

NINTH DIVISION

[CA-G.R. CR NO. 29379, August 18, 2006]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIA C. ULAP, ACCUSED-APPELLANT.

D E C I S I O N

CARANDANG, J.:

On appeal is the judgment of conviction for two (2) counts of *estafa* against accused-appellant MARIA C. ULAP in Criminal Case Nos. 1833-C and 1834-C.

Apart from the accusations of large-scale illegal recruitment, which was not proven by the prosecution, accused-appellant was also charged before the Regional Trial Court - Branch 23 of Candon City, Ilocos Sur with three (3) counts of *estafa*. In the separate but similarly worded Criminal Information for *Estafa*^[1] accused-appellant was accused of fraudulently representing herself as an authorized travel agent capable of securing the necessary documents for private complainants Maria Isabel Ulpindo, Natalia Quodala and Evelyn Encarnacion to travel to Italy and thereby successfully inducing them to deliver to her money in both Philippine and foreign currency in various amounts of Php150,000, Php15,000 and Php30,000, Php1,620, US\$1,000 and US\$4,000. Accused-appellant was charged of not complying with her obligation to send private complainants to Italy and of refusing to return the amount paid to her upon repeated demands made by private complainants.

Upon the filing of charges against her, accused-appellant's Application for Bail was set for reception of evidence on April 30, 2004 at which hearing the prosecution presented as its sole witness private complainant Natalia Quodala. In an Order^[2] dated May 20, 2004, the trial court denied accused-appellant's application for bail on the ground that the evidence of guilt was strong.

At the arraignment, accused-appellant pleaded "Not Guilty". Trial ensued with the presentation by the prosecution of witnesses Maria Isabel Ulpindo, Natalia Quodala, Gilbert Encarnacion and Atty. Ferdinand Jose Merrera. The defense, on the other hand, presented the testimony of accused-appellant herself as well as that of a certain Alessandra Lisaoen.

According to the prosecution's evidence, sometime in 1999, private complainant Natalia Quodala and a certain Gene Unciano went to see accused-appellant to seek assistance in going to Italy. Accused-appellant promised that for a fee she could process Natalia's travel by securing for her an airplane ticket and tourist visa for Morocco, which would simply be Natalia's transit point in going to Italy. On January 11, 2000, Natalia paid accused-appellant the initial amount of P150,000.00 followed by another P150,000.00 on January 14, 2000. Accused-appellant converted the latter amount and returned to Natalia \$1,800 to serve as "show money" and later as payment to a certain "Peter" for transportation to Italy from Morocco.

On January 3, 2000, Carmen Rabe, accompanied by Gene Unciano, went to see private complainant Maria Isabel Ulpindo at her house and told her that if she was interested to work in Italy Gene Unciano could refer her to someone who could make the arrangement. The three of them then proceeded to Gelema Travel & Tours, which is accused-appellant's travel agency located in Candon City, Ilocos Sur. Accused-appellant told them that the best way to go to Italy was through Morocco using a tourist visa and that it was easier to land a job in Italy if they had relatives living there. She asked for P300,000.00 in the processing of the necessary travel papers for which Maria Isabel then paid accused-appellant the initial amount of P150,000.00. On January 5, 2000, Maria Isabel gave another P150,000.00, which accused-appellant converted into dollars supposedly to serve as "show money". Out of the converted amount, however, accused-appellant only gave Maria Isabel \$1,800 and even instructed her that the amount should be paid to "Peter" for transportation expenses in going to Italy.

On January 15, 2000, Maria Isabel and Natalia left for Morocco with the instruction that a certain "Francis" and "Peter" would facilitate their exit from Morocco and entry to Italy. Upon their arrival at the airport in Morocco, a certain "Zaki" met private complainants and brought them to his residence. There they met "Francis" who demanded the US\$1,800 from each of them to cover the cost of their board and lodging expenses after which they were transferred to a hotel. After three and one half months of spending their meager allowances, hopelessly waiting to be transported from Morocco to Italy, Maria Isabel and Natalia decided to return home to the Philippines. Upon their arrival, private complainants demanded the return of the money they paid to accused-appellant and upon her failure to do so prompted private complainants to file criminal charges of illegal recruitment and *estafa* against her.

Accused-appellant for her part denied making any false pretenses that she would send private complainants to Italy. She insisted that private complainants had sought her services for purposes merely of travel up to Morocco and denied that she had anything to do with whatever travel arrangements made beyond that point. Accused-appellant further asserted that she could not have committed the alleged misrepresentations since she had no direct transaction with private complainants themselves, having dealt mainly with Gene Unciano and Carmen Rabe. Thus, she adds, if there were any false pretenses at all, the same were made by Geny Unciano and Carmen Rabe, who were the ones who had clearly recruited and promised private complainants work in Italy.

After trial, the Regional Trial Court rendered its Decision^[3] dated April 28, 2005, the dispositive portion of which reads as follows:

"WHEREFORE:

1. The Court finds the accused, Maria Ulap, "NOT GUILTY" in Criminal Case Nos. 1832-C and 1835-C;
2. However, the Court finds the accused, Maria Ulap, "GUILTY" beyond reasonable doubt, as principal, in Criminal Case No. 1833-C for *Estafa* and she is hereby ordered to suffer an indeterminate sentence of imprisonment from four (4) years and two (2) months