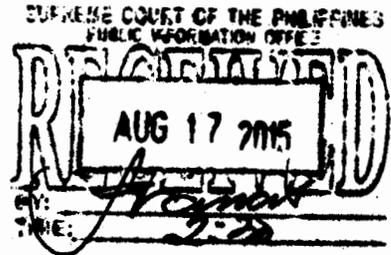




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated June 17, 2015 which reads as follows:

“G.R. No. 172225 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. NORMITA GO and VIRGINIA GONZALES, Accused-Appellants.

This appeal seeks to reverse and set aside the judgment of conviction of the accused-appellants for *illegal recruitment in large scale committed by a syndicate* rendered by the Regional Trial Court, Branch 21, in Manila (RTC) on July 11, 2001,¹ whereby the RTC sentenced them to suffer life imprisonment. On appeal, the Court of Appeals (CA) affirmed the conviction through its decision of January 26, 2006.²

The information dated June 25, 1999 charged the accused-appellants, along with Antonio Go and Lourdes Lo, with *large scale illegal recruitment committed by a syndicate*, alleging as follows:

That between the period from May, 1998 to March, 1999 and sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, representing themselves as officers of Cajome Enterprise and having the power and the capacity to deploy NOEL F. NAVALLASCA,

- over – nine (9) pages....

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¹ Rollo (G.R. No. 150981), pp. 19-29; penned by Presiding Judge Amor A. Reyes.

² Rollo (G.R. No. 172225), pp. 3-22; penned by Associate Justice Jose L. Sabio, Jr. (retired/deceased), with the concurrence of Associate Justice Jose C. Mendoza (now a Member of the Court) and Associate Justice Arturo G. Tayag (retired).

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LORAINÉ C. BASALLAJES, ARLENE O. CORDERO, CORAZON TESALUNA, ANA LUCIA F. LURA, SOLITA D. DOLLETE, ALBERT L. CAMPANG, CEASAR A. PRADES, RENATO L. RIVERA, NOMER DIAZ, ROLITO L. GUEVARRA and NICANOR T. REYES as factory workers in Taiwan, conspiring and confederating with each other, did then and there willfully, unlawfully and feloniously recruit complainants for and in consideration of amounts ranging from ₱29,800.00 to ₱90,000.00 as placement fee which complainants paid to said accused, without the latter having secured the required licensed and/or authority from the Philippine Overseas Employment Administration³ and without having deployed and/or refunded complainants of their payments despite demands to the damage and prejudice of the aforementioned complainants in violation of the aforesaid provisions of RA 8042.

CONTRARY TO LAW.³

On August 27, 1999, the RTC allowed the withdrawal of the charge against Antonio Go.⁴ With Lourdes Lo having remained at large, only the accused-appellants were arraigned and tried.

The CA adopted the following summation of the antecedents by the RTC, viz.:

“Albert Campang testified that sometime in March 1999, he, with three others, applied for overseas employment in Taiwan as factory workers. He was introduced to Normita Go and Virginia Gonzales by a certain Boy Pineda. The appellants asked from him ₱70,000.00, which he paid in three installments. His total payments amounted to ₱79,800.00. A certain Perly, secretary of Normita Go, received his payments. He was supposed to receive a monthly salary of ₱16,000.00, but warned him that his papers would only be processed upon full payment. His payments, however, were not evidenced by receipts because he was only made to sign on the logbook.

He said that the entries in the said logbook were written by Perly. Despite paying for the processing fees, he was not able to leave the country. He went to the police to blotter the incident. He asked his Ate Mayette why he could not leave and the latter informed him that appellant Go only gave her ₱20,000.00.

Upon learning that, he went to the new office of appellant Go to seek the refund of his money, but the later denied having received the money sought to be returned. As a result of this, he went to his godfather and sought advice. He was advised by the later to go to the NBI.

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³ Rollo (G.R. No. 150981), p. 9.

⁴ Id. at 32.

He is not aware if appellant Go had a tie up with Sure Job agency whose business operation is in Paco Manila. He further testified that it was appellant Gonzales who informed him of the documents needed for processing. He was directed to go to St. Peter Paul Clinic for medical examination. He was only refunded the amount of ₱20,000.00, which was given to him by a certain Mayette.

Cesar Amano Paredes declared that in December 1998, he went to AP Building located at Agoncillo St., Pedro Gil, Malate Manila and applied for overseas employment as factory worker in Taiwan. He said that he knows the appellants he was entertained by them upon entering the building. He was told by appellant Go that if he had money, the latter could send him abroad. Since he had money at that time, appellant Go instructed him to pay the amount to appellant Gonzales. He said that he was not issued a receipt, but his payment was entered in a logbook.

Since then, he was not able to leave for abroad. Prompted by the turn of events, he went to the appellant's office and withdrew his application. He likewise demanded for the refund of his money, but to no avail.

Cesar (sic) Tesaluna testified that she applied for employment abroad because she was referred by her friend, Jocelyn Britania, to file her application with the appellants. She heeded her friend's advice because the latter had already been sent to Taiwan by the appellants. She gave the amount of ₱29,800.00 on December 7, 1998 to appellant Go. Appellant Gonzales entered her payment in the logbook.

Noel Navallasca testified that upon referral of one Manay Chavez, he went to the office of the appellants at San Marcelino, Manila to apply for employment abroad. He said that it was appellant Gonzales who received his duly accomplished application form for overseas employment.

He was, then, asked to produce the amount of ₱10,000.00 in April 1998 and the balance of ₱70,000.00. He gave the money to appellant Gonzales, who in turn, handed the amount to appellant Go.

He presented a xerox copy of a receipt indicating various amounts, dated April 2, 1998 to June 2, 1998. The document was not signed by appellant Go. He was scheduled to leave the last week of July 1998, but until such time in September of the same year that he made a follow up, he was not able to leave.

Thereafter, he decided to withdraw his application and sought for the return of his application and processing fees. However, instead of refunding the money, he was brought by appellant Gonzales to another agency for interview. He passed the interview, but was asked to pay an additional amount of ₱20,000.00. The owner of the agency asked him to pay the remaining balance. The balance was supposed to be paid by the

appellants as he paid the said amount to the latter. In January of 1999, he came to know that he could no longer leave for Taiwan, hence, he withdrew his application. He was able to recover only the amount of ₱40,000.00.

Nicanor Reyes, Jr., testifies that he applied for employment abroad with the appellants. Sometime in February 1999, he went to the office of the appellants and gave the amount of ₱90,000.00 as placement fee. As he was not able to leave despite promises made by appellant Go. As he was not able to leave for abroad, he demanded for the refund of his payment but all proved futile.

Marilou Candano, a Senior Labor and Employment Officer of the POEA, declared that Jemalor Manpower Specialists with office address at 205-206 Cruz Henson Bldg., 494 Soldado St., Ermita Manila, was licensed by POEA to recruit overseas workers. Appellant Go was reported as Jemalor's cashier as of February 2, 1996. As per latest records from the POEA, appellant Gonzales acted as the agency's Operations Manager from January 29, 1998 to December 1998 of Alvis Placement Services Corporation. She further testified that she does not know if the appellants are connected with Cajomi Enterprises also engaged in the business of recruiting overseas workers.⁵

On the other hand, the accused-appellants' version is summarized by the CA as follows:

Appellant Normita Go denied the accusations against her and alleged that she knows appellant Gonzales being her personal assistant and secretary at the Sure Job International Management. She said that she started working with Sure Job as Overseas Marketing Manager for Taiwan Division in 1998.

In November 4, 1998, she was officially designated as such. Her name is included in the list of employees submitted by Loida Angeles. She said that she was given authority by Loida Angeles to recruit applicants for Taiwan. As authorized representative her duties are to act as officer-in-charge of the extension office of Sure Job located at Rm. 419, AP Bldg., Agoncillo St., Ermita, Manila. AP Building is owned by Fortress Hill Realty Holding. She supervises the negotiation of brokers from Taiwan relative to the schedule of applicant's interview. She takes charge of the financial transaction salaries and wages of their employees. The agency is just renting an office at the AP Bldg.

Appellant Go further testified that she owns Cajomi Enterprises whose business is wholesale and retail goods and merchandise both imported and local. Cajomi Enterprises started its business operations in 1997 up to her arrest on April 16, 1998. Appellant Gonzales is assigned to certain applicants, to conduct interviews and to receive documents submitted by the applicants.

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⁵ Rollo (G.R. No. 172225), pp. 5-8.



She said that Loida Angeles was introduced to her by appellant Gonzales in September 1998. She said that she had known Virgie Gonzales for about four years prior to September 1998. They were already employed in another recruitment agency since 1994. They worked in that agency (whose name she could not recall) for almost two (2) years starting 1994. The said agency is also engaged in recruitment of workers for Taiwan.

She denied having received an application from Noel F. Navallasca. She said that the placement fees received from applicants were turned over to Loida Angeles.

Appellant Virginia Gonzales, likewise, denied the accusations against her and declared that she was arrested on April 16, 1999. Prior to her arrest she was the Personal Assistant and Secretary of appellant Go at Sure Job International. She said that her job was to hand over application forms to the applicants, filed documents received, and receive payments from applicants and turn them over to appellant Go.

She testified that she has neither appointment papers nor documents to show that she was an employee of Sure Job International. She started working at Sure Job on November 2, 1998. She knows that prior to joining Sure Job, appellant Go owns a store at Ermita Manila, but she did not work there. She knows that appellant Go was already engaged in recruitment activity before joining Sure Job. She testified that Sure Job is owned by one Loida Angeles who works in the main office. Prior to her transfer to Sure Job she worked with Alvis Placement Services Corporation.⁶

As stated, the RTC convicted the accused-appellants of the crime charged, decreeing:

WHEREFORE, premises considered, the Court finds accused NORMITA GO and VIRGINIA GONZALES GUILTY beyond reasonable doubt as principals of the crime charged and are hereby sentenced to suffer the penalty of life imprisonment each and a fine of not less than ₱500,000.00. With costs.

It appearing that accused Lourdes has not been arrested nor voluntarily surrendered, let warrant be issued for her arrest and the case against her is hereby ARCHIVED to be reinstated upon her apprehension.

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⁶ Id. at 8-9.



The Public Prosecutor is directed to conduct an investigation on the activities of Loida Angeles, owner of Sure Job International based on the under oath testimony of Normita Go and to file the corresponding charges if warranted under the premises.

SO ORDERED.⁷

On appeal, the CA affirmed the conviction.⁸

On July 26, 2006, the Court required the parties to simultaneously submit their respective supplemental briefs.⁹ The accused-appellants filed a manifestation and motion in lieu of supplemental brief on September 5, 2005.¹⁰ However, on December 23, 2010, accused-appellant Normita Go filed a manifestation with motion to withdraw appeal,¹¹ which the Court granted through the resolution of February 2, 2011.¹² An entry of judgment was issued certifying the February 2, 2011 resolution, and stating that the appeal insofar as accused-appellant Normita Go was concerned was deemed withdrawn, closed and terminated; and that on April 13, 2011, the same had become final and executory and recorded in the Book of Entries of Judgments.¹³

Accused-appellant Virginia Gonzales insists that she was a mere employee of a company that was duly licensed to recruit; and that consequently the Prosecution did not establish her guilt for the crime charged beyond reasonable doubt.

The appeal has no merit.

Firstly, the accused-appellant submits that the RTC did not first ascertain the veracity of her defense of being a mere employee of the Sure Job International Management, and, as such, was not the real offender who had perpetrated the crime and benefited from it. In support of her submission, she presented a certification of her being employed by Sure Job International Management.

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⁷ Id. at 9-10.
⁸ Supra note 2.
⁹ *Rollo*, p. 23.
¹⁰ Id. at 24-25.
¹¹ Id. at 38-40.
¹² Id. at 43.
¹³ Id. at 52.

The submission of the accused-appellant does not impress. To start with, the certification, purportedly issued by Loida H. Angeles as the alleged General Manager of Sure Job International Management, had no probative value for being hearsay due to the failure of the issuer to testify at the trial. In addition, the accused-appellant did not establish her actual employment by Sure Job International Management, like presenting her pay stubs or copies of her paychecks, her daily time record, etc.

Secondly, even assuming that the accused-appellant was a mere employee of Sure Job International Management, she was nonetheless liable for the offense charged. The records were replete with the showing that she had actively participated in the recruitment of the complainants by soliciting, interviewing and facilitating the latter's recruitment by Sure Job International Management. She was also shown to have collected and received money from the complainants. The positive testimonies of complainants Campang, Prades, Tesaluna, Navallasca and Reyes showed that the accused-appellant collected money by representing that she had the power and qualifications to recruit for overseas employment. In the course of giving their testimonies, the complainants consistently identified the accused-appellant as one of the persons who had promised them overseas employment for a fee. In the face of such testimony and identification by the complainants, the RTC cogently observed:

The first and third elements of the offense were sufficiently proven by the prosecution. Accused actually engaged in recruitment activities was clearly established through the testimonies of the private complainants who corroborated each other's account in describing the accused modus operandi. These witnesses declared in unison pointing to Normita and Virginia as the ones who enticed them to part with their hard-earned money in exchange for work abroad. The second element of the offense charged, the fees charged by the accused were not within the prescribed fees by the Department of Labor. The accused were positively identified by the complaining witnesses as the ones who demanded the payment of the fees more than the prescribed amount by the authorities. The accused did not refute this point. There is no showing that any of the private complainants had ill motives against the accused other than to bring them to the bar of justice for their deception.¹⁴

Irrefutably, the enticements and representations upon the complainants by the accused-appellant and the handing out of the application forms and assurances of placement in Taiwan as factory workers enabled the latter to convince them to fork over the recruitment

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¹⁴ Rollo (G.R. No. 150981), p. 28 or CA rollo, p. 69.

and processing fees. Such acts constituted recruitment. Hence, the Prosecution satisfactorily showed the constitutive elements of the crime of illegal recruitment, which is committed by a person who, without being duly authorized according to law, represents or gives the distinct impression that he or she has the power or the ability to provide work abroad convincing those to whom the representation is made or to whom the impression is given to thereupon part with their money in order to be assured of that employment. Under the established circumstances, her insistence of having merely acted under the direction of her employers, and of being unaware of the illegal recruitment activities was bereft of factual basis.

The Court cannot depart from the factual findings by the RTC, whose assessment of the evidence, particularly the credibility of witnesses, is accorded the highest respect by the CA and the Court itself as appellate tribunals by virtue of the RTC's direct and personal access to such witnesses at the time they testified. Such access enabled the trial judge, unlike the appellate judges, to appreciate and consider the deportment and demeanor of the witnesses themselves.

In this connection, the Court stresses that the foregoing acts of the accused-appellant were precisely the acts that constituted the crime of *illegal recruitment committed in a large scale by a syndicate* as charged in the information. Section 6 (l) and (m) of Republic Act No. 8042 (*Migrant Workers and Overseas Filipinos Act of 1995*) provide thusly:

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: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority.**

X X X X

(l) **Failure to actually deploy without valid reason as determined by the Department of Labor and Employment; and**

(m) **Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purpose of deployment, in cases where the deployment does not actually take place without the worker's fault.** Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

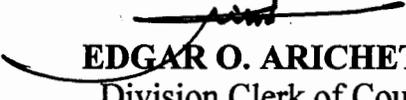
Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable. (Emphasis supplied)

WHEREFORE, the Court **AFFIRMS** the decision promulgated on January 26, 2006 by the Court of Appeals; and makes no pronouncement on costs of suit.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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Court of Appeals (x)
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