



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

“G.R. No. 229238 – (DELIA MOLINA y CABRAL, petitioner v. PEOPLE OF THE PHILIPPINES, respondent). – This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision¹ dated May 13, 2016 and the Resolution² dated November 29, 2016 issued by the Court of Appeals (CA) in CA-G.R. CR No. 37121. The CA Decision, further affirmed by its Resolution, upheld the Decision³ dated October 23, 2014 of the Regional Trial Court of Makati City (RTC), Branch 139, in Criminal Case No. 09-361, holding petitioner Delia Molina y Cabral (Molina) guilty beyond reasonable doubt of illegal recruitment as penalized under Section 6(m) of Republic Act (R.A.) No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended.

After a perusal of the records of the case, this Court resolves to deny the petition for failure to show reversible error in the CA Decision and the Resolution to warrant the exercise of its appellate jurisdiction.

The following are the antecedent facts of the case as summarized in the CA Decision:

In an Information filed before RTC on 30 March 2009, herein accused-appellant Delia C. Molina and Rolando Salilin were charged with Violation of Section 6(m) of RA No. 8042, or the Migrant Workers and Overseas Filipinos Act of 1995. The accusatory portion reads:

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¹ *Rollo*, pp. 31-42; penned by Associate Justice Manuel M. Barrios, with Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio Diy, concurring.

² *Id.* at 45-47.

³ *Id.* at 65-75; penned by Presiding Judge Benjamin T. Pozon.

x x x x

On or about the 4th day of June, 2006, in the City of Makati, the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously recruit, promise employment/job placement abroad to, and collect placement and processing fees of P75,000.00 from Antonio N. Distura, Jr., and after having collected said fees and after having failed to actually deploy complainant as promised, the accused failed and refused to reimburse complainant with the [aforementioned] fees, despite demands therefor and in violation of the above-cited provision of law.

CONTRARY TO LAW.

x x x x

Only appellant Molina was arrested, arraigned and faced trial, while accused Salilin remained [at large].

From the prosecution's evidence, it is gathered that sometime in February 2006, private complainant Antonio Distura, Jr. read in the Buy and Sell Magazine a job advertisement looking for factory workers to be deployed in Korea. He inquired for details from the contact number indicated therein, and received a reply from accused Salilin confirming the job vacancy and informing him of the needed requirements and placement fee of Seventy[-]Five Thousand Pesos (P75,000.00).

In May 2006, complainant went to the office of the referred agency situated at No. 44, Filmore corner Calatagan Streets, Palanan, Makati City, which turned out to be Southern Cotabato Landbase and Management Corporation (SCLMC). He was met thereat by accused Salilin who introduced himself as the Corporate Director of SCLMC and explained the job requirements. It is relevant to state that accused Salilin can be perceived to be an employee of said agency considering that he has an office table specifically assigned to him.

On 04 June 2006, complainant returned to SCLMC to give the documentary requirements as well as the down payment amounting to Forty[-]Five Thousand Pesos (P45,000.00). Accused Salilin received the amount and issued a receipt therefor. In the office, complainant saw a woman – whom he later identified as appellant Molina – greeting the staff. She also inquired from accused Salilin about complainant, and Salilin replied that complainant was an applicant who had just partially paid his placement fee. After she went upstairs, accused Salilin informed complainant that the woman is herein appellant Molina who is the principal owner and President of SCLMC.

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On 24 June 2006, complainant went back to SCLMC to pay the remaining balance of his placement fee in the amount of Thirty Thousand Pesos (P30,000.00) to accused Salilin who promptly issued a receipt. As in his previous visit, complainant saw appellant Molina [interacting] with the office staff.

Months passed, but complainant was not deployed for overseas employment as promised. In May 2007, he went to the agency to [follow up] on his application, but he was told that there was no available work for him yet. Frustrated by the turn of events, complainant demanded the refund of his placement fee, but there was no positive action.

On 26 July 2007, when complainant returned to the agency, he found that the office of SCLMC was already closed. This prompted him to report the matter to the Makati Police Station, which then referred him to the National Bureau of Investigation's (NBI) Anti-Human Trafficking Division. Taking action on his complaint, the NBI conducted an investigation and submitted its report and recommendation to the Makati City Prosecution's Office. After a preliminary investigation which found the existence of probable cause, an Information for Illegal Recruitment was filed against herein accused-appellant Molina and accused Salilin.

As heretofore stated, only appellant Molina stood trial, accused Salilin evaded arrest and remained a fugitive. In her defense, appellant Molina flatly denied any involvement nor participation in the fraudulent recruitment of complainant for alleged overseas employment that was carried out by accused Salilin. She denied knowing complainant nor accused Salilin, much less is Salilin an employee of her agency (SCLMC), nor given the authority to recruit in her behalf. Appellant Molina contends that SCLMC had three (3) employees only, namely: Pedro Gitoria, Jr., and Rhodora Lagos, and Angelita Palabay who are the Liaison Officer, Alternate Liaison Officer and Secretary, respectively. Moreover, at the time material, SCLMC's license to operate as suspended by the Philippine Overseas Employment Administration (POEA) as of 31 May 2006 for failure to submit certain documentary requirements, and this suspension lasted up to and lifted on 31 July 2006; hence, it cannot be said that complainant and accused Salilin could have transacted business in their office on June 04 and 24, 2006 as their agency was closed by virtue of said suspension order. Further, there is no truth that SCLMC posted a job vacancy offer in the Buy and Sell Magazine in February 2006 because its application for a POEA license was not yet approved at that time. It advertised a job posting for the first time only on 04 August 2006 in the *Bulgar* tabloid when it resumed operations. In view of this, she could not have met complainant and accused in the SCLMC office on 04 and 24 June 2006 as it was then closed on

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account of the suspension, and during the period of closure, she traveled to different countries to obtain documents required by the POEA.⁴

On October 23, 2014, the RTC issued its Decision⁵ of even date holding Molina guilty beyond reasonable doubt of illegal recruitment:

WHEREFORE, premises considered, this court finds accused DELIA C. MOLINA of Southern Cotabato Landbase Management Corporation GUILTY BEYOND REASONABLE DOUBT as principal by direct participation of the crime of Violation of Section 6 (Illegal Recruitment) paragraph (m) of Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995 before it was amended by Republic Act No. 10022, and hereby sentences her to suffer the penalty of imprisonment from six (6) years and one (1) day, as minimum, to twelve (12) years, as maximum, applying the Indeterminate Sentence Law (Act No. 4103 as amended by Act No. 4225) to pay a fine of Two Hundred Thousand Pesos (Php200,000.00) and to reimburse to complainant Antonio N. Distura, Jr., the amount of Seventy Five Thousand (Php75,000.00) representing the placement and processing fees he paid to the accused for employment/job placement abroad which the latter failed to do, and to pay the cost of this suit.

SO ORDERED.⁶

The RTC convicted Molina of illegal recruitment as the owner and manager of the recruitment agency Southern Cotabato Landbase Management Corporation (SCLMC) which recruited Antonio N. Distura, Jr. (Distura) for employment in Korea but failed to deploy him and thereafter return his placement and processing fees.

The RTC rejected Molina's claim that she did not know Rolando Salilin (Salilin) who transacted with Distura in SCLMC. It emphasized that Molina's denial was belied by the established facts of the case. It would have been impossible for her not to know Salilin considering the latter was free to roam around and use the SCLMC office.

Molina appealed the RTC Decision and filed his Brief for the Accused-Appellant⁷ dated July 27, 2015 with the CA. The Office of the Solicitor General (OSG) representing the State likewise filed a Brief for the Plaintiff-Appellee⁸ dated December 1, 2015.

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⁴ Id. at 33-35.

⁵ Id. at 65-75.

⁶ Id. at 75.

⁷ Id. at 48-63.

⁸ Id. at 76-85.

On May 13, 2016, the CA issued its now assailed Decision⁹ sustaining the conviction of Molina for illegal recruitment. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the Decision dated 23 October 2014 of Regional Trial Court, Branch 139, Makati City is AFFIRMED.

SO ORDERED.¹⁰

The CA convicted Molina as the principal owner and operator of SCLMC. It held that sufficient evidence was presented to prove that Salilin was connected with or was an employee of SCLMC, or at least authorized by Molina to conduct illegal recruitment activities against Distura on behalf of SCLMC within its office premises.¹¹

Molina filed a Motion for Reconsideration¹² of the Decision but was denied by the CA in its Resolution¹³ dated November 29, 2016.

Aggrieved, Molina now filed the instant Petition for Review on *Certiorari*¹⁴ appealing the CA Decision and Resolution.

The State, through the OSG, filed its Comment¹⁵ dated August 3, 2017 to the petition for review on *certiorari*, to which Molina filed a Reply¹⁶ dated December 4, 2017.

In her appeal, Molina primarily argued that there was insufficient proof of her identity as the perpetrator of the crime. She claimed that Distura's testimony failed to prove that she participated in illegal recruitment activities against him. The impression that Salilin had the power to send Distura abroad was due solely to the former's actions.¹⁷

The petition is denied. The conviction of Molina for illegal recruitment is sustained.

It is an established rule that the Supreme Court is not a trier of facts. The jurisdiction of this Court under Rule 45 of the Rules of Court is limited to reviewing questions of law. It is a matter of sound practice

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⁹ Id. at 31-42.

¹⁰ Id. at 42.

¹¹ Id. at 38.

¹² Id. at 132-138.

¹³ Id. at 45-47.

¹⁴ Id. at 11-25.

¹⁵ Id. at 141-153.

¹⁶ Id. at 211-215.

¹⁷ Id. at 20-22.

that factual issues such as the sufficiency of evidence and the evaluation of the credibility of witnesses and their testimonies are best undertaken by lower courts because they are able to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination.¹⁸

Thus, “factual findings of the lower courts are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record.”¹⁹ These factual findings will not be reviewed on appeal to this Court.

A reading of the petition shows that it merely reiterated factual issues and arguments previously raised and already fully passed upon by the CA. We find no compelling reason to disturb the CA’s factual findings and ruling.

Based on the records, the CA correctly held that sufficient evidence was presented to establish Molina’s identity as the perpetrator of the crime. It is unbelievable that Molina did not know Salilin or the fact that Distura was being illegally recruited through her recruitment agency SCLMC. It was proved that (1) Distura had multiple meetings at the SCLMC office with Salilin who fronted as its Corporate Director; (2) Salilin had his own table inside the SCLMC office; (3) Distura was issued SCLMC receipts after paying processing and placement fees; (4) Distura saw Molina twice at the SCLMC office during his meetings there and Salilin identified her as the President of SCLMC; and (5) Molina approached Distura and Salilin once during their meeting and even inquired as to who Distura was.

This is further bolstered by the CA’s final and executory Decision²⁰ dated July 18, 2012, in the case of *People v. Molina*²¹ which was given judicial notice. In the cited case, Molina was convicted with finality for another count of illegal recruitment against Levy Francisco. The factual milieu was similar to this case and it was conclusively established therein that Molina knew and worked with Salilin and was involved in his illegal recruitment activities.²²

Consequently, Molina’s primary argument on appeal is without merit. The CA correctly held that all the elements of illegal recruitment,

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¹⁸ *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 766 (2013), citing *Madrigal v. Court of Appeals*, 496 Phil. 149, 156-157 (2005); *Cu v. Ventura*, G.R. No. 224567, September 26, 2018; *People v. Mangune*, 698 Phil. 759, 769-770 (2012).

¹⁹ *Macayan, Jr. v. People*, 756 Phil. 202, 214-215 (2015), citing *People v. Esteban*, 735 Phil. 663, 671 (2014).

²⁰ *Rollo*, pp. 105-126.

²¹ *Id.* at 128.

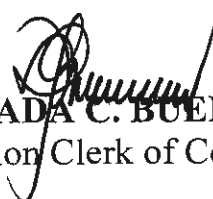
²² *Id.* at 41.

as well as the identity of Molina as the perpetrator of the crime, have been fully established. It is clear that (1) Molina illegally recruited Distura through her agency SCLMC and employee or agent Salilin, and (2) at the time of such illegal recruitment in June 2006, did not have the requisite license or authority from the Philippine Overseas Employment Administration by virtue of a suspension order effective from May 31, 2006 until July 31, 2006. Molina is also undeniably the guilty officer under the law with control, management, and direction of SCLMC.²³

WHEREFORE, premises considered, the instant Petition for Review on *Certiorari* is **DENIED** for lack of merit. The Decision dated May 13, 2016 and the Resolution dated November 29, 2016 of the Court of Appeals in CA-G.R. CR No. 37121, which found Delia Molina y Cabral **GUILTY** beyond reasonable doubt of illegal recruitment penalized under Section 6(m) of Republic Act No. 8042, as amended, are **AFFIRMED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
#319

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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²³ REPUBLIC ACT NO. 8042, Section 6, as amended.



The Hon. Presiding Judge
Regional Trial Court, Branch 139
1200 Makati City
(Crim. Case No. 09-361)

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