Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

VILMA M. SULIMAN,
Petitioner,

- *versus* -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 190970

Present:

VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
DEL CASTILLO,*
VILLARAMA, JR., and
JARDELEZA, *JJ.*

Promulgated:

November 24, 2014

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DECISION

PERALTA, *J.*:

Assailed in the present petition for review on *certiorari* is the Resolution[1] of the Court of Appeals (*CA*) dated July 21, 2009, in CA–G.R. CR No. 30693 which denied herein petitioner's Motion to Admit Attached Motion for Reconsideration, as well as the appellate court's Resolution[2] dated January 8, 2010, which likewise denied petitioner's Motion for Reconsideration of the CA Resolution dated July 21, 2009.

The factual and procedural antecedents of the case are as follows:

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* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Raffle dated November 24, 2014.

1 Penned by Associate Justice Isaias Dicdican, with Associate Justices Bienvenido L. Reyes (now a member of this Court) and Marlene Gonzales-Sison, concurring; Annex "A" to Petition, *rollo*, p. 31.

2 Annex "B" to Petition, *rollo*, pp. 33-36.

In six (6) Informations,[3] all dated June 6, 2003, herein petitioner and one Luz P. Garcia were charged before the Regional Trial Court (*RTC*) of Manila with two (2) counts of illegal recruitment under Section 6, paragraphs (a), (l) and (m) of Republic Act No. 8042, otherwise known as the *Migrant Workers and Overseas Filipinos Act of 1995*, as well as four (4) counts of *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code.

Only petitioner was brought to trial as her co-accused, Garcia, eluded arrest and remained at-large despite the issuance of a warrant for her arrest.

The six cases were consolidated and, after trial, the RTC of Manila, Branch 21, rendered judgment finding petitioner guilty beyond reasonable doubt of two (2) counts of illegal recruitment and three (3) counts of *estafa*. The dispositive portion of the RTC Decision,[4] dated June 7, 2006, reads as follows:

> WHEREFORE, premises considered, the Court finds as follows:
>
> 1) In Crim. Case Nos. 03-216188 and 03-216189, accused VILMA SULIMAN GUILTY beyond reasonable doubt as principal of the crimes charged and is hereby sentenced to suffer the indeterminate penalty of SIX (6) YEARS each and to pay fine of ₱200,000.00 for each count.
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> 2) In Crim. Case No. 03-216190, accused VILMA SULIMAN GUILTY beyond reasonable doubt as principal of the crime charged and is hereby sentenced to suffer the penalty of SIX (6) MONTHS and ONE (1) DAY to TWO (2) YEARS and ONE (1) DAY of prision correctional (sic) and to indemnify Anthony Mancera y Rey the amount of ₱120,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.
>
> 3) In Crim. Case No. 03-216191, accused VILMA SULIMAN GUILTY beyond reasonable doubt as principal of the crime of Estafa and is hereby sentenced to suffer the penalty of FOUR (4) YEARS and TWO (2) MONTHS of prision correctional (sic) and to indemnify private complainant Perlita A. Prudencio the amount of ₱132,460.00 without subsidiary imprisonment in case of insolvency and to pay the costs.
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> 4) In Crim. Case No. 03-216192, for failure of the prosecution to prove the guilt beyond reasonable doubt, accused VILMA SULIMAN is hereby ACQUITTED of the crime charged.
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> 5) In Crim. Case No. 03-216193, accused VILMA SULIMAN is GUILTY beyond reasonable doubt as principal of the crime charged and is hereby sentenced to suffer the indeterminate penalty of SIX (6) MONTHS and ONE (1) DAY of prision correctional (sic) and to indemnify Jimmy

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3 Records, vol. I, pp. 2-13.

4 Penned by Judge Amor A. Reyes.

> Tumabcao the amount of ₱21,400.00 without subsidiary imprisonment in cases of insolvency and to pay the cost.
>
> Accordingly, the bond posted for her provisional liberty is hereby CANCELLED.
>
> Considering that the accused Vilma Suliman was detained from January 6, 2003 to July 23, 2004 prior to her posting bond for her provisional liberty, her period of detention shall be credited in the service of her sentence.
>
> Considering that Luz Garcia has not been apprehended nor voluntarily surrendered to date, let warrant be issued for her arrest and let the case against her be ARCHIVED to be reinstated upon her apprehension.
>
> SO ORDERED.[5]

Petitioner filed a Motion for Reconsideration,[6] but the RTC denied it in its Order[7] dated January 23, 2007 for lack of merit.

Petitioner then filed an appeal with the CA.

On May 21, 2009, the CA promulgated its Decision, the dispositive portion of which reads, thus:

> **WHEREFORE**, in view of the foregoing premises, the appeal filed in this case is hereby **DENIED** and consequently, **DISMISSED**. The assailed Decision dated June 7, 2006 of the Regional Trial Court, Branch 21, in the City of Manila in Criminal Cases Nos. 03-216188, 03-216189, 03-216190, 03-216191 and 03-216193 are hereby **AFFIRMED** with the following modifications:
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> 1. In Criminal Case Nos. 03-216188 and 03-216189 for illegal recruitment, the Court sentences accused-appellant VILMA SULIMAN to suffer the indeterminate penalty of six (6) years and one (1) day, as minimum, to twelve (12) years, as maximum, and to pay a fine of Two Hundred Thousand Pesos (₱200,000.00) for each count.
>
> 2. In Criminal Case No. 03-216190 for estafa involving private complainant Anthony Mancera, the Court sentences accused-appellant Vilma Suliman to suffer a minimum period of six (6) months and one (1) day of *prision correccional* to a maximum term of fifteen (15) years, eight (8) months and twenty-one (21) days of *reclusion temporal*.
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> 3. In Criminal Case No. 03-216191 for estafa involving private complainant Perlita A. Prudencio, the Court sentences accused-appellant

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5 Records, vol. II, pp. 527-528.
6 *Id*. at 601-611.
7 *Id*. at 623-625.

> Vilma Suliman to suffer the minimum period of four (4) years and two (2) months of *prision correccional* to maximum term of seventeen (17) years, eight (8) months and twenty-one (21) days of *reclusion temporal*.
>
> 4. In Crim. Case No. 03-216193 for estafa involving private complainant Jimmy Tumabcao, the Court sentences accused-appellant Vilma Suliman to suffer the minimum term of six (6) months and one (1) day of prision correccional to maximum term of six years, eight (8) months and twenty-one (21) days of prision mayor.
>
> **SO ORDERED.**[8]

Petitioner's counsel received a copy of the above CA Decision on May 26, 2009.[9] However, neither petitioner nor her counsel filed a motion for reconsideration within the 15-day reglementary period for filing the said motion. Hence, on June 11, 2009, the subject CA Decision became final.

On July 3, 2009, petitioner, through her new collaborating counsel, filed a Motion to Admit Attached Motion for Reconsideration[10] praying that the same be admitted in the higher interest of "substantial justice and due process." Petitioner contended that her former counsel committed gross and inexcusable neglect of his duty as counsel in failing to immediately inform petitioner about his receipt of the subject CA Decision, thereby depriving petitioner of her right to file a motion for reconsideration which, in turn, is a violation of her right to due process.

On July 21, 2009, the CA issued a Resolution denying petitioner's Motion to Admit Attached Motion for Reconsideration.

Petitioner filed a Motion for Reconsideration,[11] but the CA denied it in its Resolution dated January 8, 2010.

Hence, the instant petition based on the following grounds:

> THE HONORABLE COURT OF APPEALS ERRED IN NOT ADMITTING THE MOTION FOR RECONSIDERATION OF THE PETITIONER
>
> THE HONORABLE COURT OF APPEALS ERRED IN NOT HOLDING [THAT] PETITIONER SHOULD NOT BE BOUND BY THE GROSS NEGLIGENCE OF ATTY. MAYO IN NOT INFORMING HER ABOUT HIS RECEIPT OF THE DECISION OF THE COURT OF APPEALS ADVERSE TO HER ON MAY 26, 2009 OR IN NOT FILING A

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8 *Rollo*, pp.127-128.
9 CA *rollo*, p. 192, (see reverse page which is not numbered).
10 Annex "C" to Petition, *rollo*, pp. 37-41.
11 Annex "D" to Petition, *id*. at 100-105.

> MOTION FOR RECONSIDERATION TO PROTECT THE RIGHTS AND INTEREST OF THE PETITIONER.[12]

The petition lacks merit.

The Court is not persuaded by petitioner's contention that she should not be bound by her counsel's gross neglect of duty in not informing her of the adverse decision of the CA. The Court agrees with the observation of the CA that petitioner is not entirely blameless as she was not vigilant in monitoring the progress of her case. Evidence of her negligence is the fact that she did not make any effort to personally follow up her appeal with her counsel. Instead, she merely relied on a certain Conrad Lucero, the person who referred her to her counsel, regarding updates of her appeal with the CA. In this respect, the Court's ruling in *Bejarasco, Jr. v. People*[13] is instructive, to wit:

> The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel within the scope of the authority is regarded, in the eyes of the law, as the act or omission of the client himself. A recognized exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law. For the exception to apply, however, the gross negligence should not be accompanied by the client's own negligence or malice, considering that the client has the duty to be vigilant in respect of his interests by keeping himself up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against him.
>
> Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.[14]

It may not be amiss to add that this Court notes the propensity of petitioner and her counsel to disregard the Rules and directives of the Court. In a Resolution[15] issued by this Court on March 14, 2011, petitioner's counsel was admonished for his failure to file petitioner's Reply to Comment which was required in an earlier Resolution issued by this Court.

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12 *Rollo*, p. 8.
13 G.R. No. 159781, February 2, 2011, 641 SCRA 328.
14 *Bejarasco, Jr. v. People*, *supra*, at 330-331.
15 *Rollo*, p. 197.

Moreover, it is a settled rule that the right to appeal is neither a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provision of law.[16] An appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated.[17] The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases.[18] In an age where courts are bedevilled by clogged dockets, the Rules need to be followed by appellants with greater fidelity.[19] Their observance cannot be left to the whims and caprices of appellants. In the instant case, petitioner remained obstinate in her non-observance of the said Rules. Such obstinacy is incongruous with her late plea for liberality in construing the Rules. On the above basis alone, the Court finds that the instant petition is dismissible.

In any case, even if the Court bends its Rules to allow the present petition, as it appears that petitioner assails not only the denial by the CA of her motion to admit her belated Motion for Reconsideration but likewise seeks the reversal of her conviction for illegal recruitment and estafa, the Court still finds no cogent reason to depart from the assailed ruling of the CA. Indeed, after a careful and thorough review of the evidence on record, the Court finds that the lower courts did not commit any error in convicting petitioner of the crimes of illegal recruitment and *estafa*.

At this point, it bears reiterating that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, the factual findings of the RTC, especially when affirmed by the CA, are generally held binding and conclusive on the Court.[20] We emphasize that while jurisprudence has provided exceptions[21] to this rule, the petitioner carries the burden of proving that one or more exceptional circumstances are present in the case.[22] The petitioner must additionally show that the cited exceptional circumstances will have a bearing on the results of the case.[23] In the instant

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16 *Macapagal v. People of the Philippines*, G.R. No. 193217, February 26, 2014; *Fenequito v. Vergara, Jr.*, G.R. No. 172829, July 18, 2012, 677 SCRA 113.

17 *Id*. at 117.

18 *Id*.

19 *Id*.

20 *Magtira v. People of the Philippines*, G.R. No. 170964, March 7, 2012, 667 SCRA 607, 615.

21 They are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) *when the findings are grounded entirely on speculations, surmises or conjectures*; (4) when the judgment of the Court of Appeals is based on misapprehension of facts; (5) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (6) when the findings of fact are conclusions without citation of specific evidence on which they are based; (7) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. (Id. citing *Dueñas v. Guce-Africa*, G.R. No. 165679, October 5, 2009, 603 SCRA 11, 20-21.)

22 *Magtira v. People of the Philippines*, *supra* note 20.

23 *Id.*

case, the Court finds that none of the exceptions are present . Thus, there is no cogent reason to depart from the findings of both the RTC and the CA that petitioner is guilty beyond reasonable doubt of the crimes charged.

The crime of illegal recruitment is defined under Section 6 of RA 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, which provides as follows:

> Sec. 6. DEFINITIONS. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-license 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 such non-license 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 persons, whether a non-licensee, non-holder, licensee or holder of authority.
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> **(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance**;
>
> (b) To furnish or publish any false notice or information or document in relation to recruitment or employment;
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> (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;
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> (d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
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> (e) To influence or attempt to influence any persons or entity not to employ any worker who has not applied for employment through his agency;
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> (f) To engage in the recruitment of placement of workers in jobs harmful to public health or morality or to dignity of the Republic of the Philippines;
>
> (g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;
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> (h) To fail to submit reports on the status of employment, placement vacancies, remittances of foreign exchange earnings, separations from

> jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;
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> (i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;
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> (j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;
>
> (k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;
>
> **(l) Failure to actually deploy without valid reasons as determined by the Department of Labor and Employment**; and
>
> **(m) Failure to reimburse expenses incurred by the workers in connection with his documentation and processing for purposes 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 as offense involving economic sabotage.**
>
> Illegal recruitment is deemed committed by a syndicate 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.**[24]

In the present case, both the RTC and the CA found that the prosecution has established that petitioner and her co-accused committed the acts enumerated under the provisions of Section 6 (a), (l) and (m) of RA 8042 when: (1) they separately charged the private complainants the amounts of ₱132,460.00, ₱120,000.00 and ₱21,400.00 as placement fees; (2) they failed to actually deploy the private complainants without valid reasons, and; (3) they failed to reimburse the said complainants after such failure to deploy.

As to the charge of *estafa*, the act complained of in the instant case is penalized under Article 315, paragraph 2(a) of the RPC, wherein *estafa* is

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[24] Emphases supplied.

committed by any person who shall defraud another by false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud. It is committed by using fictitious name, or by pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits. The elements of *estafa* by means of deceit are the following, *viz.*: (a) that there must be a false pretense or fraudulent representation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage.[25]

In the instant case, all the foregoing elements are present. It was proven beyond reasonable doubt, as found by the RTC and affirmed by the CA, that petitioner and her co-accused misrepresented and falsely pretended that they had the capacity to deploy the private complainants for employment either in South Korea, Saudi Arabia and Canada. The misrepresentation was made prior to private complainants' payment of placement fees. It was the misrepresentation and false pretenses made by petitioner and her co-accused that induced the private complainants to part with their money. As a result of such false pretenses and misrepresentations, the private complainants suffered damages as the promised employment abroad never materialized and the various amounts of money they paid were never recovered.

Petitioner argues that she could not be held liable because she was not privy nor was she aware of the recruitment activities done by her co-accused. Petitioner avers that when her co-accused received several amounts of money from the private complainants, she acted in her personal capacity and for her own benefit without the knowledge and consent of petitioner. The Court is not persuaded. As owner and general manager, petitioner was at the forefront of the recruitment activities of Suliman International. Undoubtedly, she has control, management or direction of the business of the said company. Petitioner's denial is an intrinsically weak defense, especially in the face of positive assertions made by the private complainants who had no ill motive to falsely testify against her. Indeed, of marked relevance is the absence of any showing that the private complainants had any ill motive against petitioner other than to bring her to the bar of justice to answer for the crime of illegal recruitment. Besides, for strangers to conspire and accuse another stranger of a most serious crime just to mollify their hurt feelings would certainly be against human nature

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[25] *People v. Chua*, G.R. No. 187052, September 13, 2012, 680 SCRA 575, 592; *Sy v. People*, G.R. No. 183879, April 14, 2010, 618 SCRA 264, 271.

and experience.[26] Where there is nothing to show that the witnesses for the prosecution were actuated by improper motive, their positive and categorical declarations on the witness stand under the solemnity of an oath deserve full faith and credence.[27] In any case, petitioner cannot deny participation in the recruitment of the private complainants because the prosecution has established that petitioner was the one who offered the private complainants an alleged alternative employment in Ireland when their original deployment did not materialize.

WHEREFORE, the instant petition is **DENIED**. The Resolutions of the Court of Appeals, dated July 21, 2009 and January 8, 2010 in CA-G.R. CR No. 30693, are **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

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26 *People v. Nogra*, 585 Phil. 712, 724 (2008).
27 *Id.*

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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice