority from the Department of Labor and Employment (DOLE).

Of the eight (8) complaining witnesses, three (3) testified for the prosecution, namely, Lilia Manlolo, Adela Domingo, Guy Forte and Ofelia Petrache-Hermono. Adela Domingo, wife of complaining witness Samuel Domingo, also testified.

Lilia Manlolo narrated that when she heard that the accused was sending people abroad for employment, she and her husband went to the house of the accused in the first week of January 1994 in Escopa, Quezon City. When they met appellant assured them that she could send them for employment abroad. In fact, she said that she was not like other recruiters who were merely victimizing prospective applicants.

The accused informed Lilia that the processing of the papers for employment in Malaysia would take some 3 to 4 weeks only and that the placement fee was P20,000.00 which was equivalent to her salary for one (1) month. Lilia said that she was willing to give an initial amount of P5,000.00. Then accused asked her to have a medical checkup, which she did on 11 January 1994 at Dr. Bartolome's clinic which yielded a favorable result.^[2] On 18 January 1994, Lilia handed the accused another P5,000.00 at her house as evidenced by a receipt.^[3] Together with the amount Lilia also gave her passport, NBI clearance and medical certificate to the accused who told her to just wait for a telegram. But no telegram came and, despite repeated follow-ups with the accused, Lilia was never able to leave for abroad.

Adela Domingo, wife of Samuel Domingo, also took the witness stand. She said that the accused was a neighbor who went to their house and informed her and her

husband that she (the accused) had a visa ready for Samuel should Adela allow him to leave for abroad. Although skeptical at first, Adela became convinced when accused gave the name of another neighbor as one of those she had deployed earlier. Adela then gave the accused P9,000.00, although the latter was asking for P14,000.00, and 3-1/2 sacks of rice worth P2,000.00 or a total payment of P11,000.00, for which the accused gave her a receipt.^[4] But Samuel Domingo was never able to leave and the accused after March 1994 could no longer be found. This prompted the Domingos to file a complaint at Police Station No. 8 where Adela was asked to verify with the Philippine Overseas Employment Administration (POEA) the accused's license to recruit. Upon her request, the POEA issued a certification dated 12 April 1994 attesting to the fact that the accused was neither licensed nor authorized by that office to recruit workers for overseas employment.^[5] POEA then advised the Domingos to have the accused arrested.

The third complainant to take the witness stand was Guy Forte. She testified that sometime in July 1993 she was introduced to the accused who convinced her that for a fee she could work in Taiwan. Because the accused promised her that she could leave in April, Guy gave the accused P5,000.00 in January and another P5,000.00 the following month.^[6] But by April she still had not left because the accused alleged that she lost the passport of Guy.

Ofelia Petrache-Germono also testified. She recounted that on 14 December 1993 she met the accused when she accompanied a friend who was also applying for a job abroad. She said that she became the replacement for another applicant who reportedly got sick. The accused asked her to prepare P1,000.00 for medical expenses. She even accompanied her to Dr. Bartolome's clinic where she underwent medical examination for which she paid P900.00 for doctor's fees. The accused then informed Ofelia that she was physically fit and her papers could be processed for a fee of P7,000.00 of which she made an initial payment of P3,000.00. Later, the accused borrowed P1,000.00 and told Ofelia to prepare all the money so that she could catch up with the rest by Christmas time.

On 24 February 1994, after pawning her ring at the Capitol Pawnshop, Ofelia gave the accused P2,000.00.^[7] In other words, Ofelia gave her the total amount of P6,000.00.^[8] The accused also asked her to attend a seminar as she was leaving soon. However, she was not able to attend. Neither was she able to go abroad. Finally she went to the JB Agency to look for the accused who allegedly worked there, but nobody knew her there; she also went to the residence of the accused but she did not find her there either. Later, she learned that the accused was already detained at Police Station No. 8.

On 5 October 1994 the trial court rendered its decision -

x x x finding the accused guilty beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale defined and penalized under Article 13 (b), 38 (b), and 39 of the Labor Code, the Court hereby sentences her to suffer the penalty of life imprisonment, to indemnify complainant Lilia Manlolo in the amount of P5,000.00; complainant Adela Domingo in the amount of P11,0000.00; complainant Guy Forte in the amount of P10,000.00; and complainant Ofelia Petrache in the amount of P6,000.00, and to pay the costs.^[9]