



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff-appellee,

- versus -

ALBERTO V. BUIT FE a.k.a.
ALBERT BUIT and TESSIE
GRANADA STA. AGATA-BUIT,
Accused-appellants.

G.R. No. 227190

Present:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:

JAN 14 2025



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DECISION

KHO, JR., J.:

Before the Court is an ordinary appeal¹ assailing the Decision² of the Court of Appeals (CA) in CA-G.R. CEB-CR No. 01699 which affirmed the Decision³ of Branch 8, Regional Trial Court (RTC), Cebu City. The assailed decision found accused-appellants Alberto V. Buit Fe a.k.a. Albert Buit (Alberto) and Tessie Granada Sta. Agata-Buit (Tessie; collectively, accused-appellants) guilty beyond reasonable doubt of the crime of illegal recruitment, as defined and penalized under Sections 6, in relation to Section 7(a), of Republic Act (R.A.) No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by R.A No. 10022.

¹ CA rollo, pp. 194–195.

² Rollo, pp. 5–17. The November 28, 2014 Decision was penned by Associate Justice Renato C. Francisco, and concurred in by Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino of the Eighteenth Division, Court of Appeals, Cebu City.

³ CA rollo, pp. 47–57. The April 27, 2011 Decision was penned by Presiding Judge Macaundas M. Hadjirasul of Branch 8, Regional Trial Court, Cebu City.

Atto

The Facts

This case stemmed from an Information⁴ filed before the RTC charging accused-appellants of the crime of illegal recruitment. The accusatory portion of the said Information reads:

That sometime in the month of November 2007, and for sometime prior or subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of the Honorable Court, the said accused, conniving and confederating together and mutually helping each other, with deliberate intent, with intent to gain did then and there engaged in recruitment and placement activities of workers for overseas employment, without previously obtaining a license therefor from the Philippine Overseas Employment Administration (POEA), recruiting Medged C. Baguio as a hotel crew in London, UK, requiring her to pay the amount of Php5,000.00 as reservation fee, and after collecting the afore-mentioned reservation fee from the above named recruit, the above named accused failed to deploy in London UK as a Hotel Crew, to the damage and prejudice of said Medged C. Baguio in the amount aforestated (sic).

CONTRARY TO LAW⁵

The prosecution alleged that on November 5, 2007, private complainant Medged C. Baguio (Baguio), together with her friends, Debbie Soriano (Soriano) and Grayfield Bajao (Bajao), visited the Office of Genesis Healthcare Professionals Ltd. UK (Genesis) located at C-1 Legaspi Compound, Mambaling, Cebu City. At the office, Baguio met Alberto, who told her that the owner of Genesis was a certain John Balmoria (Balmoria), who also owned five homecare facilities in London, United Kingdom (UK). Alberto assured Baguio that if ever she will not be employed in any of Balmoria's homecare facilities, she can still be employed in a hotel UK and earn PHP 500.00 per hour. Afterwards, Baguio was given a breakdown of the placement fee to be paid before she can leave and work abroad, which included the following: (a) pre-assessment fee in the amount of PHP 25,000.00; (b) medical examination fee in the amount of PHP 7,000.00; and (c) processing fee in the amount of PHP 150,000.00. Soriano and Bajao were likewise recruited to work abroad. Signifying her interest to work abroad, Baguio gave Tessie PHP 5,000.00 as reservation fee, for which a receipt was issued as proof of payment. Consequently, Baguio was told that Genesis will hold a seminar on November 9, 2007, which would be conducted by Balmoria. When Baguio arrived at Genesis's office on said date, she was told that the seminar was postponed. However, Baguio was able to talk to Balmoria, who reiterated the employment opportunities abroad. On November 10, 2007, Baguio went back to Genesis' Office

⁴ RTC records, p. 1.

⁵ *Id.*

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and took the PHP 2,000.00 from her PHP 5,000.00 reservation fee. She was then issued another receipt reflecting her reservation fee in the amount of PHP 3,000.00.⁶

Finding that the placement fee was exorbitant and to verify the legitimacy of Genesis, Baguio and Soriano went to the Philippine Overseas Employment Agency (POEA). On November 21, 2007, POEA issued a certification stating that accused-appellants and Genesis were not licensed or authorized to recruit workers for overseas employment. Armed with the said information, Baguio went to the National Bureau of Investigation, Regional Office 7, Cebu City (NBI) on November 26, 2007 to file a complaint for illegal recruitment against accused-appellants. On the same day, the NBI decided to conduct an entrapment operation against accused-appellants. Baguio then contacted Alberto to inform him that she will pay her remaining balance of the placement fee. Alberto replied that he will wait for Baguio in the office even until midnight. At around 4:00 p.m. of even date, Baguio, with an NBI undercover agent and several NBI personnel, went to Genesis's office for the entrapment operation. Baguio met with Alberto and after a brief talk, handed him the PHP 11,000.00 as partial payment for her placement fee. Alberto then took the money and handed it to Tessie for the issuance of the receipt. Afterwards, a receipt reflecting the PHP 11,000.00 partial payment of the placement fee was handed by accused-appellants to Baguio. Immediately after, the NBI undercover agent gave the pre-arranged signal, which prompted the rest of the bureau's personnel to rush to the office and arrest accused-appellants. The NBI personnel likewise recovered from Tessie's drawer the marked money. Accused-appellants were brought to the NBI Office where the result of the ultra-violet light examination on the dorsal and palmar aspects of the left and right hands of Tessie revealed the presence of yellow fluorescent powder.⁷

For their part, accused-appellants denied the charges against them. Instead, they claimed that they allowed Balmoria to use their water refilling station for a fee of PHP 1,500.00, purportedly to be utilized as the venue for the orientation seminar of student visa applicants for the UK. They likewise alleged that on November 9, 2007, a group of women, including Baguio, arrived in their office for an orientation and interview with Balmoria which lasted for an hour and a half. They further averred that Baguio contacted them asking when they will be in the office, and that at around 3:30 p.m. of November 26, 2007, Baguio and a female companion arrived at their office and handed the money to Tessie, asking her to give the same to Balmoria. Afterwards, they were arrested.⁸

⁶ *Rollo*, pp 6-7.

⁷ *Id.* at 7-9.

⁸ *Id.* at 10.

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The RTC Ruling

In the Decision dated April 27, 2011, the RTC found accused-appellants guilty beyond reasonable doubt of the crime of simple illegal recruitment, and accordingly, sentenced them with penalties of imprisonment for an indeterminate period of six years and one day, as minimum, to eight years, as maximum, and a fine of PHP 200,000.00 each. It likewise ordered accused-appellants to pay Baguio the amount of PHP 3,000.00, representing the reservation fee the latter paid to the former, with a legal interest at the rate of 12% per annum from filing of the November 28, 2007 Information until full payment.⁹

In so ruling, the RTC held that the acts of accused-appellants, as testified by the prosecution witnesses, constitute illegal recruitment under Section 6 of R.A. No. 8042 as it was established that: (a) they connived with each other in recruiting Baguio; (b) they and Genesis were not licensed or authorized to recruit workers for overseas employment as certified by the POEA; and (c) Tessie received the marked money from Baguio and even tested positive for smudges of yellow fluorescent powder in both hands. Furthermore, it found accused-appellants liable for simple illegal recruitment only as the allegation in the Information stated that it was committed against a lone victim.¹⁰

Dissatisfied, accused-appellants appealed to the CA.

The CA Ruling

In a Decision dated November 28, 2014, the CA affirmed the RTC ruling *in toto*. It found that accused-appellants were guilty beyond reasonable doubt of simple illegal recruitment since: (a) they did not have any license to recruit workers for overseas work; and (b) they were engaged in illegal recruitment activities, offering overseas employment for a fee. The CA then held that accused-appellants' unsubstantiated and self-serving defense of denial cannot prevail over the straightforward testimony of Baguio, identifying them as the perpetrators.¹¹

Aggrieved, accused-appellants moved for reconsideration, which was denied in a Resolution¹² dated January 26, 2016. Hence, this appeal.

The Issue Before the Court

⁹ *Id.* at 57.

¹⁰ *See id.* at 54-57.

¹¹ *Id.* at 12-17.

¹² CA *rollo*, pp. 173-174. The January 26, 2016 Resolution was penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Pamela Ann Abella Maxino and Geraldine C. Fiel-Macaraig of the Special Former Eighteenth Division, Court of Appeals, Cebu City.

for

The core issue before the Court is whether accused-appellants are guilty beyond reasonable doubt of the crime of simple illegal recruitment under Section 6, in relation to Section 7(a) of R.A. No. 8042, as amended.

The Court's Ruling

The appeal is unmeritorious.

Prefatorily, the Court notes that accused-appellants elevated the matter before the Court through an ordinary appeal. As a rule, appeals of criminal cases shall be brought to the Court by filing a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court. However, and as an exception, an appeal on the CA's decision shall be made by a mere notice of appeal in cases wherein the CA imposed the penalty of death, *reclusion perpetua*, life imprisonment or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, *reclusion perpetua*, or life imprisonment is imposed."¹³ In this case, accused-appellants clearly availed of a wrong mode of appeal by filing a notice of appeal despite having been merely sentenced by the courts *a quo* to suffer the penalty of imprisonment for six years and one day, as minimum, to eight years, as maximum. This notwithstanding and further considering that this case involves the liberty of accused-appellants, the Court shall resolve the substantive matter at hand.

After a judicial perusal of the records, the Court is convinced that accused-appellants' conviction for simple illegal recruitment must be sustained, as will be explained hereunder.

Article 13(b) of the Labor Code enumerates the acts that constitute recruitment and placement, thus:

(b) "*Recruitment and placement*" refer to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring worker, 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.

R.A. No. 8042, as amended by R.A. No. 10022, expanded the coverage of acts classified as illegal recruitment under the Presidential

¹³ See Revised Rules of Criminal Procedure, Rule 122, sec. 3(e), in relation to Rule 124 sec. 13(c).

Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.¹⁴ Section 6 thereof defined illegal recruitment as:

SECTION 6. *Definition.* — For purposes of this Act, illegal recruitment shall mean any *act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority* contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines [.] (Emphasis supplied)

Consequently, under Article 13(f) of the Labor Code, “authority” is defined as a document issued by the Department of Labor authorizing a person or association to engage in recruitment and placement activities as a private recruitment entity.

To sustain a conviction for illegal recruitment, the following elements must concur: (a) the offender has no valid license or authority required by law to enable one to lawfully engage in the recruitment and placement of workers; and (b) the offender undertakes any of the activities within the meaning of recruitment and placement defined in Article 13(b)¹⁵ of the Labor Code, or any of the prohibited practices enumerated under Section 6 of R.A. No. 8042.¹⁶ Verily, *it is the absence of the necessary license or authority to recruit and deploy workers abroad that renders the recruitment activity unlawful.*¹⁷

As correctly found by the courts *a quo*, the prosecution was able to successfully establish the elements of illegal recruitment.

First, Baguio positively identified accused-appellants as the perpetrators, and likewise narrated how the latter recruited her to work in London, thus:

Q: Ms. Witness, where were you on November 5, 2007, in the morning if you can remember?

A: I was at the Office of Genesis Professional Health Care with my friend

Atty. Hiyas: May we request your honor that witness should answer only the question?

¹⁴ *People v. Ramos*, G.R. No. 257675, February 13, 2023 [Per J. Lopez, Second Division].

¹⁵ “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.”

¹⁶ *People v. Estrada*, 826 Phil. 894, 908 (2018) [Per J. Martires, Third Division].

¹⁷ *See People v. Abordo*, 606 Phil. 129, 140 (2009) [Per J. Carpio, First Division].

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....

Q: What were you doing there if you still remember?

A: Because I heard from my friend that Genesis was recruiting workers for London, we went there to apply.

....

Q: While there at the place what happened next?

A: Albert Buit and Tessie Buit told me that the owner of the Agency is a certain John Balmora and that he owns five (5) homecares in London.

Q: What else did they tell you?

A: They told me that I could get a job in London in one of those five (5) homecares. If not I could work in a hotel.

Q: What else did they discussed [sic]?

A: They also discussed the processing fee that I need to pay twenty five thousand pesos (P25,000.00) for pre-assessment, seven thousand pesos (P7,000.00) for medical examination, and one hundred fifty thousand pesos (P150,000.00) for the processing fee.

....

Q: Who will receive the money if you have the amount?

A: I am going to pay it to Albert and Tessie Buit.

....

Q: If this Albert and Tessie Buit who allegedly recruited you for a job in England is present before this Honorable Court could you positively identify them?

A: Yes.

Q: Could you first point Albert Buit?

A: Witness pointed to a person who when asked gave his name as Albert Buit.

Q: How about Tessie Buit: (sic)

A: Witness pointed to a woman who when asked gave her name as Tessie Buit.¹⁸

Second, Baguio paid accused-appellants a reservation fee in the amount of PHP 3,000.00 as evinced by the receipt issued by accused-appellants.¹⁹

Third, Baguio was able to submit all the required documents for her application to work in the UK, thus:

¹⁸ *Rollo*, pp. 14-15.

¹⁹ *Id.* at 7.

Atty

Q: Now, Ms. Witness, as applicant according to you, did the accused require you to submit documents?

A: Yes.

Q: And did you able to submit documents require by the accused?

A: Yes

Q: Now, what documents were you able to submit to the accused, Ms. Witness?

A: Resume, Transcript of Records, Diploma, passport.

Q: What else?

A: Then there was this Application form that they made me filled [sic] up.

Q: Are you trying to impress before this Honorable Court that you're able to fill up the application form?

A: Yes.

Q: Did you fill up the application form from, Ms. Witness?

A: Yes.²⁰

Fourth, during the entrapment operation, Baguio met accused-appellants in the Genesis' Office, where she handed the downpayment of the placement fee in the amount of PHP 11,000.00 (marked money) to them. Consequently, records revealed that accused-appellants issued a receipt as proof of the partial payment of the placement fee.²¹

Fifth, the POEA Licensing Branch issued a Certification that accused-appellants or Genesis did not have any authority or license to recruit workers for employment abroad.²²

Finally, the result of the ultra-violet light examination on the dorsal and palmar aspects of the left and right hands of Tessie revealed the presence of yellow fluorescent powder, viz:

Physics Report No. 2007-P-7211

LEFT HAND:

1. Smudges, middle phalange, ring finger and palmar.

RIGHT HAND:

1. Smudges, distal phalange, ring finger, palmar;

²⁰ TSN, Medged C. Baguio, July 29, 2008, p. 7-8.

²¹ *Id.* at 8.

²² *Id.* at 13.

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2. Smudges, middle phalange, index finger, palmar;
3. Smudges, proximal phalange, thumb, palmar.²³

In order to absolve them from criminal liability, accused-appellants averred in their Supplemental Brief dated January 15, 2012 that Baguio was not yet recruited as what she paid to them was only the reservation fee. However, records reveal that aside from the payment of the reservation fee, Baguio already submitted the required documents to accused-appellants for her application to work abroad, and she also paid the downpayment of the placement fee in the amount of PHP 11,000.00 during the entrapment operation, wherein a receipt was issued by accused-appellants as proof.²⁴ Thus, there is no doubt that accused-appellants recruited Baguio to work in the UK despite the fact that they or Genesis have no license to do so. Consequently, it is worthy to emphasize that money is not material to a prosecution for illegal recruitment, as the definition of “recruitment and placement” in the Labor Code includes the phrase, “whether for profit or not.”²⁵

It bears to emphasize the recognized rule in this jurisdiction that the assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe the deportment and demeanor of a witness on the stand, a vantage point denied appellate courts.²⁶ In this regard, findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case or any clear showing of abuse, arbitrariness or capriciousness committed by the lower court, its findings of facts, especially when affirmed by the CA, are binding and conclusive upon this Court,²⁷ as in this case.

Considering that the Information involved only a lone victim, accused-appellants may only be convicted of simple illegal recruitment. Moreover, the proper penalty that must be imposed against accused-appellants was still the penalty under Section 7 of R.A. No. 8042, and not the amended penalty under R.A. No. 10022, as the illegal recruitment subject of this case was committed in November 2007, before the effectivity of the said amendment on March 8, 2010, and the penalty under R.A. No. 8042 is more favorable to accused-appellants.²⁸

Section 7 of R.A. No. 8042 provides:

²³ *Id.* at 9.

²⁴ *Rollo*, p. 8.

²⁵ *People v. Valenciano*, 594 Phil. 235, 244 (2008) [Per J. Velasco Jr., Second Division].

²⁶ *People v. Pareja*, 724 Phil. 759, 773 (2014) [Per J. Leonardo-De Castro, First Division].

²⁷ *Manansala v. People*, 775 Phil. 514, 522 (2015) [Per J. Perlas-Bernabe, First Division]. (Citations omitted)

²⁸ *See People v. David*, 875 Phil. 573, 596 (2020) [Per J. Inting, Second Division].

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SECTION. 7. *Penalties.* —

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

.....

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.
(Emphasis supplied)

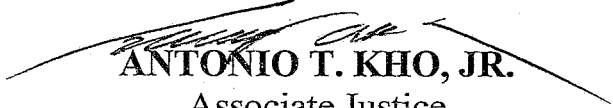
Applying the foregoing, the maximum penalty shall be imposed against accused-appellants, who were non-licensee or non-holder of authority. Accordingly, the penalty imposed by the RTC, which was affirmed by the CA, should be modified to the penalty of imprisonment for an indeterminate period of 10 years and one day, as minimum, to 12 years, as maximum, and a fine in the amount of PHP 500,000.00 each. In addition, the interest rate imposed by the RTC for the amounts due shall likewise be modified to six percent (6%) per annum from finality of the ruling until full payment, pursuant to the case of *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*²⁹

FOR THESE REASONS, the instant appeal is **DENIED**. The Decision dated November 28, 2014 of the Court of Appeals in CA-G.R. CEB-CR No. 01699 is hereby **AFFIRMED with MODIFICATION**. Accused-appellants Alberto V. Buit Fe a.k.a. Alberto Buit and Tessie Granada Sta. Agata-Buit are found guilty beyond reasonable doubt of the crime of simple illegal recruitment, as defined and penalized under Sections 6 and 7 of Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022. Accordingly, they are each sentenced to suffer the penalty of imprisonment for an indeterminate period of 10 years and one day, as minimum, to 12 years, as maximum, and they are ordered to **PAY** a fine in the amount of PHP 500,000.00 each. Moreover, they are ordered to refund to private complainant Medged C. Baguio the amount of PHP 3,000.00, representing the reservation fee the latter paid to them. In addition, a legal interest at 6% per annum shall be imposed on the refund from the date of finality of this Decision until full payment.

SO ORDERED.


²⁹ 929 Phil. 754 (2022) [Per J. Leonen, *En Banc*]. See also *People v. Mateo*, 759 Phil. 179, 185 (2015) [Per J. Del Castillo, Second Division].

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ANTONIO T. KHO, JR.
Associate Justice

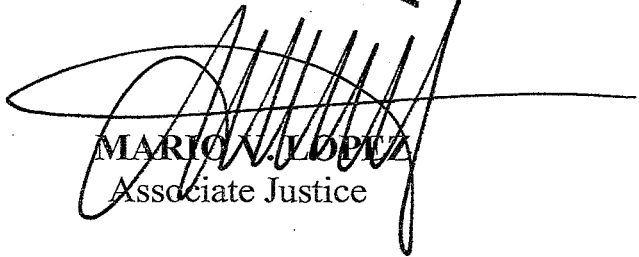
WE CONCUR:




MARVIC M.V.F. LEONEN
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice




JHOSEP V. LOPEZ
Associate Justice

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ATTESTATION

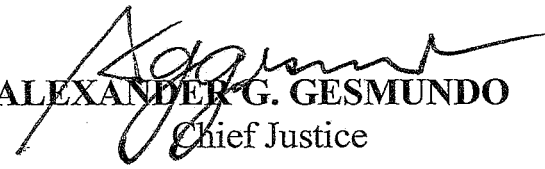
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice