Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

-*versus*-

MARIA JENNY REA *y* GUEVARRA and ESTRELLITA TENDENILLA,
Accused-Appellants.

G.R. No. 197049

Present:

BRION,* *J.*,
Acting Chairperson,
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, and
LEONEN,** *JJ.*

Promulgated:

JUN 10 2013

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DECISION

PEREZ, *J.*:

On appeal is the Decision[1] dated 10 January 2011 of the Court of Appeals in CA-G.R. CR-HC No. 03178 affirming the judgment of conviction of appellants Maria Jenny Rea *y* Guevarra (Rea) and Estrellita Tendenilla (Tendenilla) for the crime of illegal recruitment rendered by the Regional Trial Court (RTC) of Mandaluyong City, Branch 214, in Criminal Case No. MC-005-9493-H.

In the Information before the RTC, appellants and Ginette Azul (Azul) were charged with illegal recruitment committed as follows:

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* Per Special Order No. 1460 dated 29 May 2013.
** Per Special Order No. 1461 dated 29 May 2013.
[1] Penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino, concurring. *Rollo*, pp. 2-16.

> That in the period from June 2005 to August 23, 2005, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with a certain "Edith", whose true name and present whereabout is still unknown and mutually helping one another, representing themselves to have the capacity of contracting, enlisting and transporting Filipino workers for employment abroad, did then and there willfully, unlawfully and feloniously, recruit and promise employment/job placement abroad specifically in London, United Kingdom as caregivers and general services for a fee in the following amount of P100,000.00 from Michael Niño Soriano y Torres, P150,000.00 from Maricel Tumamao y Coloma, P250,000.00 from Dandy Mendoza Paller, P150,000.00 from Rebecca Villa[l]una y Bernardo, P200,000.00 from Nyann Pasquito y Saiasa, P120,000.00 from Alvaro Trinidad y Pili and P132,000.00 from Cyrus Chavez y Fallaria, without first securing the required license and authority from the Department of Labor and Employment, and without any capacity and means to deploy workers abroad despite receipt of the aforestated fees, accused failed to deploy them as workers, which acts were committed and carried out by a group of more than three (3) persons conspiring and confederating with one another and the same was committed against more than three (3) persons, hence, the offense is considered committed by a syndicate or in large scale, in violation of the aforementioned law.[2] (Underscoring not supplied).

Appellants were arrested while Azul remained at large.

Appellants pleaded not guilty on arraignment. At the pre-trial, the parties stipulated on the following facts:

1. Identity of the accused as the same person charged in the information;
2. The jurisdiction of this Honorable Court;
3. That accused was arrested by the operatives of Anti-Illegal Recruitment Task Force upon information given by the private complainants;
4. The existence of the following documents: referral letter addressed to the Office of the City Prosecutor of Mandaluyong City, joint affidavit of arrest executed by the arresting officers; sworn statement of the private complainants and booking and information sheet;
5. That accused has no knowledge of the fact that private complainants [were] repatriated upon arrival in Thailand;
6. That accused was arrested without warrant of arrest by the elements of Anti-Illegal Recruitment Task Force.[3]

Trial ensued.

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2 Records, p. 104.
3 Id. at 84.

The six (6) private complainants, Alvaro Trinidad (Alvaro), Michael Soriano (Michael), Rebecca Villaluna (Rebecca), Maricel Tumamao (Maricel), Nyann Pasquito (Nyann), and Cyrus Chavez (Cyrus), testified for the prosecution.

Azul owns Von Welt Travel Agency located in Quezon City, while Tendenilla owns Charles Visa Consultancy in Intramuros, Manila. Rea is Tendenilla's employee and babysitter.

Alvaro first came to Von Welt Travel Agency, upon recommendation of a friend, to apply for employment in the United States. When said employment did not materialize, Azul introduced him to Tendenilla on 25 June 2005. Tendenilla represented that she can send Alvaro to work in London. Alvaro gave ₱114,000.00 to Azul.[4]

Responding to a newspaper advertisement, Michael went to Von Welt Travel Agency to inquire about a job offer in the United States. Michael was first unable to come up with the placement fee. He returned one year later and was introduced by Azul to Tendenilla to discuss the process of employment in London. He initially gave ₱70,000.00 to Azul, who handed it to Tendenilla. Before he left, he paid another ₱30,000.00.[5]

Alvaro and Michael left for Thailand on 3 July 2005. They were accompanied by Rea to Malaysia in obtaining a non-immigrant visa. Upon returning to Thailand, they were transferred into a barrack where they were eventually arrested and deported last 12 August 2005.[6]

Rebecca met Azul, Tendenilla, and Rea at a training center in Roces Avenue, Quezon City where they had a briefing for applicants for employment to London sometime on 27 or 28 June 2005. She went to Azul's house to pay ₱150,000.00 with her understanding that it would be given to Tendenilla. She was advised by Azul to wait for the plane ticket coming from Tendenilla.[7]

Maricel went to Von Welt Travel Agency to apply for employment as mushroom picker in London. When the supposed employment did not push through, Azul accompanied her to Tendenilla's travel agency in Intramuros.

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4 TSN, 2 March 2006, pp. 3-11.
5 TSN, 25 April 2006, pp. 7-13.
6 Id. at 15-23; TSN, 2 March 2006, pp. 15-19.
7 TSN, 1 February 2006, pp. 5-7.

Tendenilla told her that she was an ex-consul in Vienna and that she could deploy people to the United States, London and Thailand. Maricel returned the following day and handed ₱100,000.00 to Azul, who in turn, counted it and eventually handed it over to Tendenilla.[8]

Maricel and Rebecca left for Thailand on 5 July 2005, accompanied by Tendenilla and Rea. Upon arriving in Thailand, they were instructed by Tendenilla to go to Malaysia to obtain a non-immigrant Thailand visa. They went to Penang, Malaysia to have her passport stamped. They returned to Bangkok the following day, and a week later, they were arrested by the immigration police and deported on 10 August 2005.[9]

Nyann and Cyrus met Azul, who promised them employment as caregivers in London, through Cyrus' mother on 15 July 2005 at the training center owned by Tendenilla. They were told by Azul that they have to go to Thailand while waiting for their working papers to be processed. Azul asked Nyan to prepare ₱200,000.00 as placement fee.[10] On 18 July 2005, Nyann and Cyrus left for Thailand. They met Tendenilla upon arriving at a hotel in Thailand. Nyann handed her US$1,800.00[11] while Cyrus gave her ₱100,000.00,[12] both amounts allegedly represent partial payments for the processing of their visas. Tendenilla and a certain Sir Rey then brought them to a bus station bound for Hadyai, Thailand and told them to meet Mr. Chom who would bring them to Penang, Malaysia. After a 12-hour bus ride, they arrived in Hadyai and met Mr. Chom and other Filipino applicants. They rode in Mr. Chom's van going to Penang, Malaysia. Upon reaching Penang, they were asked to sign a fictitious employment contract to expedite the processing of their non-immigrant Thailand visas. After acquiring their visas, they went back to Bangkok, Thailand. They stayed in Patanakan, Thailand for seven (7) days together with other Filipino applicants, before they were arrested by Thailand immigration officers. They were detained for two (2) weeks and repatriated on 10 August 2005. Unaware of their plights, the father of Nyann even went to the training center in Quezon City and gave the remaining balance of the processing fee in the amount of ₱99,200.00 to Azul. Upon arriving in the Philippines, they went to the training center and met with Rea, who refused to divulge the whereabouts of Tendenilla.[13]

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8 TSN, 21 March 2006, p. 7.
9 Id. at 23-32; TSN, 1 February 2006, pp. 15-21.
10 TSN, 14 February 2006, p. 4.
11 Id. at 12.
12 TSN, 10 May 2006, p. 10.
13 TSN, 14 February 2006, pp. 4-29.

Tendenilla denied having recruited private complainants for work abroad. She claimed that she was a tour guide in Bangkok, Thailand. She organized tour groups, issued plane tickets and prepared vouchers and transportation in Thailand. She met Azul through Buenas Diaz Travel Agency and Azul was inquiring about the tour itinerary in travelling to *ASEAN* countries. She remembered seeing the private complainants once while they were in Hadyai, Thailand. She was arrested by an agent from Task Force Hunter and was charged with illegal recruitment. She believed that she was wrongfully charged because she was being made to pay for the actions of Azul, whom they could not locate.[14]

Rea served as the babysitter of Tendenilla. She first met Michael and Alvaro when they all got their non-immigrant visa in Malaysia, while she knew the other private complainants through Azul, who asked her to meet them at the airport in Manila to deliver hotel vouchers. She came back to the Philippines on 19 July 2005. On 15 August 2005, she was taken by agents of Task Force Hunter, the Anti-Illegal Recruitment group under the Philippine National Police, and was informed of the charges against her.[15]

After trial, the RTC rendered judgment convicting appellants of the crime of illegal recruitment in large scale. The dispositive portion of the decision reads:

> WHEREFORE, judgment is hereby rendered finding accused MARIA JENNY REA y GUEVARRA and ESTRELLITA TENDENILLA GUILTY beyond reasonable doubt of Illegal Recruitment in large scale, and accordingly, they are each sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand Pesos (P500,000.00) plus costs.
>
> Accused are further ordered to indemnify each of the complainants, Michael Niño Soriano P100,000.00, Maricel Tumamao P150,000.00, Dandy Mendoza P250,000.00, Rebecca Villaluna P150,000.00, Nyann Pasquito P200,000.00, Alvaro Trinidad P120,000.00 and Cyrus Chavez P132,000.00.
>
> Meanwhile, let the case against accused G[i]nette Azul be placed in the archives to be revived upon her arrest and let alias warrant of arrest be issued against her.[16]

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14 TSN, 19 September 2006, pp. 4-11.
15 TSN, 25 January 2007, pp. 4-16.
16 CA *rollo*, pp. 25-26.

The trial court found that all elements of illegal recruitment in large scale were established through the testimonies of the private complainants and that appellants conspired to commit the crime.

On 10 January 2011, the Court of Appeals affirmed the trial court's decision.

Appellants filed a notice of appeal upon receipt of the unfavorable decision. On 5 September 2011, this Court directed the parties to simultaneously submit their respective supplemental briefs. The Office of the Solicitor General (OSG) filed a Manifestation stating that it would no longer file any supplemental brief and would instead adopt its appellee's brief. Appellants meanwhile filed their Supplemental Brief and maintained that there was no sufficient evidence to prove that appellants offered jobs to the private complainants.

Appellants essentially argue that the prosecution has failed to establish their guilt beyond reasonable doubt. Appellants claim that their supposed criminal liability is attributed to their mere presence in Thailand at the time when the private complainants were also there. They assert that it was Azul, based on the testimonies of the private complainants, who promised employment abroad and who received payment from them. Rea avers that delivering a voucher, meeting people at the airport and sleeping in the house of Tendenilla can hardly qualify as recruitment activities.

The OSG defends the trial court’s evaluation of the credibility of the prosecution witnesses. The OSG posits that the testimonies of private complainants clearly establish that Tendenilla made representations that she could provide employment abroad. The OSG also implicates Rea as a co-conspirator by her presence when private complainants paid their placement fees and at the training center during the orientation of private complainants; and by accompanying private complainants to Thailand.

The crime of illegal recruitment in large scale is committed upon concurrence of these (3) elements, namely: (1) the offenders undertake any activity within the meaning of recruitment and placement defined in Article 13(b) or any prohibited practices enumerated in Article 34 of the Labor Code; (2) the offenders have no valid license or authority required by law to enable them to lawfully engage in the recruitment and placement of workers;

and (3) the offenders commit the acts against three or more persons, individually or as a group.[17]

Recruitment and placement is defined in Article 13(b) of the Labor Code as "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."

Simply put, illegal recruitment is committed by persons who, without authority from the government, give the impression that they have the power to send workers abroad for employment purposes.[18]

That Tendenilla made misrepresentations concerning her purported power to recruit for overseas employment; and personally, or through Azul but on her behalf, collected placement fees from private complainants were clearly established from the testimonies of private complainants themselves, to wit:

Testimony of Alvaro Trinidad:

Q: Then you follow it up to her and again on June 2005 you went back also and she asked you to give her what amount?
A: Php114,000, your Honor.

Q: This is for what?
A: For another placement of another work in London, your Honor.

Q: Where you able to deliver the Php114,000?
A: Yes, your Honor.

Q: Where did you get this money?
A: I withdraw from the bank, your Honor.

Q: In other words the Php114,000 you gave to Ginette, how did you give to Ginette the Php114,000?
A: It was deposited in the bank, your Honor.

x x x x

Q: So you went back in the month of May and Ginette Azul told you that she has another employer?

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17 *People v. Ganigan*, G.R. No. 178204, 20 August 2008, 562 SCRA 741, 747.
18 *People v. Gallo*, G.R. No. 185277, 18 March 2010, 616 SCRA 162, 176 citing *People v. Ganigan*, id. at 748.

A: Yes, Ma'am.

Q: And this one is for London?
A: Yes, Ma'am.

Q: And that you were asked again to pay another amount of placement fee?
A: Yes, Ma'am.

Q: Which you said Php114,000?
A: Yes, ma'am.

Q: Mr. Witness, what job would that be?
A: General services, Ma'am.

Q: Janitor also?
A: Yes Ma'am.

Q: What happened after that talked with Ginette Azul when she told you that she has another employer and you paid Php114,000?
A: Ginette Azul asked me to pay that amount, Ma'am.

Q: After you paid that Php114,000 to whom did you give [it to]?
A: Ginette Azul, Ma'am.

Q: When?
A: June 30, 2005, Ma'am.

Q: Do you have receipt to show that Ginette Azul received that amount?
A: (Witness handling the receipt to the public prosecutor)

x x x x

Q: After you paid that amount to Ginette Azul what happened?
A: Ginette Azul and Estrellita Tendenilla told me that I can leave already, Ma'am.

Q: Earlier you were just seeing with Ginette Azul on December 2004 until May of 2005 and in fact you were asked to pay again Php114,000?
A: Yes, ma'am.

Q: Because she has another employer in London?
A: Yes, Ma'am.

Q: How come you are now transacting with Ginette Azul and Estrellita Tendenilla?
A: It was Estrellita Tendenilla who knows a recruiter friend in Thailand, Ma'am.

Q: When for the first time did you meet Estrellita Tendenilla?

A: June 25, 2005, Ma'am.

Q: Where did you meet her?
A: Von Welt Office, Ma'am.

Q: The same Von Welt Office where you first met Ginette Azul?
A: Yes, Ma'am.

Q: Who introduced [you] to Tendenilla?
A: Ginette Azul, Ma'am.

Q: That was on June 25, 2005?
A: Yes, Ma'am.

Q: When you were introduced [to] Tendenilla by Ginette Azul, I mean I am referring to you and Tendenilla, did you talk?
A: Yes, Ma'am.

Q: What did you talk about?
A: Tendenilla make sure that we could reach London, Ma'am.

Q: Under what circumstances why did Tendenilla assured you that you can go to London?
A: Tendenilla told me that she has an employer, Ma'am.

Q: What kind of employer?
A: British employer, Ma'am.

Q: Did you also apply for job with Estrellita Tendenilla?
A: Yes, Ma'am.

Q: When?
A: June 30, when I paid, Ma'am.

Q: Not on June 25 when you met her?
A: Sorry, June 25, Ma'am.

Q: Exactly, if you can recall what did Tendenilla tell you?
A: She assured that we could reach London, Ma'am.

Q: What was the assurance?
A: Tendenilla has an employer a British in London, Ma'am.

Q: Did she tell you the name of the employer?
A: Robert Lease, I can not recall, Ma'am.

Q: What else did Tendenilla tell you, if any?
A: Estrellita Tendenilla told me that Robert Lease is the adviser of the Prime Minister of Thailand, Ma'am.

Q: She told you that?
A: Yes, Ma'am.

Q: What else did she tell you?
A: She also told me that he has a lot of plastic factory in Thailand, Ma'am.

Q: What else did she tell you?
A: That's what I remember, Ma'am.

Q: You would be working as janitor?
A: Yes, Ma'am.

Q: How much?
A: 1,000 to 1,200 U.S. dollar, Ma'am.

Q: Who said that you would be receiving 1,000 to 1,200 U.S. dollar?
A: Estrellita Tendenilla, Ma'am.

Q: When did she tell you that?
A: June 25 when we applied for work, Ma'am.

COURT:

Q: Did you not say that it was Ginette Azul whom you gave money?
A: Yes, your Honor.

Q: How did this Tendenilla come into the picture?
A: The money I paid to Ginette Azul is for London, your Honor.

Q: So because it was for London how did this Tendenilla come into the picture?
A: She has the one with employer for London, your Honor.

Q: Where was Tendenilla when Ginette Azul received the money[?]
A: She was also in the office of Ginette Azul, your Honor.

Q: Was she present?
A: Yes, your Honor.

Q: Who were person present when Tendenilla received the money?
A: Ginette Azul and Estrellita Tendenilla, your Honor.[19]

Testimony of Rebecca Villaluna:

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Q: You mentioned a while ago that you saw Maria Jenny Rea and Estrellita Tendenilla in the house of Ginette Azul?
A: Yes, Ma'am, together with Estrellita Tendenilla when we had our briefing.

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19 TSN, 2 March 2006, pp. 10-13

Q: What was the briefing all about?
A: According to Estrellita Tendenilla[,] we will go to London and while waiting for the processing of our papers for London we will work at Singapore or Hongkong our salary is 50,000.00 a month, Sir.

Q: Who was giving the briefing?
A: Estrellita Tendenilla in front of Ginette Azul, Ma'am.

x x x x

Q: Then, Madam Witness, after that briefing what happened next[?]
A: After the briefing I went to the house of Ginette Azul to pay Php150,000.00, Ma'am.

Q: What was that Php150,000.00?
A: For the processing of papers going to London, Ma'am.

Q: Whom did you give the Php150,000.00?
A: Ginette Azul to be given to Estrellita Tendenilla, Ma'am.

Q: Are you saying to this Honorable Court that the Php150,000.00 was received by Ginette Azul?
A: Yes, ma'am.

Q: When was that?
A: That was June 2, 2005, Ma'am.

Q: And after you paid Php150,000.00 to Ginette Azul what happened next?
A: She told me to wait for the ticket to be given by Estrellita Tendenilla, Ma'am.

Q: Who gave you that advice?
A: Ginette Azul, Ma'am.

Q: When did she give that advice?
A: When I paid Php150,000.00, July 2, Ma'am.

Q: In what place?
A: In her house in Mandaluyong, Ma'am.[20]

Testimony of Michael Soriano:

Q: Under what circumstances did you meet Estrellita Tendenilla?
A: With Ginette Azul discussing the processing of employment to London in their office in Intramuros, Ma'am.

x x x x

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[20] TSN, 1 February 2006, pp. 5-7.

Q: During your meeting did you discuss anything to her?
A: Yes, your Honor.

Q: What?
A: She discussed the process of employment in going to London, your Honor.

Q: Was there any proposal made to you by Tendenilla?
A: Yes, your Honor.

Q: What was the proposal?
A: They will send us to Hongkong temporarily, your Honor.

Q: Did you accept the proposal?
A: Yes, your Honor.

Q: When you accepted their proposal what happened?
A: I went to the office of Ginette Azul to give the placement fee, your Honor.

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Q: When did you go to the office of Ginette Azul?
A: My first payment was on June 23, 2005, Ma'am.

Q: How much did you pay?
A: In my first placement fee I paid Php70,000, Ma'am.

Q: To whom did you give the Php70,000?
A: In that office Ginette Azul and Estrellita Tendenilla, Ma'am.

Q: Why?
A: Because Ginette Azul told us that in a few days we will be leaving for Hongkong, Ma'am.

Q: You said that you gave Php70,000.00 to Ginette Azul?
A: Yes, Ma'am.

Q: But Estrellita Tendenilla was also present?
A: Yes, Ma'am.

x x x x

Q: So you paid Php70,000 to Ginette Azul?
A: Yes, Ma'am.

COURT:

Q: What was that Php70,000 for?
A: The whole placement fee is Php120,000.00.

Q: What was that Php70,000 for?

A: The down payment for the Php150,000 placement.

PROS. DIMAGUILA

Q: How do you know that the placement fee for a job in London is Php120,000?
A: Ginette Azul told us, Ma'am.

Q: After you gave the Php70,000 to Ginette Azul what happened next?
A: Estrellita Tendenilla was present and I saw that she gave the whole money to Estrellita Tendenilla.

Q: Who gave the whole money?
A: Ginette Azul, Ma'am.

Q: Referring to Php70,000?
A: Yes, Ma'am.

Q: What happened next?
A: After the other lady also an applicant paid the placement fee Estrellita Tendenilla left, Ma'am.

x x x x

Q: What happened after that information from Ginette Azul?
A: On June 27[,] I returned to the office, Ma'am.

Q: Whose office?
A: Office of Ginette Azul, Ma'am.

Q: In Mandaluyong?
A: Yes, Ma'am.

Q: Why did you return?
A: To deposit another Php30,000, Ma'am.

Q: Aside from the Php70,000 you also gave Php30,000 on June 27?
A: Yes, Ma'am.

Q: Who received your Php30,000?
A: Ginette Azul, Ma'am.

Q: Do you have any document to prove that Ginette Azul received the Php30,000?
A: She didn't issue any receipt, Ma'am.

Q: Then what happened after you gave Php30,000?
A: I went home and through phone she informed me that there is a tentative flight in July 1 for Bangkok, Ma'am.

Q: You were applying for a job in London?

A: Yes, Ma'am.

x x x x

Q: Were you able to fly for Bangkok?
A: Yes, Ma'am, July 3, 2005.

Q: Who provided you with your ticket in Bangkok?
A: During that day Ginette Azul handed me my ticket, passport and papers.

Q: Then what happened after you were given ticket and passport?
A: We [flew] to Bangkok and stayed in a hotel, first class hotel, Ma'am.

Q: You said we, who were with you?
A: With other 9 applicants, Ma'am.

Q: Who else?
A: With Ginette Azul and other applicants, Ma'am.

Q: So you were 9 applicants, yourself and Ginette Azul?
A: Yes, Ma'am.

Q: What happened when you were in Bangkok?
A: In a few days they arrived, Ma'am.

Q: Who arrived?
A: Ginette Azul and Estrellita Tendenilla, Ma'am.

x x x x

Q: But Jenny Rea how was she introduced to you by Ginette Azul?
A: During our travel going to Malaysia, Estrellita Tendenilla told us that Jenny Rea will assist us to claim our visa in Penang, Malaysia, Ma'am.

Q: In other words you went to Malaysia?
A: Yes, ma'am.

Q: Who accompanied you to Malaysia?
A: Jenny Rea y Guevarra.

Q: What happened when you went to Malaysia?
A: We claimed for a non-immigrant visa and stayed in a hotel in one day.

Q: Do you have any proof to that effect that you were given a non-immigrant visa?
A: Xerox copy of the visa and my passport, Ma'am.

x x x x

Q: What happened after that?
A: We stayed there until we were brought by the immigration police.

Q: Why were you arrested?
A: They told us, when we were presented to the press, that we have a false visa, Thailand visa.

Q: Were you detained?
A: Yes, Ma'am.

Q: For how long?
A: July 27 to August 12.[21]

Testimony of Maricel Tumamao:

Q: When you went to Charles Visa Consultancy you were about to meet Mrs. Estrellita Tendenilla?
A: Yes, ma'am.

Q: And that you did not meet her in the office because it was already late?
A: No, ma'am.

Q: So what happened next, Madam Witness?
A: So we proceeded to the hotel, ma'am.

Q: What hotel?
A: Cherry Blossom Hotel, ma'am.

Q: Where is it located?
A: In Malate, ma'am.

Q: With whom Madam Witness?
A: With Ginette Azul, ma'am.

Q: So what happened at Cherry Blossom Hotel?
A: Mrs. Tendenilla was there, ma'am.

Q: So you m[e]t with Mrs. Tendenilla?
A: Yes, ma'am.

Q: So what happened next?
A: So she told us what will happen and what we are going to do, ma'am.

Q: Who said "*kung ano ang gagawin namin at ano ang mangyayari?*"
A: Mrs. Tendenilla, ma'am.

Q: What did she tell you?

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[21] TSN, 25 April 2006, pp. 4-18.

A: She told that she is an ex-consul in Vienna and that she could deploy people and she was able to deploy people in U.S., London and Bangkok, ma'am.

Q: What else did she tell you?
A: And the complete placement fee is three hundred thousand pesos (P300,000.00) and she told us we should prepare first the P150,000.00 and if they are able to go in London then the remaining P150,000.00 will be salary deduction, ma'am.

x x x x

Q: In what job are you applying for United Kingdom?
A: Caregiver, ma'am.

Q: During your first meeting with Mrs. Tendenilla aside from the placement fee and job offer what else did she tell you if there was any?
A: She told that while we are waiting for our working permit to London she will give us a job in Bangkok, ma'am.

Q: What did you do after that meeting with Mrs. Tendenilla?
A: I think it over and decided it was alright, ma'am.

Q: So what did you do next?
A: I prepared the placement fee which is P150,000.00, ma'am.

Q: After you prepared the amount of P150,000.00 for placement fee what else did you do?
A: Then I went back to Ginette Azul, ma'am.

Q: When?
A: In Charles Visa Consultancy, ma'am.

Q: When?
A: Last June 23, 2005, ma'am.

Q: Why did you go back to Charles Visa?
A: I am going to pay, ma'am.

Q: You are going to pay?
A: Yes, ma'am.

Q: And what is it that your *(sic)* are going to pay?
A: The placement fee according to Mrs. Tendenilla, ma'am.

Q: What job you are applying?
A: As caregiver in London, ma'am.

Q: Whom did you meet at Charles Visa Consultancy?
A: G[i]nette Azul was there and also Mrs. Tendenilla and also Jenny Rea, ma'am.

Q: What happened when you were there at Charles Visa Consultancy?
A: I handed to G[i]nette Azul the money, ma'am.

Q: How much?
A: Amounting to P100,000.00, ma'am.

Q: And did she receive it?
A: Yes, ma'am.[22]

Testimony of Nyanne Pasquitto:

x x x x

Q: Under what circumstances did you come to know Ginette Azul?
A: Ginette Azul promised Elma Chavez that we will be employed abroad as caregivers, ma'am.

Q: That was on July 15, 2005?
A: Yes, ma'am.

x x x x

Q: What else happened while you were at the training center?
A: Ginette Azul promised us that we will be employed as caregiver in United Kingdom, ma'am.

x x x x

Q: In relation to that what documents, if any, did Ginette Azul require from you?
A: Our resume, record from school including diploma and NBI, ma'am.

Q: What job are you applying for?
A: Caregiver, ma'am.

Q: What else were asked from you?
A: Placement fee or processing fee for visa, ma'am.

Q: How much?
A: P200,000.00 ma'am, for London visa.

Q: Who asked you to prepare P200,000.00?
A: Ginette Azul, ma'am.

x x x x

Q: Then what else happened?

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22 TSN, 21 March 2006, pp. 14-19.

A: My parents make [made] an arrangement to Ginette Azul that we are going to give the money at the time of our departure, ma'am.

Q: How much?
A: $1,800.00 U.S. dollars, ma'am.

Q: When did you give that?
A: July 18, 2005, ma'am.

Q: To whom did you give that amount?
A: To Ginette Azul, ma'am.

Q: What happened after you gave $1,800.00 U.S. dollars?
A: She gave me a receipt, ma'am, then she handed me the money, ma'am.

Q: What money?
A: That $1,800.00 U.S. dollars, ma'am and according [to] her upon arrival in Thailand I will be meeting with Estrellita Tendenilla at First House Hotel, that I will give the money to Estrellita Tendenilla because Estrellita Tendenilla knows already about that because that will be for the processing fee of our papers, ma'am.[23]

Testimony of Cyrus Chavez:

Q: How did you come to know Estrellita Tendenilla?
A: For my local Philippine employer named Ginette Azul, ma'am. She actually called my Mom and offered the job for me, she was actually looking for me when I was at home so she just told my Mom about the offer for employment, ma'am.

Q: Who is that she is referring to when she offered job employment?
A: It was Ginette Azul but the main employer is Estrellita Tendenilla, ma'am.

x x x x

Q: When did you meet Estrellita Tendenilla for the first time?
A: July 18, ma'am.

Q: What year?
A: 2005, ma'am.

Q: Where at?
A: In Thailand, ma'am.

Q: You made mention of a Philippine local employer a certain Ginette Azul?

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[23] TSN, 14 February 2006, pp. 4-9.

A: Yes, ma'am. She was actually the one who told me about the job offered me in United Kingdom. She also told me that I have to give a placement of P100,000.00 initial payment, ma'am.

Q: When was that made, Mr. Witness?
A: In July 16, 2005, ma'am.

Q: Where?
A: In Roces Avenue in Pantranco, ma'am.

Q: What happened during that meeting?
A: She gave me a brief introduction of the job, ma'am. She told me about the placement fee of P100,000.00 but the total placement fee is P350,000.00, ma'am. I could just give the initial amount of P100,000.00 and she also said that the main employer is Estrellita Tendenilla but informed me that Estrellita Tendenilla is in Thailand, ma'am.

Q: What else were told you by Ginette Azul?
A: She told me about a job in United Kingdom as a caregiver and I would have a salary of P150,000.00, ma'am.

Q: What happened after that meeting?
A: I was interested and later on told my Mom about it and she decided already that if I could continue and then after that we decided to meet Ginette Azul that the day after, the day before, ma'am.

x x x x

Q: So you gave initial payment of P100,000.00?
A: No it was not actually me, ma'am.

Q: Who gave the initial payment of P!00,000.00?
A: It's my Mom who met her in Ermita, ma'am.

Q: You're referring to Ginette Azul?
A: Yes, ma'am.

Q: How did you know that she was giving P100,000.00.
A: My Mom just told me that she already met Ginette Azul and gave the money of P100,000.00, ma'am.

Q: Do you have proof to show that P100,000.00 was given to Ginette Azul?
A: Yes, ma'am I have a receipt, ma'am.

x x x x

Q: This happened after your mother gave the P100,000.00?
A: Yes, that same day, Your Honor.

Q: In the afternoon?
A: In the afternoon I met Ginette Azul personally, also with my Mom and my girlfriend and gave us the ticket, Your Honor.

Q: Ticket bound for Thailand?
A: Yes, ma'am.

Q: Were you able to go to Thailand?
A: Yes, ma'am. I've been in Thailand in July 18, 2005, ma'am?

Q: Who were with you?
A: I was with my girlfriend also, ma'am.

Q: What happened when you arrive in Thailand?
A: When I was in Thailand I was met by Thailander tourist guide named Mickey and he brought us to First House Hotel in Bangkok, Thailand. There was also an applicant there named Susan and said that we just have to wait because Estrellita Tendenilla is coming to pick us up, ma'am.

Q: Were you able to meet Estrellita Tendenilla?
A: When I met her in Bangkok I already gave the placement fee to her because Ginette Azul told us to give the placement fee personally to her, ma'am.

COURT:

Q: To?
A: To Estrellita Tendenilla, Your Honor.

Q: How many days you stayed there?
A: For just thirty (30) minutes, Your Honor.

x x x x

Q: Where?
A: First House Hotel, Your Honor, in July 18, 2005.

Q: Where in the Hotel lobby?
A: Yes, Your Honor.

Q: That's where you gave the balance?
A: The initial P100,000.00, Your Honor.

Q: All in all you already gave P200,000.00?
A: No, Your Honor. When I was bound to go to Thailand when I was about to [board] the plane, Ginette have told us to personally give the money to Estrellita Tendenilla, Your Honor.

Q: So the money which your mother gave to her was returned back to you?

A: Yes, Your Honor, because I will be the one [to] personally give it to Estrellita Tendenilla, Your Honor.

PROS. DIMAGUILA:

Q: So it was received by Estrellita Tendenilla?
A: Yes, ma'am.

Q: Do you have receipt that it was received by Estrellita Tendenilla?
A: She did not give any receipt, ma'am.[24]

As culled from the testimonies of the private complainants, it was established that first, they all met Tendenilla through Azul; second, Tendenilla personally, or through Azul, assured them that she has the power and capacity to deploy workers to London; third, they also paid Tendenilla, directly or through Azul, placement fees in the amounts ranging from ₱100,000.00 to ₱200,000.00 each; fourth, they were sent first to Thailand while waiting for the processing of their working visas to London; fifth, they travelled to Penang, Malaysia to obtain a non-immigrant Thailand visa to validate their stay in Thailand; and sixth, they were arrested and deported back to the Philippines by the Thailand immigration office.

To prove illegal recruitment, it must be shown that appellant gave complainants the distinct impression that he had the power or ability to send complainants abroad for work such that the latter were convinced to part with their money in order to be employed.[25]

The first element of large scale illegal recruitment was proven by the testimonies of the private complainants which the trial court found to be credible and convincing. We find that they were given in a clear, positive and straightforward manner. Between the positive and categorical testimonies of private complainants and the unsubstantiated denials of appellants, we give more weight to the former.

The certification issued by the Philippine Overseas Employment Administration that Tendenilla is not licensed to recruit workers for overseas employment constitutes the second element of the crime of illegal recruitment.

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24 TSN, 10 May 2006, pp. 4-10.
25 *People v. Ocden*, G.R. No. 173198, 1 June 2011, 650 SCRA 124, 142.

The third element is likewise satisfied when at least six (6) individuals filed the case, claimed and in fact, were found to have been defrauded by appellants.

As for Rea's participation as a principal, it was likewise established by the testimonies of the following witnesses, to wit:

Testimony of Alvaro Trinidad:

PROS. DIMAGUILA:

Q: Who assisted you while in Thailand?
A: Ginette Azul, JR and Tendenilla, Ma'am.

Q: Who is JR?
A: Ma Jenny Rea Guevarra, Ma'am.

Q: When for the first time did you meet Ma Jenny y Guevarra?
A: In Bangkok, Ma'am.

Q: When?
A: July 3, Ma'am.

Q: Where did you meet Jenny Rea?
A: Hotel in Bangkok, Ma'am.

x x x x

Q: After July 6 what happened?
A: They brought me at the border, your Honor.

Q: Border of what?
A: Thailand and Malaysia, your Honor.

PROS. DIMAGUILA:

Q: Who were with you?
A: JR, ma'am.

Q: You are referring to Jenny Rea?
A: Yes, Ma'am.

Q: Who else?
A: Estrellita Tendennilla, Ma'am.

Q: Who else?
A: Ginette Azul, Ma'am.

Q: Who else?
A: My other companions 8 of them, Ma'am.

Q: What happened?
A: JR took our visa at Thailand Embassy, Ma'am.[26]

Testimony of Michael Soriano:

Q: How about Jenny Rea who introduced to you Jenny Rea?
A: Ginette Azul, Sir.

Q: And what is the participation of Jenny Rea?
A: She was one of the person who sent us in the airport, Sir.

Q: She brought you to the airport?
A: Yes, Sir.

Q: That's all?
A: And also in Malaysia, Sir.

Q: In other words Ginette Azul was the one who promised employment to you?
A: No, Sir, Estrellita Tendenilla.

Q: Was she not the one who processed your visa?
A: No, Sir.

Q: Who processed your visa?
A: Jenny Rea, Sir.

Q: Did you give your name to Jenny Rea to process your visa?
A: No, Sir.

Q: How did she process your visa?
A: She assisted us in going to Penang, Sir.

Q: So Jenny Rea was the one who assisted you in processing your visa?
A: Yes, Sir.

Q: You mentioned that she assisted you in?
A: Applying for non-immigrant visa, Sir.[27]

Testimony of Rebecca Villaluna:

Q: Who promised you employment for London?
A: Estrellita Tendenilla, Sir.

Q: How about Ginette Azul?
A: She was just listening, Sir.

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26 TSN, 2 March 2006, pp. 16-17.
27 TSN, 25 April 2006, pp. 29-30.

Q: Whom did you give money?
A: Ginette Azul.

Q: But the one who promised you employment abroad was?
A: Estrellita Tendenilla.

Q: So, the only participation of Jenny Rea was to assist you in giving you allowance when you were in Bangkok?
A: Yes, Sir.

x x x x

Q: And another participation of Jenny Rea was she asked you to sign a form?
A: Yes, Sir.

Q: For what was that form?
A: For Korea and Singapore, Sir.

x x x x

Q: Does this Jenny Rea when you were in Bangkok helping you?
A: Yes, Sir.

Q: Jenny Rea did not deceive you?
A: No, she was the one who helped us, she is the companion of Estrellita Tendenilla.

ATTY. ENCINAS:

No further question.

COURT:

She is presently detained?

A: Yes, your Honor.

Q: She is detained because you filed a case against her?
A: Yes, your Honor.

Q: Including your companion?
A: Yes, your Honor.

Q: My question to you now is based on your earlier answer when it was propounded to you by the defense counsel that this accused did not deceived you and in fact she was the one helping what is now your position insofar as this case is concerned?
A: She was one of the companion[s] of Estrellita Tendenilla that Estrellita Tendenilla (*sic*) was the one who find ways to get money, your Honor.

Q: So, this accused is one of the companions of Estrellita Tendenilla?
A: Yes, your Honor.

Q: So you are not absolving [her] from any liability that's what you mean?
A: I was not absolving her because she was the companion of Estrellita Tendenilla.[28]

Testimony of Maricel Tumamao:

Q: You said you [were] able to leave for Thailand?
A: Yes, ma'am.

Q: Where you accompanied by some other persons?
A: Yes, ma'am.

Q: Who were with you?
A: Mrs. Tendenilla and Jenny Rea accompanied us in Thailand, ma'am.

X x x x

Q: What happened upon you[r] [arrival] at Bangkok?
A: Jenny Rea and Mrs. Tendenilla brought us to the hotel, ma'am.[29]

Testimony of Nyann Pasquito:

COURT:

So when for the first time did you meet Estrellita Tendenilla?
A: July 18, 2005, Your Honor.

Q: Where?
A: First House Hotel in Thailand, Your Honor.

Q: What about Maria Jenny Rea?
A: August 13, 2005, Your Honor.

Q: That was before your departure to Thailand?
A: Pardon, Your Honor.

Q: That was before or after your departure to Thailand?
A: After, Your Honor.

Q: So after you were repatriated already that's the first time you [met] Maria Jenny Rea?
A: Yes, Your Honor.

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28 TSN, 1 February 2006, pp. 28-31.
29 TSN, 21 March 2006, pp. 24-26.

Q: So during the whole dealings regarding your employment for abroad these two (2) accused, you never met these two (2) accused?
A: Yes, Your Honor.

Q: While you were dealing regarding your supposed employment abroad accused Jenny Rea and Estrellita Tendenilla were not part of this?
A: They were part, Your Honor.

Q: In what way were they part of the dealing?
A: Estrellita Tendenilla promised me for employment abroad, Your Honor.

Q: Where did she promise you?
A: In Bangkok, Thailand, Your Honor.

COURT:

That is why my question to you is, during the transaction here in the Philippines before you were deployed abroad, before you left for any country while you were still here in the Philippines while you were still processing your papers, the supposed employment abroad, did you meet Maria Jenny Rea and Estrellita Tendenilla?
A: No, Your Honor, because they were in Thailand according to Ginette Azul, Your Honor. Ginette Azul told us that once we arrived [in] Thailand we will meet personally Estrellita Tendenilla, Your Honor.

Q: In the Philippines there was no occasion for you to meet Estrellita Tendenilla and Maria Jenny Rea?
A: Yes, Your Honor.

Q: But when you reached Thailand you only [met] Estrellita Tendenilla?
A: Yes, Your Honor.

Q: And it is in Thailand where [you met] Estrellita Tendenilla regarding your possible employment in London?
A: Yes, Your Honor.

Q: As?
A: Caregiver, Your Honor.

Q: But this did not materialize because you were repatriated to our country?
A: Yes, Your Honor.

Q: Back to the Philippines that is when you meet for the first time Maria Jenny Rea?
A: Yes, Your Honor, when we went back to the training center according to Maria Jenny Rea that she will not tell us what

province did this Estrellita Tendenilla was at that time and according to her also Estrellita Tendenilla was with an employer recruiting teachers and nurses, Your Honor.

COURT:

So that's the first time you met Maria Jenny Rea only?
A: Yes, Your Honor.

Q: Based on all your answers there was no transaction, there was no promise or any job employment coming from Jenny Rea?
A: She also promised me, Your Honor.[30]

Testimony of Cyrus Chavez:

Q: What happened when you went to Roces Avenue?
A: I went there with my girlfriend, ma'am, we met Jenny Rea one of the accused, ma'am.

Q: What happened during your meeting with Jenny Rea?
A: She said, "you just have to wait we [are] already processing your paper and if you want to reimburse your money you have just to wait because we're already recruiting some of the applicants and the money that the applicants will be giving are the one[s] will (sic) be giving back to you." Ma'am.

Q: It was Jenny Rea who told you that?
A: Yes, ma'am and they actually using some other people's money to pay us back. Then after that she also said that, "*hinding-hindi namin ilalabas si Estrellita Tendenilla sa inyo, hindi naming siya isusuko at hindi naming siya ipakikita*."

Q: It was Jenny Rea who told you that?
A: Yes, ma'am, because they thought we're all very angry, ma'am. "*Hindi namin siya ilalabas, kailangan maghintay kayo nandiyan na ang papers ninyo, gumastos na kami ng pera diyan, maghintay kayo.*"[31]

Rea's complicity was proven by her participation during the recruitment at the training center; the fact that she accompanied Rebecca and Maricel on their flight to Thailand; her presence in the hotel in Thailand; the accommodation she provided while in Thailand; that she accompanied complainants to Malaysia to obtain a non-immigrant visas; and when she offered to re-deploy the disgruntled complainants, this time, to Korea.

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30 TSN, 14 February 2006, pp. 34-37
31 TSN, 10 May 2006, pp. 25-26.

Conspiracy may be deduced from the mode and manner in which the offense was perpetrated; or from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.[32]

It is equally clear from the narration of private complainants that appellants, together with Azul, conspired to commit the crime of illegal recruitment. Azul referred all private complainants to Tendenilla, who made representations that she could deploy them abroad. It was either Azul or Tendenilla who received the payment of placement fees. And as previously stated, Rea met some of the complainants at the training center, and accompanied some of them while in Thailand. Their actions showed unity of purpose and, taken all together, leave no doubt that they are co-conspirators.

We reiterate the findings of the Court of Appeals, to wit:

> In the case at bar, it cannot be doubted that both accused-appellants indispensably cooperated and coordinated in illegally recruiting the private complainants. From the evidence, it can be seen that the success of the scheme depended on accused-appellants' joint efforts. Estrellita Tendenilla directly dealt with the private complainants, promising them employment, demanding money from them, conducting dubious trainings, and sending them to Thailand. Maria Jenny Rea, on the other hand, covered the next phase of the process, that is, travelling with the private complainants to Thailand, bringing them to the border of Thailand and Malaysia, securing their fraudulent non-immigrant visas, and accompanying them back to the Philippines.[33]

Based on the foregoing, appellants were correctly found guilty of large scale illegal recruitment tantamount to economic sabotage.

Under Section 7(b) of Republic Act No. 8042,[34] the penalty of life imprisonment and a fine of not less than ₱500,000.00 nor more than ₱1,000,000.00 shall be imposed if illegal recruitment constitutes economic sabotage. Thus, the trial court, as affirmed by the appellate court, is correct in imposing the penalty of life imprisonment and a fine of ₱500,000.00 for each of the appellants.

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32 *People v. Pansacala*, G.R. No. 194255, 13 June 2012, 672 SCRA 549, 559.
33 *Rollo*, p. 15.
34 *The Migrant Workers and Overseas Filipinos Act of 1995*.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 03178 affirming the trial court's conviction of appellants Maria Jenny Rea *y* Guevarra and Estrellita Tendenilla for large scale illegal recruitment is **AFFIRMED**.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

ARTURO D. BRION
Associate Justice
Acting Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

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.

ARTURO D. BRION
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

MARIA LOURDES P. A. SERENO
Chief Justice