



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated January 27, 2021, which reads as follows:

“G.R. No. 248024 (*People of the Philippines v. Jessica Bonifacio y Siao*). – The Court resolves to **NOTE** Jessica Bonifacio y Siao’s (accused-appellant) letter dated November 19, 2020 praying for the favorable action and early resolution of this case.

After a judicious study of the case, the Court resolves to dismiss the Appeal¹ for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in the assailed Decision² dated November 21, 2018 in CA - G.R. CR HC No. 06883 as to warrant the exercise of the Court’s appellate jurisdiction.

Accused-appellant is charged in three Informations³ which read as follows:

I. In Criminal Case No. 139906-SJ (Estafa):

That, in or about the period from April 2008 up to March 2009, in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one female companion whose identity and present whereabouts is still unknown, did then and there willfully, unlawfully and feloniously defraud from (sic) Ma. Lourdes C. Matias, Catherine De Leon y Bancaco, and Roselle Jarata y Lopez in the following manner, to wit: that is, the accused, by means of false manifestations and fraudulent representations which she made to said complainants to the effect that she had the power and capacity to recruit and work for the employment of complainants, Ma. Lourdes Matias y Cobarrubias, Catherine De Leon y Bancaco, and Roselle Jarata y Lopez, in UK,

¹ *Rollo*, pp. 37-38.

² *Id.* at 3-36; penned by Associate Justice Maria Filomena D. Singh with Associate Justices Celia C. Librea-Leagogo and Samuel H. Gaerlan (now a member of the Court), concurring.

³ *Id.* at 3-6.

(sic) and could facilitate the processing of the necessary documents to meet the requirements thereof including placement, and by means of other deceit of similar import, induced and succeeded in inducing complainants to give and deliver, as in fact the latter gave and delivered to said accused the total amount of ₱500,000.00 for Ma. Lourdes C. Matias, ₱50,000 for Catherine de Leon and ₱20,000 for Roselle Jarata y Lopez, on the strength of said manifestation and representations, the accused knowing fully well that the same are false and fraudulent and were only made to obtain, as in fact she obtained the amount of ₱500,000.00 from Ma. Lourdes Matias y Cabarrubias, ₱50,000 from Catherine De Leon y Bancacao [sic] and ₱20,000 from Roselle Jarata y Lopez and which amount the accused applied and used to for her own personal use and benefit, to the damage and prejudice of the complainant (sic) in the aforesaid amount.

CONTRARY TO LAW.⁴

II. In Criminal Case No. 139907-SJ (Simple Illegal Recruitment):

That, in or about the period from April 2008 up to March 2009, in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one female companion whose identity and whereabouts is still unknown, despite demands from Maria Lourdes Matias y Cobarrubias, Catherine De Leon y Bancaco and Roselle Jarata y Lopez, did, then and there knowingly, unlawfully and criminally fail to reimburse said Maria Lourdes Matias y Cobarrubias the total amount of ₱500,000.00, Catherine de Leon y Bancaco the total amount of ₱50,000 and Roselle Jarata y Lopez the total amount of ₱20,000 which the latter paid to the accused who were recruited and promised overseas deployment in UK (sic), which amount (sic) were intended to cover expenses for processing and placement fees for purposes of their deployment, which, however, did not actually take place without the fault of the private complainants, to the latter's damage and prejudice in the aforementioned amount.

CONTRARY TO LAW.⁵ (Emphasis omitted).

III. In Criminal Case No. 139908-SJ (Illegal Recruitment in Large Scale):

That, in or about the period from April 2008 up to March 2009, in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one female companion whose identity and present whereabouts are still unknown, representing herself to have the capacity to contract, enlist and transport Filipino workers for overseas employment in UK (sic), did then and there knowingly, unlawfully and criminally for a fee, recruit and promise overseas employment/job placement abroad to the following person (sic) to wit:

⁴ *Id.* at 4.

⁵ *Id.* at 4-5.

1. Ma. Lourdes C. Matias
2. Catherine De Leon [y] Bancaco
3. Roselle Jarata [y] Lopez

without first securing the required license and authority from the Department of Labor and Employment (DOLE), in violation of the law against Illegal Recruitment, the crime having been committed in large scale constituting economic sabotage.

CONTRARY TO LAW.⁶

The complainants are Ma. Lourdes C. Matias (Ma. Lourdes), Catherine De Leon (Catherine), and Roselle Jarata (Roselle). The prosecution established that Ma. Lourdes and her sister, Ma. Fe, sought accused-appellant's help for their deployment abroad. Accused-appellant told them that they will apply as students and once they are granted student visas, accused-appellant could help them get jobs through her connections in the UK. Accused-appellant told them that she charges a fee of ₱350,000.00 for every applicant, which covers the process fee, tuition fee, accommodation expense, bank statement and her service fee. She assured them that they could leave the country by February 2009. On several instances, the siblings gave accused-appellant money as payment in connection with their visa application.

By March 2009, there was no update yet from accused-appellant regarding the siblings' applications. Later on, as the siblings and their mother were growing suspicious of accused-appellant, they sought the help of the police. On March 27, 2009, the police conducted an entrapment operation against accused-appellant.

As for complainant Roselle, when she first met accused-appellant, the latter told her that: she is connected with the UK Embassy; she could process a UK visa; Roselle will be booked under a student visa and will be allowed to work for a limited period under such kind of visa; and Roselle needed to pay ₱190,000.00 for the processing of her visa. On several occasions, Roselle gave accused-appellant money in connection with her visa application. Accused-appellant was able to convince Roselle to include her husband in the visa application for a discounted fee. However, Roselle and her husband's visa applications were denied. Accused-appellant promised Roselle that she would reimburse the payments that the latter had made less expenses. Accused-appellant issued a check in favor of Roselle. Roselle deposited the check but retrieved it upon the request of accused-appellant who told her that the check had no sufficient funds. Accused-appellant promised to pay an additional surcharge and the full value of the check. However, accused-appellant never complied with her promises.

As for complainant Catherine, she submitted to accused-appellant

⁶ *Id.* at 5-6.

her documents in connection with her student visa application for the UK. In connection thereto, she gave accused-appellant money on several occasions. Later on, Catherine's visa application was denied. She told accused-appellant that she was backing out of her visa application and demanded from the latter a refund of the payments made. Accused-appellant issued a check to Catherine to cover the refund. However, upon verification with the bank, Catherine found out that accused-appellant's account was already closed. She informed accused-appellant about it, and the latter promised to pay her in cash. Unfortunately, accused-appellant did not make any payment to Catherine.

For her part, accused-appellant denied recruiting the complainants for employment abroad. She maintained that she did not represent herself to them that she had any authority to give them employment abroad.

The RTC Ruling

In a Joint Decision⁷ dated November 8, 2013, the RTC found as follows:

1. in Criminal Case No. 139906, accused JESSICA BONIFACIO Y SIAO @JESSICA is guilty beyond reasonable doubt of the crime of Estafa under Article 315 (2) (a) of the Revised Penal Code, and sentenced to suffer an indeterminate prison term of four (4) years and two (2) months of *prision correccional* as minimum to eleven (11) years, eight (8) months and twenty one (21) days of *prision mayor* as maximum for Estafa;
2. in Criminal Case No. 139907, accused is guilty of simple Illegal Recruitment, and sentenced to suffer an indeterminate prison term of eight (8) years and one (1) day to twelve (12) years. She is likewise ordered to pay private complainants as follows:
 - (a) Ma. Lourdes C. Matias, in the amount of ₱500,000.00.
 - (b) Catherine De Leon y Bancacao, in the amount of ₱50,000.00.
 - (c) Roselle Jarata y Lopez ₱20,000.00.
3. in Criminal Case No. 139908-SJ, accused JESSICA BONIFACIO Y SIAO @JESSICA is guilty beyond reasonable doubt of Illegal Recruitment in large scale and sentenced her to life imprisonment and to pay a fine of One Hundred Thousand (₱100,000.00.)⁸

The CA Ruling

In a Decision⁹ dated November 21, 2018, the CA modified the RTC ruling.

In the criminal case for Estafa, the CA affirmed accused-

⁷ CA rollo, pp. 115-143; penned by Judge Leoncio M. Janolo Jr.

⁸ *Id.* at 142-143.

⁹ Rollo, pp. 3-36.

appellant's conviction. However, the CA modified the penalty in view of Republic Act No. (RA) 10951.¹⁰ The CA likewise modified the money judgment taking into account the evidence on record. The CA found that the amounts defrauded from complainants are: ₱572,800.00 from Ma. Lourdes; ₱150,000.00 from Roselle; and ₱150,000.00 from Catherine.

In the criminal case for Illegal Recruitment in Large Scale, the CA affirmed accused-appellant's conviction, but increased the fine to ₱1,000,000.00.

However, the CA dismissed the criminal case for Simple Illegal Recruitment. Citing Section 5¹¹ of Rule 120 of the Revised Rules of Criminal Procedure, the CA held that the charge of Simple Illegal Recruitment is subsumed in the charge of Illegal Recruitment in Large Scale; Simple Illegal Recruitment and Illegal Recruitment in Large Scale are offenses of the same nature and embraced under the same title in RA 8042; thus, Simple Illegal Recruitment, which is a lesser offense, is necessarily included in Illegal Recruitment in Large Scale.

The Issue

The issue is whether accused-appellant's guilt for Estafa and Illegal Recruitment in Large Scale was proven beyond reasonable doubt.

The Court's Ruling

The appeal is dismissed with modification as to the penalty imposed in the Estafa case.

Accused-appellant is guilty of Estafa under Article 315 (2) (a)¹² of the Revised Penal Code

¹⁰ An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based, and the Fines Imposed under the Revised Penal Code. Approved on August 29, 2017.

¹¹ SECTION 5. When an Offense Includes or is Included in Another. — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

¹² ARTICLE 315. *Swindling (Estafa)*. — x x x x.

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

Accused-appellant's act of falsely pretending to possess power and qualifications to deploy the complainants to the UK, even if she did not have the authority or license for the purpose, undoubtedly constitutes Estafa. The elements of deceit and damage are present. Accused-appellant's false pretenses were the very cause that induced the complainants to part with their money.

*Accused-appellant is guilty of
Illegal Recruitment in Large Scale*

The elements of Illegal Recruitment in Large Scale are present in this case. *First*, accused-appellant is not licensed or authorized to recruit workers for overseas placement. *Second*, the prosecution was able to establish that accused-appellant engaged in activities which refer to recruitment and placement under Article 13 (b) of the Labor Code and Section 6 of RA 8042.¹³ *Third*, accused-appellant committed Illegal Recruitment against the three complainants in this case.

*Modifications as to penalty in
the Estafa case*

The Court modifies the penalty imposed by the CA in the Estafa case. As established below, the amounts defrauded in this case are as follows: ₱572,800.00 from Ma. Lourdes; ₱150,000.00 from Roselle; and ₱150,000.00 from Catherine.

With the amounts here involved, the penalty to be imposed under Article 315 of the Revised Penal Code (RPC), as amended by RA 10951, is *arresto mayor* in its maximum period to *prison correccional* in its minimum period, or four (4) months and one (1) day to two (2) years and four (4) months, to be imposed in its medium period.¹⁴ Applying the Indeterminate Sentence Law, the minimum of the indeterminate sentence of accused-appellant is taken from within the range of the penalty next lower than that prescribed by the first paragraph of Article 315 of the RPC as amended (i.e., *arresto mayor* in its minimum and medium periods, or one (1) month and one (1) day to four (4) months); while the maximum shall be within the medium period of the penalty imposed in view of the absence of aggravating or mitigating circumstances which is one (1) year and one (1) day to one (1) year and eight (8) months.¹⁵

¹³ Republic Act No. 8042 Otherwise Known as "An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos In Distress, and for Other Purposes." Approved on June 7, 1995.

¹⁴ *Karunungan v. People*, (Notice) G.R. No. 236676, April 23, 2018.

¹⁵ *Id.*

Thus, as modified, the proper penalty to be imposed is two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated November 21, 2018 of the Court of Appeals in CA - G.R. CR HC No. 06883 is **MODIFIED** in that in Criminal Case No. 139906-SJ (Estafa), accused-appellant Jessica Bonifacio y Siao is hereby sentenced to suffer the indeterminate penalty of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum.

SO ORDERED.” (LEONEN, J., on official business; HERNANDO, J., Acting Chairperson).

By authority of the Court:

Misael C. Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court ⁴⁶_{5/25/21}

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