IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 245

Magistrate's Appeal No 9048 of 2023/01

Between

Ferrer Luwi Inez Ramos

… *Appellant*

And

Public Prosecutor

… *Respondent*

Magistrate's Appeal No 9048 of 2023/02

Between

Public Prosecutor

… *Appellant*

And

Ferrer Luwi Inez Ramos

… *Respondent*

GROUNDS OF DECISION

[Criminal Law — Statutory offences — Employment of Foreign Manpower Act]
[Criminal Law — Appeal]

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v
Public Prosecutor and another appeal

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Vincent Hoong J
13 March, 16 May 2024

25 September 2024

Vincent Hoong J:

Introduction

1 The appellant, Ms Ferrer Luwi Inez Ramos, claimed trial to two charges for abetting by intentionally aiding the making of false declarations in connection with two work pass applications under s 22(1)(*d*) punishable under s 22(1)(ii) and read with s 23(1) of the Employment of Foreign Manpower Act (Cap 91A, 2009 Rev Ed) ("EFMA"). The District Judge ("DJ") convicted her of both charges and sentenced her to three weeks' imprisonment for each charge The sentences were ordered to run concurrently (*Public Prosecutor v Ferrer Luwi Inez Ramos* [2023] SGMC 84) ("GD") at [178]).

2 There were two related appeals before me:

(a) The appellant's appeal against her conviction of the two EFMA charges (HC/MA 9048/2023/01).

(b) The Prosecution's cross appeal against the sentence imposed on the appellant for the two EFMA charges (HC/MA 9048/2023/02).

3 On 13 March 2024, in exercise of the court's powers under s 390(4) of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC"), I amended the appellant's two charges to charges of abetment by *engaging in a conspiracy* with Ms Ribaya Noriza Azana ("Ribaya") and Ms Payoyo Irish Llagas ("Payoyo") to make false declarations in connection with the two work pass applications. Under s 390(6) of the CPC, I invited the appellant to offer a defence to the amended charges and adjourned the hearing for her to decide on a course of action.[1]

4 On 16 May 2024, the appellant indicated that she did not intend to offer a defence to the amended charges. I dismissed the appeal against conviction and allowed the Prosecution's appeal against the sentence imposed. The appellant was sentenced to six weeks' imprisonment for each charge, with both sentences to run concurrently.[2] I now set out the detailed grounds for my decision.

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1 Minute Sheet (13 March 2024).

2 Minute Sheet (16 May 2024).

Background

The undisputed facts

5 The appellant was a Filipino National residing and working in Singapore. The appellant was a licensed veterinarian in the Philippines[3] and began grooming cats in Singapore in the second half of 2016.[4] The appellant did so with the assistance of Ms Elena Pascual Marcos ("Elena"), who was employed as a foreign domestic worker by the appellant's husband, Mr Hirman bin Bakar ("Hirman"), in the appellant's household since July 2016.[5] On 28 July 2017, the appellant incorporated a pet grooming shop under Hirman's name known as "Vet Princess".[6] Since then, the appellant and Elena continued grooming cats under Vet Princess.[7]

6 Ribaya was a relative of the appellant's ex-husband,[8] and she was based in the Philippines at the time.[9] Sometime in July and August 2017, Ribaya reached out to and spoke with the appellant over Facebook Messenger (the "Facebook Conversation").[10] While the contents of the Facebook Conversation between Ribaya and the appellant, including the reason for Ribaya's and Payoyo's flight to Singapore, were disputed, both sides accepted that there was

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3 Notes of evidence ("NEs") day 21 at p 83 lines 2 to 4 (Record of Appeal ("ROA") at p 1576).

4 NEs day 14 at p 120 lines 1 to 6 (ROA at p 1048); but *cf* NEs day 15 at p 4 lines 28 to 31 (ROA at p 1057).

5 Exhibit P12 (ROA at pp 2603 to 2609); NEs day 15 at p 7 lines 6 to 8 (ROA p 1060).

6 Exhibit P14 (ROA at p 2622); NEs day 15 at p 2 lines 29 to 31 (ROA at p 1055).

7 Defence's closing submissions dated 3 January 2023 ("DCS") at para 8 (ROA at p 3308).

8 NEs day 15 at p 15 lines 12 to 16 (ROA at p 1068).

9 NEs day 12 at p 13 lines 8 to 11 (ROA at p 802).

10 Exhibit D3 (ROA at p 3149); NEs day 15 at p 15 lines 23 to 32 (ROA at p 1068).

an agreement for Ribaya and her friend, Payoyo, to fly to Singapore and that the appellant would house them at her residence for the duration of their stay in Singapore.[11]

7 On 15 September 2017, Ribaya and Payoyo arrived in Singapore and resided at the appellant's household.[12] While the exact date that Ribaya and Payoyo began working at Vet Princess as assistant pet groomers was disputed, it was agreed that Ribaya and Payoyo began working for the appellant from 2 October 2017 at the latest, before the expiry of their tourist visa on 15 October 2017.[13]

8 On 12 October 2017, Ribaya and Payoyo left Singapore for Malaysia.[14] This was, to their and the appellant's understanding, to facilitate the work pass applications.[15]

9 On 16 October 2017, an employment agency, Summit Manpower Pte Ltd ("Summit"), was engaged to file a work pass application for Ribaya to be employed as a domestic worker for Ms Junaina binte Subir ("Junaina").[16] Junaina is Hirman's cousin.[17] The work pass application was submitted to the

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11 NEs day 15 at p 38 line 17 to p 39 line 27 (ROA at pp 1091 to 1092).

12 Exhibits P22 and P23 (ROA at pp 2641 to 2642); NEs day 19 at p 12 lines 9 to 12 (ROA at p 1302).

13 DCS at para 12 (ROA at p 3310); Prosecution's closing submissions dated 3 January 2023 ("PCS") at para 6 (ROA at p 2821); NEs day 18 p 22 lines 16 to 31 (ROA at p 1261).

14 Exhibits P22 and P23 (ROA at pp 2641 to 2642).

15 NEs day 1 at p 34 line 30 to p 35 line 1 (ROA at pp 67 to 68); NEs day 12 at p 28 lines 20 to 23 (ROA at p 817); and NEs day 19 at p 74 line 28 to p 75 line 3 (ROA at pp 1364 to 1365).

16 Exhibit P25 (ROA at pp 2649 to 2653).

17 NEs day 30 at p 31 lines 11 to 12 (ROA at p 2359).

Controller of Work Passes (the "Controller") of the Ministry of Manpower ("MOM") and later "approved in-principle" (the "in-principle approval") on 17 October 2017.[18] Ribaya re-entered Singapore on 19 October 2017 with the in-principle approval.[19] The work pass application was signed by Ribaya on 23 October 2017,[20] and her work pass was issued on the same day.[21]

10 On 25 October 2017, Summit filed a work pass application for Payoyo to be employed as a domestic worker for Mr Muhammad Irsharudy bin Bakar ("Rudy").[22] Rudy is Hirman's brother.[23] The work pass application was submitted to the Controller, and "approved in-principle" on 27 October 2017.[24] Payoyo re-entered Singapore on 27 October 2017 with the in-principle approval.[25] The work pass application was signed by Payoyo on 28 October 2017,[26] and her work pass was issued on 30 October 2017.[27]

11 When Ribaya and Payoyo returned to Singapore, they continued residing at the appellant's home and worked at Vet Princess. Neither Ribaya nor Payoyo had gone to Junaina's or Rudy's homes respectively, other than to collect their work passes which were delivered there. Ribaya and Payoyo left Junaina's and Rudy's homes respectively on the same day that they collected

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18 Exhibit P29 (ROA at pp 2660 to 2664).

19 Exhibit P23 (ROA at p 2642).

20 Exhibit P25 (ROA at p 2650).

21 Exhibit P30 (ROA at p 2665).

22 Exhibit P6 (ROA at pp 2565 to 2570).

23 NEs day 27 at p 44 lines 27 to 28 (ROA at p 2069).

24 Exhibit P7 (ROA at pp 2571 to 2575).

25 Exhibit P22 (ROA at p 2641).

26 Exhibit P6 (ROA at p 2566).

27 Exhibit P2 (ROA at p 2546).

their work passes. They never returned to do any domestic work for Junaina or Rudy.[28]

12 On 21 December 2017, Elena, Ribaya and Payoyo left the appellant's household.[29] On 22 December 2017, they lodged a complaint with the MOM against the appellant.[30]

13 Investigations were carried out by MOM, and the appellant was eventually charged with two charges of abetting by intentionally aiding Ribaya and Payoyo to make false declarations to the Controller, which the appellant knew were false in a material particular (*ie*, the declaration that Ribaya and Payoyo were to be employed as foreign domestic workers when this was false). Only one of the charges is reproduced for ease of reference, since the two charges faced by the appellant were materially similar:[31]

> You Ferrer Luwi Inez Ramos …
>
> …
>
> are charged that you, on 23 October 2017, in Singapore, did abet by intentionally aiding a foreign employee, Ribaya Noriza Azana (FIN: [redacted]) ("Ribaya") to make a statement to the Controller of Work Passes of the Ministry of Manpower, which was false in a material particular in connection with an application for a domestic worker for Ribaya; *to wit*, you informed Ribaya to declare that she will be employed as a foreign domestic worker, information which you knew to be false as there was no such intention, and in pursuance to your abetment, the application form for Ribaya was submitted to the Ministry of Manpower and you have thereby committed an offence under section 22(1)(*d*) read with section 23(1) of the

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28 DCS at paras 18 and 21 (ROA at p 3312).

29 NEs day 1 at p 74 lines 24 to 32 (ROA at p 107); NEs day 4 at p 73 line 28 to p 74 line 25 (ROA at pp 399 to 400); and NEs day 12 at p 59 lines 11 to 32 (ROA at p 848).

30 NEs day 6 p 3 at lines 25 to 30 (ROA at p 447).

31 Exhibit C2 (ROA at p 7).

> Employment of Foreign Manpower Act (Cap. 91A, Rev Ed. 2009), punishable under section 22(1)(ii) of the same Act.

14 I noted that the appellant also faced four other charges under the EFMA, one of which related to the employment of Elena as a pet groomer without a valid work pass. However, at the time of the hearing before me, these other charges were stood down. [32] I thus make no further mention of these other charges.

Related court proceedings

15 On 12 December 2019, Hirman pleaded guilty to abetting by intentionally aiding the appellant to employ Elena without a valid work pass, by allowing Elena to carry out pet grooming duties when she did not hold a valid work pass to do so, which was an offence under s 5(1), punishable under s 5(6) and read with s 23(1) of the EFMA. He was sentenced to a fine of $7,000, in default three weeks' imprisonment.[33]

16 On 2 April 2020, Ribaya pleaded guilty to working as a pet groomer without a valid work pass, which is an offence under s 5(2) and punishable under s 5(7) of the EFMA. She also consented to one charge of making a false statement to the Controller that she would be employed as a domestic worker which she knew was false in a material particular, an offence under s 22(1)(*d*) and punishable under s 22(1)(ii) of the EFMA, to be taken into consideration for the purposes of sentencing. Ribaya was sentenced to a fine of $7,000, in default four weeks' imprisonment.[34]

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32 DCS at paras 1 to 3 (ROA at pp 3306 to 3307).

33 Exhibit P8 (ROA at pp 2576 to 2581).

34 Exhibit P9 (ROA at pp 2582 to 2590).

17 On 18 February 2021, Payoyo pleaded guilty to a similar charge faced by Ribaya under s 5(2) and punishable under s 5(7) of the EFMA, for working as a pet groomer without a valid work pass. She also consented to a similar charge faced by Ribaya under s 22(1)(*d*) and punishable under s 22(1)(ii) of the EFMA, for making a false statement to the Controller which she knew was false in a material particular, to be taken into consideration for the purposes of sentencing. Payoyo was sentenced to a fine of $6,000 in default four weeks' imprisonment.[35]

Parties' cases below

The Prosecution's case

18 The Prosecution's case was that the appellant wanted to employ both Ribaya and Payoyo as assistant pet groomers at Vet Princess, but the appellant knew that Vet Princess did not have the quota to hire foreign employees.[36] As such, the appellant and Hirman arranged for Junaina and Rudy to employ Ribaya and Payoyo respectively as domestic workers, so that Ribaya and Payoyo could obtain work passes and stay in Singapore to work as assistant pet groomers at Vet Princess instead. The arrangement in place was that the appellant would then reimburse Junaina and Rudy for their assistance as paper employers for Ribaya and Payoyo respectively.[37]

19 In the course of Ribaya's and Payoyo's work pass applications, statements that were false in a material particular were made to the Controller. In the work pass applications, Ribaya and Payoyo declared that they would be

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35 Exhibit P39 (ROA at pp 2776 to 2784).

36 NEs day 23 at p 73 line 19 to p 74 line 11 (ROA at pp 1773 to 1774).

37 PCS at para 19 (ROA at p 2824).

employed by Junaina and Rudy respectively as foreign domestic workers. These declarations were false since they never intended to work as foreign domestic workers, and they worked as assistant pet groomers instead. The falsity was material as it related to the type of employment the foreign worker would engage in (see, in this regard, s 12(1)(*a*) of the EFMA).[38]

20 In order for the charges to be made out, the Prosecution also had to show that the appellant intentionally aided the committing of the offences by proving that: (a) the appellant intentionally did something which facilitated the commission of the offences; and (b) the appellant had knowledge of the circumstances of the offences (*Bachoo Mohan Singh v Public Prosecutor and another matter* [2010] 4 SLR 137 at [111]). According to the Prosecution, the appellant facilitated Ribaya's and Payoyo's making of their false statements to the Controller by virtue of the following acts: (a) the appellant told Ribaya and Payoyo that they could get work passes as foreign domestic workers and continue working as assistant pet groomers at Vet Princess; (b) the appellant instructed Elena to look for an employment agency to process the work pass applications for Ribaya and Payoyo; (c) the appellant paid Summit to process the work pass applications; and (d) the appellant, together with Hirman, arranged for Junaina and Rudy to be the official employers – on paper – of Ribaya and Payoyo.[39]

21 The appellant also had knowledge of the circumstances of the offences, in view of the following reasons:[40] (a) the appellant intended to employ both Ribaya and Payoyo as assistant pet groomers at Vet Princess even before they

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38 PCS at paras 22 and 23 (ROA at p 2825).

39 PCS at para 25 (ROA at p 2826).

40 PCS at paras 34 to 50 (ROA at pp 2828 to 2832).

came to Singapore; (b) the appellant wanted to employ Ribaya and Payoyo at Vet Princess for her financial benefit; (c) the appellant knew that she could not obtain work passes for Ribaya and Payoyo to work at Vet Princess; and (d) whilst knowing that she was unable to obtain the work passes, she arranged for Junaina and Rudy to be Ribaya's and Payoyo's employers only on paper.

The Defence's case

22 The Defence's case was that there was no evidence that the appellant knew that the statements made to the Controller (*ie*, that Ribaya and Payoyo were to be employed as foreign domestic workers) were false. According to the Defence, the appellant genuinely believed that Ribaya and Payoyo intended to work as foreign domestic workers at the time of the work pass applications. There was no agreement for Ribaya and Payoyo to work at Vet Princess, nor did the appellant direct Ribaya and Payoyo to make false declarations:[41]

(a) Ribaya was the one who reached out to the appellant around August 2017 over Facebook to offer nanny services. However, as Ribaya and Payoyo only arrived in Singapore in September 2017, the appellant no longer needed nanny services for her son. The appellant thus believed that Ribaya and Payoyo came to Singapore for tourism, and not to work at Vet Princess.

(b) On or around two weeks after Ribaya and Payoyo arrived in Singapore, they ran out of money and were unsuccessful in finding part-time work. They pleaded with the appellant to let them work at Vet Princess in exchange for some allowance. The appellant relented out of pity for them because she believed that this was a short term

[41] DCS at paras 32 to 33 (ROA at pp 3319 to 3321).

arrangement. Moreover, it allegedly made no commercial sense for the appellant to employ Ribaya and Payoyo as assistant pet groomers.

(c) In October 2017, Ribaya and Payoyo asked the appellant if there was a way for them to stay in Singapore for a longer duration. The appellant then informed them that they could find full-time employment as foreign domestic workers for Hirman's relatives (*ie*, Junaina and Rudy). It was in that context that the appellant enlisted Elena's help to search for an employment agency to process the work pass applications, and loaned money to Ribaya and Payoyo (for the processing fees for their work pass applications) on the understanding that they will repay her once they obtained their salaries as domestic helpers.

(d) When Ribaya and Payoyo exited Singapore (*ie*, on 12 October 2017), the appellant believed that they would return to work for their official employers (*ie,* Junaina and Rudy respectively). However, upon Ribaya's and Payoyo's return to Singapore, they decided *on their own volition* that they did not want to work for Junaina and Rudy.

(e) The appellant and Hirman tried to persuade Ribaya and Payoyo to return to their official employers, but Ribaya and Payoyo refused and confirmed that they intended to return to the Philippines. As such, Ribaya and Payoyo worked at Vet Princess from around November to December 2017 to repay the appellant for her loan to them.

23 Consequently, the relationship between the appellant, Elena, Ribaya and Payoyo broke down and the latter three conspired to lodge a false report against the appellant.[42]

Decision below

24 According to the DJ, the Prosecution had to prove the following five elements beyond a reasonable doubt:[43]

(a) a statement was made by Ribaya and Payoyo, in connection to their work pass applications, to the Controller of the MOM;

(b) the statement was false in a material particular in that it was falsely declared that Ribaya and Payoyo would be employed as foreign domestic workers;

(c) the appellant abetted, by intentionally aiding, the making of such a false statement by informing Ribaya and Payoyo to declare that they would be employed as a foreign domestic worker;

(d) the appellant knew such declaration was false as there was no such intention for Ribaya and Payoyo to work as domestic workers;

(e) and pursuant to her abetment, the application forms for Ribaya and Payoyo were submitted to the MOM.

25 The DJ observed that elements (a) and (e) above were not disputed, since Ribaya and Payoyo had indeed signed on the work pass applications to be

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42 DCS at para 33(h) (ROA at p 3321).

43 GD at para 36 (ROA at p 2483).

employed as foreign domestic workers, knowing and intending the same to be submitted to the MOM, and the work pass applications were indeed submitted to the MOM.[44]

26 The DJ answered issues (b), (c), and (d) in the affirmative and convicted the appellant of the two charges on the following grounds:

(a) The evidence suggested that Ribaya and Payoyo came to Singapore already assured of a part-time job with the appellant, *ie*, they came to Singapore intending to work at Vet Princess.[45]

(b) The appellant was the one who initiated the idea of applying for work passes for Ribaya and Payoyo as foreign domestic workers, so that Ribaya and Payoyo may stay in Singapore and work at Vet Princess. In this regard, the DJ noted, amongst other findings, that the appellant had a personal interest in extending Ribaya's and Payoyo's stay in Singapore, since that would mean that the pet grooming business may be carried out more efficiently. Moreover, as a result of the appellant's testimony that certain behaviour displayed by Ribaya and Payoyo (for example, consuming alcohol and smoking) were displeasing to her and Hirman, it was highly improbable for the appellant and Hirman to then recommend Ribaya and Payoyo to Hirman's relatives as domestic helpers. Most crucially, the DJ noted the great effort put in by the appellant and Hirman to obtain the work passes for Ribaya and Payoyo.[46]

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44 GD at paras 37 to 38 (ROA at p 2484).

45 GD at para 60 (ROA at p 2490).

46 GD at paras 64 to 89 (ROA at pp 2492 to 2500).

(c) The movement of Ribaya and Payoyo after their return from Malaysia was also extremely telling. Both Ribaya and Payoyo, almost immediately upon their return to Singapore and after completion of any administrative matters such as the mandatory settling in programme by the MOM, were brought to the appellant's home and resumed work at Vet Princess.[47] Both of them only went to Junaina's and Rudy's homes respectively for one day to collect their work passes which had been delivered there.[48]

(d) In Exhibit D1, which was a series of text messages between the appellant and Elena in relation to the arrangement of Ribaya's return from Malaysia to Singapore, the appellant referred to Junaina as a "sponsor" (for Ribaya's work pass application).[49]

(e) The appellant clearly saw herself as the effective employer of Ribaya and Payoyo when certain messages revealed that the appellant herself, instead of their official employers, threatened to cancel Ribaya's and Payoyo's work passes.[50]

(f) Despite the alleged urgency in which Junaina and Rudy required domestic help, they failed to take any concrete action to locate Ribaya or Payoyo after the latter two never returned to their homes to start work as domestic helpers. This showed that there was never any intention to hire Ribaya or Payoyo as domestic workers.[51]

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47 GD at paras 90 to 106 (ROP at pp 2501 to 2507).

48 GD at paras 107 to 108 (ROA at p 2507).

49 GD at paras 115 and 124 (ROA at pp 2510 and 2513).

50 GD at para 135 to 138 (ROA at pp 2517 to 2518).

51 GD at paras 125 to 132 (ROA at pp 2513 and 2516).

27 At the time of the trial, Ribaya was in the Philippines and was permitted to give evidence by way of video link. However, she disappeared in the middle of her cross-examination. The DJ noted that Ribaya did not give any good reason for her absence and that her evidence should be treated with caution and scrutiny.[52] Nonetheless, the DJ found that Ribaya's evidence could be given weight for the following reasons: (a) her evidence was consistent with Elena and Payoyo in material aspects; (b) her evidence was consistent with the statement of facts she admitted to without qualification during her own plead guilty mention (see above at [16]); and (c) despite providing conflicting accounts in relation to the contents of the Facebook Conversation (*ie*, on whether the agreement between the appellant, Ribaya and Payoyo, for the latter two to work at Vet Princess, occurred prior to or after their arrival in Singapore on 15 September 2017), the mistake was unsurprising given the time that had elapsed between 2017 and the trial. The timing of such agreement was less important than the fact that such an agreement did take place between the appellant, Ribaya and Payoyo.[53]

28 The DJ applied the sentencing framework set out in *Chiew Kok Chai v Public Prosecutor* [2019] 5 SLR 713 ("*Chiew Kok Chai*") (at [25] and [63]), and found that the present case fell within "Band 1" of the framework, which corresponded to a short custodial sentence of less than five months' imprisonment.[54] The DJ found that the case fell within the lower end of Band 1 based on the following factors:[55]

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52 GD at paras 139 to 145 (ROA at pp 2518 to 2519).

53 GD at paras 146 to 151 (ROA at pp 2520 to 2521).

54 GD at para 170 (ROA at p 2528).

55 GD at paras 171 to 175 (ROA at pp 2528 to 2529).

(a) While the appellant was culpable and deliberate in committing the falsehoods, the harm caused was low. The appellant was running a very small business which was very much in its infancy. The nature of Ribaya's and Payoyo's job at Vet Princess was also at a relatively low level, as assistant pet groomers. The present facts paled in comparison to that in *Chiew Kok Chai*, in view of the scale of the operations run by the appellant and the number of employees involved.

(b) The period of offending was only two months and the monetary gain by the appellant was clearly very modest.

(c) There was no exploitation and abuse of the employees. The complaint of overwork by Ribaya and Payoyo could not be said to be abusive. In fact, the appellant had been rather generous to them by providing them food and accommodation at her home, and even brought them sightseeing in Singapore.

29 In relation to offender-specific factors, the DJ noted that it was the appellant's prerogative to claim trial to her charges and that did not warrant an uplift in her sentence. However, any hardship caused to the family of the appellant (as a result of her conviction) would not carry any mitigating weight unless there were exceptional circumstances, which were not present on the facts.[56]

30 In view of the above factors, the DJ sentenced the appellant to three weeks' imprisonment for each of the two charges and ordered both sentences to run concurrently.[57]

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56 GD at paras 176 to 177 (ROA at p 2529).

57 GD at para 178 (ROA at p 2530).

The appeal against conviction

Parties' cases on appeal

31 On appeal, the appellant essentially disputed most of the DJ's findings:

(a) First, the appellant submitted that the DJ erred in placing weight on Ribaya's testimony. In view of Ribaya's disappearance in the middle of the trial, her evidence could not be fully tested, and it was contrary to the interests of justice to place full weight on her incomplete testimony.[58]

(b) Second, the DJ incorrectly found that Ribaya and Payoyo came to Singapore already assured of a job with the appellant at Vet Princess.[59]

(c) Third, the DJ also erred in finding that Ribaya and Payoyo commenced work at Vet Princess from 16 September 2017, instead of 2 October 2017.[60]

(d) Fourth, the DJ erred in finding that the appellant had orchestrated the scheme concerning both Ribaya's and Payoyo's work pass applications, so that the latter two could continue working at Vet Princess.[61]

(e) Next, the DJ erred in finding that the movement of Ribaya and Payoyo after their return from Malaysia pointed conclusively to the appellant's intention all along that they would work for Vet Princess.[62]

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58 Appellant's written submissions dated 4 March 2023 ("AWS") at paras 38 to 44.

59 AWS at paras 45 to 63.

60 AWS at paras 64 to 67.

61 AWS at para 68.

62 AWS at paras 69 to 71.

Relatedly, the DJ erred in inferring that Ribaya's and Payoyo's failure to work for their official employers, Junaina and Rudy, was revealing of the appellant's scheme for Ribaya and Payoyo to work at Vet Princess.[63]

(f) Finally, the DJ erred in deducing that Junaina's and Rudy's inaction (in locating their missing domestic workers or terminating their work passes) was indicative of their complicity in the appellant's scheme.[64]

32 The Prosecution urged this court to affirm the DJ's findings in the court below.[65]

Issues to be determined

33 The issues to be determined were as follows:

(a) whether the DJ erred in placing weight on Ribaya's testimony;

(b) whether the DJ erred in finding that Ribaya and Payoyo came to Singapore already intending to work at Vet Princess and, relatedly, whether the DJ erred in finding that the precise date they commenced work at Vet Princess was on 16 September 2017 (*ie*, a day after they arrived in Singapore);

(c) whether the DJ erred in finding that the appellant was the one who orchestrated the scheme for Ribaya and Payoyo to obtain work passes to stay in Singapore and work at Vet Princess;

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63 AWS at para 72.

64 AWS at paras 73 to 74.

65 Prosecution's Written Submissions dated 4 March 2024 ("PWS") at para 91.

(d) whether the DJ erred by inferring that, based on Ribaya's and Payoyo's movement after returning to Singapore from Malaysia, that the appellant, Ribaya and Payoyo knew all along that they would be working at Vet Princess; and

(e) whether the DJ erred by placing weight on Junaina's and Rudy's inaction despite their absent domestic helpers.

My decision

The weight to be placed on Ribaya's testimony

34 I first considered the weight to be placed on Ribaya's testimony. At the time of the trial, the COVID-19 pandemic was ongoing. Ribaya was in the Philippines and she was permitted to give her evidence over live video or television link pursuant to s 28(1) of the COVID-19 (Temporary Measures) Act 2020 (the "COVID-19 Act").[66] As set out at s 28(2) of the COVID-19 Act, such an order was subject to certain conditions being satisfied, which included the court being satisfied that there were sufficient administrative and technical facilities and arrangements made at the place where the witness is to give evidence, and that it was in the interests of justice to allow for the witness to testify remotely. Ribaya completed her evidence-in-chief in slightly more than a day of trial, which comprised a full day on 14 June 2021 and approximately an hour on 17 June 2021. Ribaya was then cross-examined by the Defence on 17 June 2021 for approximately three and a half hours. Following this, Ribaya became mostly uncontactable and absent from the trial, and did not return to the stand to give further evidence.[67]

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66 GD at para 139 (ROA at p 2518).

67 GD at paras 141 to 143 (ROA at pp 2518 to 2519).

35 The appellant submitted that there was insufficient time to cross-examine Ribaya, particularly since Ribaya was a key witness for the Prosecution who had firsthand knowledge of multiple key incidents such as the Facebook Conversation, and her intentions at the time the work pass application was signed.[68] Moreover, according to the appellant, the DJ's reliance on Ribaya's incomplete testimony was contrary to public policy and the interests of justice.[69]

36 Section 230(1)(*e*) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) provides that, after the prosecutor examines the prosecution's witness, such witness may be cross-examined by the accused. I accepted the appellant's submission to the extent that Ribaya's incomplete testimony should be treated with circumspection. In particular, where a conclusion was *solely* derived from Ribaya's testimony, further scrutiny was required. That Ribaya's evidence should be treated with caution and subject to greater scrutiny was also acknowledged by the DJ in his grounds of decision.[70] Thus, in instances where it was Ribaya's word against the appellant's, such as the dispute regarding the contents of the Facebook Conversation between Ribaya and the appellant (see above at [6]), it was improper to accept Ribaya's testimony over the appellant's.

37 However, I disagreed with the appellant that *no weight at all* should be placed on Ribaya's evidence. An assessment of the weight to be placed on Ribaya's evidence very much depended on the circumstances, such as whether there was other corroborative and/or objective evidence that supported Ribaya's account. I found that the DJ correctly placed weight on Ribaya's testimony

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68 AWS at paras 38 to 40.

69 AWS at para 44.

70 GD at para 145 (ROA at p 2519).

where: (a) Ribaya's evidence was corroborated by other witnesses, from both the Prosecution and the Defence; (b) Ribaya's testimony was largely consistent with the contemporaneous and objective evidence; and (c) Ribaya's testimony was also consistent with the statement of facts that she pleaded guilty to (see above at [16]).

38 Ultimately, as it will be apparent shortly, the appellant's conviction was not solely based on Ribaya's testimony. In my view, contrary to the appellant's contention that Ribaya's testimony was plainly indispensable to the Prosecution's case, it was *the objective evidence* that clearly revealed that there was an agreement between the appellant, Ribaya and Payoyo to make false declarations to the Controller. This included the parties' conduct, and the contemporaneous evidence such as the appellant's messages with various parties.

Ribaya's and Payoyo's commencement of work at Vet Princess

39 It was heavily disputed in the proceedings below (and again in the present appeal): (a) whether there was an agreement between the appellant, Ribaya and Payoyo for the latter two to work at Vet Princess (the "Agreement") *prior to their arrival in Singapore*; and (b) the date that Ribaya and Payoyo started work at Vet Princess. In my mind, neither of these were crucial to the appellant's conviction. In relation to (a), I agreed with the DJ that the timing of the Agreement was less important than the fact that the Agreement actually happened.[71] The timing of such Agreement was only relevant to the extent of ascertaining whether the Agreement happened prior to (or at the time of) Ribaya's and Payoyo's work pass applications being signed by them and then

[71] GD at para 151 (ROA at p 2521).

approved by the MOM (*ie*, when the false declarations were made to the Controller). In relation to (b), it was ultimately accepted that Ribaya and Payoyo started work at Vet Princess from at least 2 October 2017, prior to their work pass applications being filed and approved (see above at [7]).

40 Nonetheless, I addressed these points below for completeness.

(1) When was the Agreement formed?

41 The DJ found that the Agreement likely formed prior to Ribaya's and Payoyo's arrival in Singapore (and that Ribaya and Payoyo commenced work at Vet Princess a day after their arrival), based on the circumstances surrounding their arrival. In doing so, the DJ noted that Ribaya had to save up for a month for the air ticket to Singapore, both Ribaya and Payoyo then arrived in Singapore on a one-way ticket, and they were housed in the appellant's crowded two-bedroom flat. At the material time, there were at least seven to ten people living in the flat. According to the DJ, the Defence's version of events (see above at [22(b)]), that Ribaya and Payoyo spent two weeks holidaying and only started to look for a job after their money purportedly ran out, did not make sense. As such, it was likely that Ribaya and Payoyo came to Singapore already assured of a job with the appellant.[72]

42 With respect, while the circumstances of Ribaya's and Payoyo's arrival in Singapore did suggest that they came to Singapore with an arrangement in place (with the appellant) to sustain themselves, I agreed with the appellant that, without Ribaya's complete testimony, it was difficult to establish that there was a specific agreement prior to 15 September 2017 for them to work at Vet

[72] GD at para 60 (ROA at p 2490).

Princess. This was because, as the appellant pointed out, only Ribaya (and the appellant) had personal knowledge of her conversation with the appellant over Facebook prior to 15 September 2017. There was no contemporaneous or objective evidence of the Facebook Conversation, save for Exhibit D3 which was highly unreliable.

43 Exhibit D3 was a *single* screenshot of the Facebook Conversation. I reproduce the translated version for ease of reference:[73]

> Ribaya: Hi
>
> Luwi [*ie*, the appellant]: Hello
>
> Ribaya: I am the niece of 'Auntie Bay'. *She told me that you are looking for a nanny for [the appellant's son].* I told her to just recommend me, but she said to ask you because you might have already found someone.
>
> Luwi: Yes, but I need by August. Do you have a passport
>
> Ribaya: Yes, I'm okay any time. I have a passport.
>
> Luwi: Ah, okay, but 2 months only because I can only give a visit visa.
>
> [emphasis added]

44 The appellant relied on Exhibit D3 in the court below to show that: (a) Ribaya came to Singapore without any intention of working at Vet Princess; and (b) Ribaya's initial evidence, that she was informed by her aunt of a *pet grooming job* in particular with the appellant in Singapore,[74] was inaccurate. In my view, and contrary to the appellant's submission, Exhibit D3 did not show that the Agreement never occurred, nor did it undermine Ribaya's testimony. While Exhibit D3 was undated, it was accepted by Ribaya that this was the first

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73 ROA at p 3149; translated and reproduced in the GD at para 45 (ROA at p 2486).

74 NEs day 12 at p 12 lines 24 to 30 (ROA at p 801).

time Ribaya initiated contact with the appellant.[75] Exhibit D3 thus revealed that Ribaya initially reached out to the appellant for a nanny job instead of a pet grooming job. When Ribaya was confronted with the screenshot, she readily accepted that the contents of Exhibit D3 were correct and explained that she misremembered the Facebook Conversation as not much "attention" was given to the nanny job in the exchange of messages between herself and the appellant. According to Ribaya, the conversation had "quickly … changed" to working in pet grooming instead, which was her main reason for coming to Singapore.[76] In principle, I agreed with the DJ that this appeared to be a reasonable explanation for the discrepancy in Ribaya's testimony and did not necessarily undermine her credibility.[77] The DJ also observed that counsel for the appellant had the chance to cross-examine Ribaya on the reason for her arrival in Singapore, and had already moved on to another area of questioning, before Ribaya went missing mid-trial.[78] Nonetheless, I did not place much weight on this since it was also the appellant's prerogative to return to this line of questioning at a later point.[79]

45 Moreover, the highly unreliable and incomplete nature of Exhibit D3 was not lost on me. As the DJ also noted, it was dubious that the appellant only adduced one brief screenshot of her conversation with Ribaya despite accepting that there were more messages exchanged between them.[80] The appellant explained in the trial below that she intended to take more screenshots other

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75 NEs day 13 at p 20 lines 25 to 28 (ROA at p 878).

76 NEs day 13 at p 22 lines 11 to 24 (ROA at p 880).

77 GD at para 49 (ROA at p 2487).

78 GD at para 51 (ROA at p 2488).

79 AWS at para 59.

80 GD at para 50 (ROA at p 2487).

than the one adduced as Exhibit D3, but Ribaya had "totally burned" (*ie*, deactivated or deleted) her Facebook account, and the appellant was thus unable to view any of their previous messages.[81] I agreed with the DJ that this explanation was illogical, since Ribaya's deletion or deactivation of her own Facebook account would have no effect on the appellant's own history of messages with Ribaya.[82]

46 In sum, there was simply no reliable contemporaneous evidence of the Facebook Conversation. Thus, the issue of whether the Agreement occurred prior to or after 15 September 2017 boiled down to the appellant's word against Ribaya's. As alluded to earlier (see above at [36]), in such instances, it was improper to accept Ribaya's evidence over the appellant's. Without the benefit of Ribaya's full testimony or the complete record of the Facebook Conversation, I was unable to safely conclude that the Agreement was indeed reached before 15 September 2017. I also agreed with the appellant that Payoyo's corroboration of Ribaya's account, in relation to the timing of the Agreement, was not dispositive since Payoyo lacked personal knowledge of the Facebook Conversation and ultimately relied on Ribaya's communication of the contents of such a conversation.[83]

47 All that said, as I observed earlier, it was not crucial to establish whether the Agreement was formed before or after their arrival in Singapore. As I will explain, it was clear from the objective evidence that there was indeed such an

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81 NEs day 15 at p 25 lines 4 to 28 (ROA at p 1078); and NEs day 20 at p 22 lines 25 to 29 (ROA at p 1419).

82 GD at para 50 (ROA at p 2487).

83 AWS at para 49.

agreement between the appellant, Ribaya and Payoyo for the latter two to work at Vet Princess without the appropriate work pass.

(2) When did Ribaya and Payoyo start working at Vet Princess?

48 The appellant also argued that the DJ erred in finding that Ribaya and Payoyo had started work at Vet Princess on 16 September 2017.[84] The appellant had, in the court below, adduced Exhibit D2 which was a notebook that contained the appellant's handwritten notes of the business of Vet Princess, such as the details of pet grooming appointments and payments to Elena, Ribaya and Payoyo. The appellant relied on Exhibit D2 to show that Ribaya and Payoyo only started work for her from 2 October 2017 as their names only appeared in the notebook from that date.[85] The DJ placed no weight on Exhibit D2 since it appeared to be an informal record of the appellant's own notes and the information was recorded in a haphazard manner. Moreover, the DJ observed that, in Exhibit D2, there were many pet grooming appointments recorded on 16 September 2017, and then a noticeable dearth of appointments before the next pet grooming appointment scheduled on 1 October 2017. In the circumstances, the DJ found Exhibit D2 to be inconclusive in showing the exact date that Ribaya and Payoyo started pet grooming.[86]

49 I agreed with the DJ that Exhibit D2 was not dispositive of this issue. I also noted that Elena, Ribaya and Payoyo testified that Ribaya and Payoyo had started working at Vet Princess from their arrival in Singapore,[87] while the

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84 AWS at para 67(b).

85 AWS at para 67(b).

86 GD at paras 57 to 59 (ROA at pp 2489 to 2490).

87 NEs day 1 at p 40 lines 17 to 22 (ROA at p 73); and NEs day 4 p 53 lines 10 to 16 (ROA at p 379); NEs day 12 at p 19 lines 18 to 21 (ROA at p 808).

appellant testified that Ribaya and Payoyo only commenced work at Vet Princess from 2 October 2017.[88] Again, I was unable to safely conclude, on the evidence before me, whether Ribaya and Payoyo commenced work at Vet Princess specifically on 16 September 2017 or 2 October 2017. However, this was an immaterial factual dispute, since it was accepted by the appellant that Ribaya and Payoyo did start working for the appellant from 2 October 2017 at least, which was prior to the time the work pass applications were filed.[89]

The appellant's active involvement in the work pass application process

50 The DJ found that it was the appellant who orchestrated the scheme for Ribaya and Payoyo to continue working at Vet Princess while on a foreign domestic work pass. His reasons were as follows:

(a) It was in the appellant's personal (financial) interest to employ Ribaya and Payoyo to work at Vet Princess. It was undisputed that the appellant knew that Vet Princess did not have the requisite quota to hire foreign work pass holders.

(b) It was inconceivable that the appellant or Hirman would recommend Ribaya and Payoyo as foreign domestic workers to their relatives. This was because of the appellant's and Hirman's evidence that Ribaya and Payoyo had allegedly displayed displeasing behaviour such as the consumption of alcohol and smoking.

88 NEs day 18 at p 39 lines 24 to 26 (ROA at p 1278).

89 AWS at para 65.

(c) It was more likely that the appellant, instead of Ribaya and Payoyo, thought of utilising the work pass scheme to extend Ribaya's and Payoyo's stay in Singapore.

(d) The appellant was very actively involved in procuring the work passes for Ribaya and Payoyo.

51 In my view, item (d) of the preceding paragraph, *ie,* the appellant's active involvement throughout the entire process of obtaining the work passes, was the most telling piece of evidence of the appellant's state of mind at the material time. It was clear that the appellant saw herself as the effective employer of Ribaya and Payoyo. In comparison, items (a) to (c) in the preceding paragraph mainly served to show that it was *more likely*, in the circumstances, for the appellant to have concocted the entire scheme.

52 I briefly outline the extent of the appellant's involvement in procuring the work passes, which was factually undisputed:

(a) The appellant instructed Elena to look for an employment agency to process the work pass applications for Ribaya and Payoyo. It was eventually decided that Summit would process the work pass applications for Ribaya and Payoyo since it had the lowest fees.[90]

(b) The appellant paid $1,034 in total, which was about half of the processing fees for both Ribaya and Payoyo (*ie*, $2,068 in total), to Summit to process the work pass applications to the MOM.[91] The other

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90 NEs day 4 at p 58 line 29 to p 59 line 19 (ROA at pp 384 to 385); and DCS at para 33(d) (ROA at p 3320).

91 NEs day 19 at p 85 lines 15 to 24 and p 95 lines 4 to 7; (ROA at pp 1375 and 1385).

half was allegedly paid by Junaina and Rudy.[92] The appellant went to Summit with Elena to ensure that the processing fees were paid, though the appellant claimed to have waited outside the office of Summit while Elena went in to pay the processing fees.[93]

(c) The appellant was also the one who arranged for Ribaya's and Payoyo's departure to Malaysia, their accommodation in Malaysia, and their return to Singapore. The appellant also provided them money for their transport expenses.[94]

53 The appellant argued that the DJ wrongly concluded that the appellant was "actively involved" in the work pass application process for the following reasons:[95]

(a) The appellant was never in direct communication with Summit. Instead, Summit was directly liaising with Elena, Junaina and Rudy.

(b) It was Rudy who picked up Payoyo from Kranji, after Payoyo received her in-principle approval from the MOM and returned to Singapore from Malaysia.

(c) It was not unreasonable for the appellant to go out of her way to assist Junaina and Rudy to find foreign domestic workers for them since the appellant had a helpful disposition and shared a good relationship with Junaina and Rudy.

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92 NEs day 19 at p 91 lines 10 to 13 (ROA at p 1381).

93 NEs day 19 at p 87 lines 10 to 17 (ROA at p 1377).

94 NEs day 19 at p 70 lines 3 to 31 and p 74 lines 15 to 20 (ROA at pp 1360 and 1364); NEs day 20 at p 30 lines 8 to 24 (ROA at p 1427).

95 AWS at para 68(4)(d).

54 I was unable to accept these arguments. First, as the DJ rightly pointed out, it was only natural for Summit to be liaising with the official employers listed in the work pass applications.[96] It was irrelevant that the appellant was not the one in direct communication with Summit, since she was not listed as the official employer of Ribaya and Payoyo.

55 Second, the evidence revealed that it was the appellant who arranged for Payoyo to be picked up from Kranji upon Payoyo's return to Singapore. Based on Payoyo's evidence, the appellant informed her that Rudy would be picking her up from Kranji, upon her return to Singapore.[97] Moreover, after Rudy picked up Payoyo on his motorcycle, he brought Payoyo to the appellant's home.[98] In a similar vein, the appellant was also very involved in facilitating Ribaya's return to Singapore. Based on the appellant's messages with Elena in Exhibit D1, the appellant expressed her unhappiness that Summit was charging them for a runner to pick Ribaya up when the latter returned to Singapore, and the appellant even told Elena to inform Summit that the "employer [was] angry due to [Summit's] stupidity".[99] As the DJ correctly noted, the message exchange in Exhibit D1 revealed that it was the appellant who was giving instructions to and receiving information from Summit, through Elena, to facilitate Ribaya's return from Malaysia to Singapore. It also revealed, through the appellant's use of the word "employer" to refer to herself and her concern with the costs, that the appellant saw herself as the effective employer of Ribaya.[100]

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96 GD at para 134 (ROA at pp 2516 to 2517).

97 NEs day 1 at p 66 lines 8 to 19 (ROA at p 99).

98 NEs day 28 at p 6 lines 2 to 9 (ROA at p 2119).

99 Exhibit D1 (ROA at p 3051).

100 GD at para 88 (ROA at p 2500).

56 At this juncture, I also noted that there was another clear instance of the appellant seeing herself as the effective employer of Ribaya and Payoyo. In Exhibit P40, which was a record of messages sent in a group chat for Vet Princess, with the appellant, Ribaya, Payoyo and Elena as members in the said group, the appellant informed Ribaya and Payoyo on 21 December 2017 that "[it is] your last day of work tomorrow" and that she would "cancel [their] work permit[s] ASAP".[101] For the avoidance of any doubt, the terms "work permit" and "work pass" were used interchangeably by the parties in these proceedings. I agreed with the DJ that this piece of evidence revealed that the appellant clearly saw herself in a position of influence over, and the effective employer of, Ribaya and Payoyo.

57 The appellant's argument in relation to her alleged helpful disposition and good relationship with Junaina and Rudy was moot in the face of the evidence above. By virtue of the above, the DJ did not err in finding that the appellant was actively involved in the work pass application process for both Ribaya and Payoyo. In fact, the messages sent by the appellant revealed that she saw herself as the effective employer of Ribaya and Payoyo.

Ribaya's and Payoyo's movement upon returning to Singapore from Malaysia

58 To recapitulate, up until Ribaya's and Payoyo's departure from Singapore to Malaysia, Ribaya and Payoyo were working at Vet Princess from at least 2 October 2017. Subsequently, upon Ribaya's and Payoyo's return to Singapore from Malaysia: (a) it was undisputed that Ribaya and Payoyo went to the appellant's house almost immediately after their return from Malaysia, and resumed working at Vet Princess; and (b) Ribaya and Payoyo only went to

101 Exhibit P40 (ROA at p 2812).

their official employer's house for one day to collect their work passes, and left that same day (see above at [11]). The DJ found that this evidence pointed clearly to the fact that there was always the shared intention between the appellant, Ribaya and Payoyo for the latter two to work at Vet Princess.[102]

59 The appellant submitted that the DJ erred in drawing this conclusion and argued that the fact that Ribaya and Payoyo were in fact employed by Vet Princess at certain points did not itself conclusively show that it was the appellant's intention *all along* for them to be employed at Vet Princess.[103] This argument was plainly a non-starter. The DJ's finding that there was such an intention was not premised merely on the fact that Ribaya and Payoyo were employed at Vet Princess for certain periods of time, but *the circumstances* in which Ribaya and Payoyo were employed at Vet Princess. The movement and conduct of Ribaya and Payoyo, as outlined in the preceding paragraph, was clearly indicative of an intention to work at Vet Princess from at least 2 October 2017.

60 Further, when the appellant was confronted with the movement of Ribaya and Payoyo, she provided *multiple* irreconcilable versions of events which were comprehensively chronicled by the DJ (GD at [92]–[101]). These versions need not be set out for the purposes of the present appeal since the appellant was not specifically disputing the DJ's finding that her evidence in that regard was inconsistent. However, to the extent that the appellant suggested that the DJ applied differing levels of scrutiny to Ribaya's evidence (see above at [44]) and the appellant's evidence, this must be rejected. I agreed with the DJ that the appellant was clearly making up explanations as she was confronted

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102 GD at paras 101 and 106 (ROA at pp 2505 and 2507).

103 AWS at para 69.

with the different inconsistencies. Unlike Ribaya, the appellant's embellished and confused evidence could not be attributed to a lapse of recollection.

61 Finally, the appellant also argued that the DJ failed to accord weight to Exhibit D2, which recorded money given to Ribaya and Payoyo for their transport expenses in Malaysia as "loans" instead of "salaries" or "allowance". According to the appellant, Exhibit D2 suggested that the appellant never intended or planned for Ribaya and Payoyo to work at Vet Princess. This was because, if the appellant was their effective employer, "the more reasonable thing to have done was for her to shoulder these expenses as their prospective employer".[104] I was unable to accept this argument for three reasons. First, as outlined earlier, the information recorded in Exhibit D2 was done in a haphazard and occasionally intelligible manner (see above at [48]). Second, it did not necessarily follow that the appellant would shoulder all of Ribaya's and Payoyo's expenses, simply because a "reasonable" employer would have done so. Third, the appellant admitted that she knew that it was illegal for Ribaya and Payoyo to work at Vet Princess without a valid work pass.[105] The fact that the appellant did not record any money given to Ribaya and Payoyo as "salaries" did not necessarily prove that the appellant did not intend to employ Ribaya and Payoyo.

Junaina's and Rudy's inaction to their missing domestic helpers

62 Next, the DJ found that Junaina and Rudy did not intend to employ Ribaya and Payoyo as foreign domestic workers.[106] Junaina and Rudy were essentially apathetic to Ribaya's and Payoyo's continued absence from their

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104 AWS at para 71(b).

105 NEs day 18 at p 19 lines 20 to 24 (ROA at p 1258).

106 GD at para 125 (ROA at p 2513).

households from late October 2017 till 21 December 2017. In fact, they did nothing beyond allegedly asking the appellant or Hirman about Ribaya's and Payoyo's whereabouts.[107]

63 The appellant argued that Junaina's and Rudy's inaction and ignorance could be attributed to their busy schedules and inexperience in applying for foreign domestic workers. This argument was rejected. As observed by the DJ, both Junaina and Rudy testified that they had been urgently searching for a domestic helper to tend to their families, and they even made one to two rounds of appeals to the MOM for the work passes to be approved.[108] Their subsequent apathy to Ribaya's and Payoyo's disappearance was plainly at odds with their alleged need for domestic helpers and efforts taken to employ such domestic helpers. I agreed with the DJ that no reasonable person who needed the services of a domestic helper would have allowed the helpers to be continually absent from their household. Active steps would have been taken to end the employment of the missing domestic helper and/or to employ a new one. There was also no attempt to inquire with Summit or the MOM regarding Ribaya's and Payoyo's absences.

64 While it was undisputed that Ribaya and Payoyo never worked a day for their official employers, the appellant raised other arguments in an attempt to show that Junaina and Rudy truly intended to employ Ribaya and Payoyo respectively:[109]

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107 GD at paras 127 to 129 (ROA at pp 2514 to 2515).

108 GD at para 130 (ROA at p 2515).

109 AWS at para 72.

(a) Both Junaina and Rudy bore a share of the processing fees, levy or insurance payments for employing Ribaya and Payoyo as foreign domestic workers. There was no reason for them to do so if there was no benefit to themselves. Even if they did receive a "sponsorship fee" from the appellant, it made no sense for them to first incur losses before obtaining money to be sponsors.

(b) Furthermore, it was unfathomable that Junaina and Rudy would resort to keeping with "theatrics" such as keeping in communication with Summit and going through multiple rounds of work pass applications if they never intended to employ Ribaya and Payoyo.

(c) If Rudy truly intended to only be a paper employer, there was no reason for him to go out of his way to pick Payoyo up from Kranji.

(d) Either the official employer or the employee could arrange to collect the work passes from the MOM personally. There was no reason for Ribaya and Payoyo to personally receive the passes from the official employers' homes. Thus, the reason that Ribaya and Payoyo were brought to Junaina's and Rudy's homes respectively by the appellant must be because the appellant expected them to commence domestic work.

(e) Furthermore, Junaina had acquainted Ribaya with her household on 30 October 2017. There was no reason for Junaina to go out of her way to do so if she never intended for Ribaya to work there.

65 I was unable to accept the arguments at (a) and (b) above. I noted that it was not put to Junaina or Rudy what their motive was to "sponsor" the work pass applications. Nonetheless, based on the objective evidence in Exhibit D1,

it was clear that they received some form of renumeration for their part in the scheme. As outlined earlier (see above at [26(d)]), Exhibit D1 comprised a conversation between the appellant and Elena. In particular, the appellant told Elena that Ribaya's "sponsor" was asking for her "sponsorship fee", which was "driving [the appellant] crazy" since it had been "less than 1 month [and she was] asking to be paid already".[110] The appellant admitted that the "sponsor" referred to Junaina.[111] While there was some dispute in the proceedings below regarding what "sponsor" meant and whether "sponsor" and "employer" may be used interchangeably, this was not rehashed on appeal. In the circumstances, I agreed with the DJ's finding that "sponsor" clearly referred to Junaina being an employer on paper for Ribaya's work pass application.[112] By extension, Rudy was also an employer on paper for Payoyo.

66 Arguments (c), (d) and (e) above (see above at [64]) were all non-starters. It was immaterial that Rudy picked Payoyo up from Kranji, since, as outlined earlier, this was based on the appellant's instructions and Rudy simply brought Payoyo to the appellant's home instead of his own (see above at [55]). Similarly, Junaina's alleged acquainting of Ribaya with household chores (for less than a day) did not show that she had any real intention of employing Ribaya. In fact, as Exhibit D1 revealed, the appellant was the one who provided instructions that "[Ribaya's work] pass will be delivered to her sponsor's house on Monday so … [Ribaya] must go to her sponsor's house on Monday".[113] It was clear that Ribaya was at Junaina's house in order to collect her work pass. As such, the standalone acts (*ie*, of Rudy picking Payoyo up at

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110 Exhibit D1 (ROA at p 3060).

111 NEs day 20 at p 87 lines 12 to 22 (ROA at p 1484).

112 GD at paras 116 to 118 (ROA at pp 2510 to 2511).

113 Exhibit D1 (ROA at p 3062).

Kranji, and Junaina allegedly acquainting Ribaya with household chores for a single day) did not detract from Junaina's and Rudy's otherwise complete lack of proactiveness in locating their missing domestic helpers. It was also immaterial that the official employer or the employee *could* arrange to collect the work pass from the MOM personally. It was not disputed that the work passes were in fact delivered to Junaina's and Rudy's flats, which explained Ribaya's and Payoyo's presence in Junaina's and Rudy's flats respectively on *only* the specified dates that the work passes were delivered (see above at [11]).

67 In the circumstances, I agreed with the DJ that Junaina and Rudy were mere "sponsors" of the work passes.

Amendment of the charges

68 In my view, the charges were more appropriately framed under abetment by *engaging in a conspiracy* to make false declarations in connection with the work pass applications.

69 I first outline the elements of abetting an offence by engaging in a conspiracy: (a) the person abetting must engage with one or more other persons in a conspiracy, (b) the conspiracy must be for the doing of the thing abetted and (c) an act or illegal omission must take place in pursuance of the conspiracy in order to the doing of that thing (*Lee Yuen Hong v Public Prosecutor* [2000] 1 SLR(R) 604 at [38]). In *Public Prosecutor v Yeo Choon Poh* [1993] 3 SLR(R) 302 ("*Yeo Choon Poh*") (at [19]), it was held that the essence of conspiracy was an agreement between parties. However, in most cases, the agreement would take place in private such that there was no direct evidence of it. As such, a conspiracy may be proven by the oral and circumstantial evidence,

as well as the conduct of the accused both before and after the alleged commission of the crime (*Yeo Choon Poh* at [20]).

70 The evidence before me revealed that there was an agreement between the appellant, Ribaya and Payoyo to make false declarations in connection to the work pass applications:

(a) The appellant's active involvement in the work pass application process and the contemporaneous evidence revealed that the appellant saw herself as the effective employer of Ribaya and Payoyo.

(b) Ribaya's and Payoyo's movement, *ie*, their return to the appellant's house and almost immediate resumption of work at Vet Princess upon receiving their in-principle approval from the MOM and returning to Singapore from Malaysia.

(c) Ribaya's and Payoyo's absences from Junaina's and Rudy's households other than to collect their work passes, and Junaina's and Rudy's inaction to their absences.

71 It was also implicit in the Prosecution's case from the outset that there was a conspiracy between at least the appellant, Ribaya and Payoyo for the latter two to make false declarations to the Controller in order to work at Vet Princess. To recapitulate, the Prosecution's case was that the appellant facilitated the commission of the offences by virtue of the following acts: (a) the appellant told Ribaya and Payoyo that they could get work passes as foreign domestic workers and continue working as assistant pet groomers at Vet Princess; (b) the appellant instructed Elena to look for an employment agency to process the work pass applications for Ribaya and Payoyo; (c) the appellant paid Summit to process the work pass applications; and (d) the appellant, together with Hirman,

arranged for Rudy and Junaina to be the official employers of Ribaya and Payoyo on paper. To my mind, these acts were better understood as evidence of a conspiracy. Indeed, it was implicit in (a) above that Ribaya and Payoyo had to *agree* with the appellant's suggestion (to obtain work passes as foreign domestic workers in order to continue working at Vet Princess) for the work pass applications to have been filed.

72 In pursuance of the conspiracy, Ribaya and Payoyo signed on their respective work pass applications which falsely declared that they were to work as domestic helpers for Junaina and Rudy respectively. These false declarations were then made to the Controller. The *mens rea* for abetting the commission of an offence by way of a conspiracy is that the abettor must have: (a) intended to be party to an agreement to do an unlawful act; and (b) known the general purpose of the common design, and the fact that the act agreed to be committed was unlawful (*Ali bin Mohamad Bahashwan v Public Prosecutor and other appeals* [2018] 1 SLR 610 at [34]). Based on the appellant's conduct, it was clear she intended to be a party to the conspiracy and that she knew the general purpose of the common design. Further, the appellant knew that the employment of Ribaya and Payoyo at Vet Princess without the appropriate work pass was unlawful.[114] By extension, the appellant necessarily knew that the false declarations to the Controller (*ie*, that Ribaya and Payoyo were to be foreign domestic workers when they were actually to be employed as assistant pet groomers at Vet Princess) were unlawful.

73 Section 390(4) of the CPC provides that an appellate court may frame an altered charge against an accused on appeal without qualification as to the

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114 NEs day 18 at p 19 lines 17 to 24 (ROA at p 1258); and NEs day 23 at p 60 lines 15 to 21 (ROA at p 1760).

type of charge, if satisfied that, based on the records before the court, there is sufficient evidence to constitute a case which the accused has to answer. In exercise of the court's powers under this provision, I amended the charges as follows:[115]

(a) With respect to MAC-906615-2019,

You,

Ferrer Luwi Inez Ramos…

are charged that you, on 31 October 2017, in Singapore, did abet by engaging in a conspiracy with Payoyo Irish Llagas (FIN: [redacted]) ("Payoyo") to make a statement to the Controller of Work Passes of the Ministry of Manpower, which both Payoyo and you knew to be false in a material particular, in connection with an application for a work pass for a foreign domestic worker ("the False Declaration"), and an act took place in pursuance of that conspiracy and in order to the doing of the False Declaration, *to wit*, Payoyo signed on the False Declaration, and you have thereby committed an offence under s 22(1)(*d*), read with s 23(1) and punishable under s 22(1)(ii) of the Employment of Foreign Manpower Act (Cap 91A, 2009 Rev Ed).

(b) With respect to MAC-906619-2019,

You,

Ferrer Luwi Inez Ramos…

are charged that you, on 23 October 2017, in Singapore, did abet by engaging in a conspiracy with Ribaya Noriza Azana (FIN: [redacted]) ("Ribaya") to make a statement to the Controller of Work Passes of the Ministry of Manpower, which both Ribaya and you knew to be false in a material particular, in connection with an application for a work pass for a foreign domestic worker ("the False Declaration"), and an act took place in pursuance of that conspiracy and in order to the doing of the False Declaration, *to wit*, Ribaya signed on the False Declaration, and you have thereby committed an offence under s 22(1)(*d*), read with s 23(1) and punishable under s 22(1)(ii) of

115 Minute Sheet (13 March 2024).

> the Employment of Foreign Manpower Act (Cap 91A, 2009 Rev Ed).

74 In my view, there was no prejudice caused to the Prosecution or the appellant. The substantive particulars of the charges remained the same. The original charges indicated that the appellant abetted the commission of the offence by "inform[ing] [Ribaya or Payoyo] to declare that [they] will be employed as a foreign domestic worker". As I observed earlier, it was implicit in the original charges that there was an agreement between the Appellant, Ribaya and Payoyo. Ribaya and Payoyo had to agree to and comply with the appellant's suggestion for the false declarations to have been made to the Controller (see above at [71]).

75 For completeness, I make one final observation. The original charges were framed in a manner such that the act in pursuance of the abetment was the submission of the work pass applications to the MOM (see above at [13]). Nevertheless, the original charges reflected the dates that the work passes were ultimately *issued* following the false declarations in the successful work pass applications, *ie*, on 23 and 31 October 2017 for Ribaya and Payoyo respectively. Thus, although I amended the charges such that the act that took place in pursuance of the abetment was Ribaya and/or Payoyo's signing of the work pass applications, such an act was still a precursor to the successful applications and issuance of the work passes on 23 and 31 October 2017 respectively. In the circumstances, and also because parties did not dispute the fact that the original charges were framed according to the dates that the work passes were issued, I adopted, in the amended charges, the same dates that were used in the original charges.

76 Pursuant to s 390(6) of the CPC, I invited the appellant to offer a defence and adjourned the hearing for her to make a defence, if any.[116] At the next hearing, the appellant indicated that that she did not intend to offer a defence to the altered charges.[117] I was satisfied that the evidence based on the records before the court sufficiently established her guilt. The appellant was thus convicted on the altered charges under s 390(8)(*a*) of the CPC.

The Prosecution's appeal against sentence

Parties' cases on appeal

77 For avoidance of any doubt, even though the Prosecution was the one that appealed against the sentence imposed, I will continue to refer to Ms Ferrer Luwi Inez Ramos as the appellant in this matter.

The Prosecution's case

78 The Prosecution submitted that the sentence imposed of three weeks' imprisonment was manifestly inadequate and urged this court to enhance the appellant's sentence to an aggregate term of six weeks' imprisonment.[118]

79 According to the Prosecution, the DJ failed to appreciate that the appellant's culpability was high. The appellant was the "mastermind" that concocted the entire scheme to make a false statement to the Controller, and there was a high degree of planning and deliberation involved.[119] Moreover, the appellant was motivated by greed and personal gain to commit the offence,

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116 Minute Sheet (13 March 2024).

117 Minute Sheet (16 May 2024).

118 PWS at para 94.

119 PWS at paras 103 to 104.

which was an aggravating factor.[120] The Prosecution also averred that the length of deception (two months in the present case) was not determinative of an offender's culpability under s 22(1)(*d*) of the EFMA.[121]

80 Next, the Prosecution argued that the DJ erred in finding that the harm caused by the appellant in the present case was low. According to the Prosecution, the harm caused in the present case was moderate.[122] Not only was there significant harm occasioned to the integrity of the MOM's work pass system, but the proper regulation of foreign manpower in Singapore's labour market was adversely affected since Ribaya and Payoyo were allowed to reside in Singapore illegally.[123] Moreover, Ribaya's and Payoyo's welfare were compromised, as they had to work long hours, endure the appellant's abusive scolding and the appellant also occasionally failed to provide meals on time or at all.[124] The DJ also erred by considering factors irrelevant to sentencing, such as the scale of the operations of Vet Princess and the fact that Ribaya and Payoyo were employed at jobs of a "relatively low level" (*ie*, as assistant pet groomers).[125]

81 The Prosecution also submitted that the DJ failed to accord weight to the appellant's apparent lack of contrition, as a result of her "contrived and confused defence" and her "baseless aspersions on the [Prosecution's] witnesses".[126]

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120 PWS at para 105.

121 PWS at paras 106 to 107.

122 PWS at para 108.

123 PWS at paras 109 to 112.

124 PWS at para 113.

125 PWS at para 114.

126 PWS at paras 117 and 118.

82 Finally, the Prosecution contended that the sentence imposed of three weeks' imprisonment was not aligned with sentencing precedents for similar offences. According to the Prosecution, the culpability of the appellant ought to be similar to that of the offender in *Chiew Kok Chai*.[127]

The appellant's case

83 The appellant submitted that the sentence imposed of three weeks' imprisonment ought not to be disturbed, in view of two sentencing precedents, *Chiew Kok Chai* and *Public Prosecutor v Goh Hock Meng* [2021] SGMC 32 ("*Goh Hock Meng*"), where the offenders were sentenced to terms of imprisonment ranging from two to six weeks for offences under s 22(1)(*d*) of the EFMA, notwithstanding that the facts in those cases were more egregious than the present.[128]

My decision

The applicable law

84 The dominant sentencing consideration was that of deterrence, in order to protect the integrity of the work pass system (*Chiew Kok Chai* at [32]–[36]). It was undisputed by parties that the appropriate sentencing framework in the present case was the "two-step sentencing bands" approach endorsed in *Chiew Kok Chai* (at [63]). At the first stage, the court should consider the following non-exhaustive factors (*Chiew Kok Chai* at [67]):

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127 PWS at para 123.

128 AWS at paras 75 and 80.

(a) The materiality of the false representation on the mind of the decision-maker; the greater the impact of the falsehood in inducing the grant of the application, the more severe the sentence imposed.

(b) The nature, sophistication and extent of the deception; more severe punishment was merited if the offender went to greater lengths to deceive or if he acted in conscious defiance of public authorities.

(c) The consequences of the deception, which included the extent to which harm was caused to foreign workers by way of exploitation, the wastage of resources by public authorities in uncovering the deception, whether a potentially better-qualified applicant was deprived of the job opportunity, or whether the offender put others at risk of adverse consequences by performing a job without the requisite skills.

(d) Whether a transnational element was present and/or whether the offence was committed as part of a criminal syndicate's operations.

(e) The specific role played by the offender, and, relatedly, the number of people involved in the furnishing of false information.

(f) Whether the offender obtained gains (financial or otherwise) from the commission of the offence.

(g) The motive of the offender in circumventing the work pass framework, *eg*, for vice or criminal activities.

85 Based on the above non-exhaustive factors, the court would then ascertain the gravity of the offence and place the offence within an appropriate band (*Chiew Kok Chai* at [25] and [63]):

Band	Elaboration	Sentencing Range
1	Lower end of the spectrum, involving one or very few offence-specific factors, or where offence-specific factors were not present to a significant degree.	Short custodial sentence of less than five months' imprisonment.
2	Middle band of the spectrum, involving higher levels of seriousness or harm, comprising cases falling between bands 1 and 3.	Five to 15 months' imprisonment.
3	Higher end of the spectrum, involving numerous offence-specific factors, or where offence-specific factors were present to a significant degree	15 to 24 months' imprisonment.

86 At the second stage, the court was to take into account the "offender-specific factors" such as the personal mitigating factors applicable to the offender. Where there were strong personal mitigating factors present, a fine may be appropriate (*Chiew Kok Chai* at [68]).

The relevant offence-specific factors

87 In my view, the relevant offence-specific factors were as follows:

(a) First, the falsehoods made to the Controller in Ribaya's and Payoyo's work pass applications were material, as they related to the very purpose for which the work passes were sought (see s 12(1) of the EFMA which provided that the work pass is only valid in respect of the employer and foreign employee specified for the occupation or type of employment specified in the work pass, unless approval of the Controller was obtained).

(b) Second, there was some sophistication and deception employed by the appellant in committing the offences. I agreed with the Prosecution that the appellant was the main orchestrator of the scheme to obtain work passes for Ribaya and Payoyo, and she had involved multiple people (Elena, Hirman, Junaina and Rudy) to assist with furnishing false information to the Controller. While the Prosecution urged the court to place weight on Ribaya's evidence that the appellant had instructed Ribaya to go to Junaina's home and "act as if [Ribaya was] working there" while waiting for the work pass to be delivered,[129] I declined to do so since, as I noted earlier, this was a finding solely based on Ribaya's testimony and Ribaya's disappearance mid-trial meant that her evidence could not be fully tested (see [35]–[36] above).

(c) Next, I agreed with the DJ that while the appellant appeared to have derived some financial gain from employing Ribaya and Payoyo at Vet Princess, this was difficult to quantify and appeared modest at best.[130]

(d) Finally, the appellant's motive in circumventing the work pass framework was clearly for personal benefit and potential financial gain, *ie*, to bypass the quota imposed on Vet Princess for employing work pass holders and obtain Ribaya's and Payoyo's assistance in the business.

88 In relation to the consequences of such deception, I noted the Prosecution's submission that Ribaya and Payoyo worked long hours, were not provided meals on time (or at all) and were subject to abusive scolding by the

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129 PWS at para 12(b); and NEs day 12 at p 45 lines 9 to 11 (ROA at p 834).

130 GD at paras 173 to 174 (ROA at p 2529).

appellant. However, the evidence was not that clear in this regard. For example, while Payoyo initially testified that she was not given food and/or time to eat,[131] she later accepted during her cross-examination that the appellant provided her with accommodation, personal toiletries and three meals a day.[132] According to Payoyo, the appellant also brought Ribaya and Payoyo to sightsee and tour Singapore (on the appellant's expense),[133] and they had rest days.[134] For completeness, to the extent that the Prosecution suggested that the appellant still owed Ribaya and Payoyo certain portions of their salaries, I noted that Payoyo later accepted that the appellant did pay her back for unpaid salary.[135] In the circumstances, I agreed with the DJ that, based on the available evidence, the appellant's treatment of Ribaya and/or Payoyo did not appear to amount to abuse or exploitation.[136]

(1) Whether the length of deception was a relevant sentencing factor

89 I agreed with the Prosecution to the extent that the length of deception was not particularly determinative in the present case when assessing the appellant's culpability (specifically, the sophistication or extent of deception employed), since it was Ribaya, Payoyo and Elena who reported the appellant to the MOM that led to offences being unearthed within a couple of months.[137] Nonetheless, in my view, the length of deception was still relevant to the

131 NEs day 1 at p 79 lines 22 to 25 (ROA at p 112).

132 NEs day 2 at p 25 lines 1 to 10 (ROA at p 155).

133 NEs day 1 at p 28 lines 6 to 14 (ROA at p 61); and NEs day 2 at p 30 lines 19 to 22 (ROA at p 160).

134 NEs day 1 at p 27 lines 7 to 9 (ROA at p 60).

135 NEs day 3 at p 60 lines 10 to 26 (ROA at p 269).

136 GD at para 175 (ROA at p 2529).

137 PWS as para 106.

analysis, such as assessing the consequences of such deception. For example, the longer the deception employed, the more extensive any harm may be caused to the foreign employees. In certain other cases, it was also conceivable that the length of the deception may be an appropriate measure of the extent of deception employed by the offender. The court in *Chiew Kok Chai* also took into account, as a relevant factor for sentencing, the fact that the deception there was maintained for five to six months for each foreign employee (at [73] and [75]).

(2) Whether the scale of the offender's business and the nature of the foreign employee's work were relevant to sentencing

90 I accepted the Prosecution's submission that the DJ incorrectly placed weight on the fact that Vet Princess was "a very small business which originated from [the appellant's] hobby and love for stray cats".[138] All other circumstances being equal, regardless of whether a false declaration to the Controller was made by a sole proprietor or a large corporate entity, the integrity of the work pass system was similarly compromised.

91 The Prosecution also submitted that the DJ incorrectly placed weight on the fact that Ribaya and Payoyo were only employed as "low level assistant pet groomers", also because such a consideration was not contemplated in *Chiew Kok Chai*.[139] I did not completely agree with the Prosecution in this regard. Again, I accepted that, all other factors remaining equal, the mere fact that any false declaration to the Controller led to the employment of foreign workers in certain types of occupations instead of others did not change the reality that the work pass system was compromised. However, where it was separately alleged that, by way of a false declaration to the Controller, the foreign employee was

138 GD at paras 172 to 173 (ROA at pp 2528 to 2529).

139 GD at para 173 (ROA at p 2529).

employed in a role or trade where they received insufficient training for and/or the role carried a level of responsibility or safety risk (whether to the foreign employee themselves or to the public at large), the nature of the foreign employee's work may be a relevant factor to sentencing. This was also contemplated in *Chiew Kok Chai*, where one of the relevant offence-specific factors, the consequences of the deception, included consideration of "whether the offender put others at risk of adverse consequences by performing a job without the requisite skills" (at [67(c)]). Ultimately, the relevant offence-specific factors set out in *Chiew Kok Chai* at [67] are non-exhaustive, and the court should be alive to any circumstance that may be relevant to the harm caused by and/or the culpability of the offender.

(3) Whether the harm caused to the integrity of the work pass system as a result of the offence was a distinct aggravating factor

92 While I agreed with the Prosecution that there was harm caused to the integrity of the work pass system as a result of the appellant's offending (amongst other harm caused, such as the adverse impact of the appellant's offending on the regulation of the foreign labour market in Singapore), this was not to be considered as a distinct aggravating factor in the first stage of the *Chiew Kok Chai* sentencing framework. As noted in *Chiew Kok Chai* (at [32]–[39]), the relevant public policy considerations were already reflected in the amendments to the EFMA in 2012 with increased penalties to enhance deterrence against contraventions under the EFMA.

The present case fell within Band 1 of the sentencing framework

93 I noted that, despite the Prosecution's submission that the appellant's culpability was high and the harm caused by her offending was moderate, they ultimately accepted that the present case fell within Band 1 of the sentencing

framework and also submitted that a sentence of six weeks' imprisonment was appropriate, which was at the *lower* end of the range of sentences imposed for offences in Band 1 (*ie*, a short custodial sentence of less than five months' imprisonment).

94 In my view, the DJ correctly found (and this was also undisputed by the parties) that the present case fell within the lower end of Band 1 of the *Chiew Kok Chai* framework.[140]

The relevant offender-specific factors

95 In relation to offender-specific factors, I agreed with the Prosecution that the appellant's conduct at trial was aggravating as she appeared to be embellishing her evidence at multiple points (see above at [60]).

96 The Prosecution also submitted that the appellant had cast baseless aspersions against Ribaya's, Payoyo's and Elena's characters by claiming that Ribaya and Payoyo drank alcohol, smoked cigarettes and ate pork in the appellant's Muslim home,[141] they were "rude" and had "no manners",[142] and that Elena borrowed money from the appellant and had trouble repaying the appellant,[143] when none of these were put to the witnesses.[144] However, I noted that these only arose in the appellant's evidence when she was questioned as to why she was unhappy with Ribaya and Payoyo and wanted them to leave

140 GD at para 170 (ROA at p 2528).

141 NEs day 24 at p 4 line 23 to p 5 line 1 (ROA at pp 1794 to 1795).

142 NEs day 24 at p 8 line 29 to p 9 line 1 (ROA at pp 1798 to 1799).

143 NEs day 24 at p 6 lines 14 to 23 (ROA at p 1796).

144 PWS at paras 120 to 121.

Singapore,[145] and the reason that Elena allegedly requested to work in Vet Princess (which was to earn extra money and repay the appellant).[146] Elena also corroborated that in so far as she did approach the appellant to earn extra income because her father was unwell.[147] In my view, the appellant's answers did not appear to have been given with the purpose in mind to discredit the witnesses. On balance, I placed minimal weight on this factor.

The appropriate sentence was six weeks' imprisonment

97 By virtue of the above, I found that a sentence of six weeks' imprisonment was appropriate. This was also aligned with the outcome in *Chiew Kok Chai*.

98 The offender in *Chiew Kok Chai* faced multiple charges under the EFMA, including five charges under s 22(1)(*d*) read with s 23(1) and punishable under s 22(1)(ii) of the EFMA, where three was proceeded on and two were taken into consideration (at [1] and [3]). The offender was sentenced to six weeks' imprisonment for each charge, with two of the three sentences running consecutively for a total of 12 weeks' imprisonment (*Chiew Kok Chai* at [76]). I accepted that the offender there faced multiple more charges under the EFMA than the appellant, and the deception was consciously and deliberately planned so that the offender may obtain foreign manpower at a lower cost *despite previous levy defaults* (*Chiew Kok Chai* at [73]). Notably, the court in *Chiew Kok Chai* found that the indicative starting point for sentencing in that case was two months' imprisonment but it applied a sentencing discount in view of the appellant's plea of guilty and cooperation with the authorities (at [75]). In the

145 NEs day 21 at p 45 lines 6 to 27 (ROA at p 1538).

146 NEs day 23 at p 59 lines 14 to 28 (ROA at p 1759).

147 NEs day 7 at p 32 lines 16 to 20 (ROA at p 504).

present case, the appellant claimed trial to her offences and no such sentencing discount was warranted.

99 In *Goh Hock Meng*, the offender there claimed trial to six charges under s 22(1)(*d*) and punishable under s 22(1)(ii) of the EFMA, and three other charges under s 22(1)(*d*) read with s 23(1) and punishable under s 22(1)(ii) of the EFMA (at [1]). However, after nine Prosecution's witnesses had given their evidence, the offender elected to plead guilty to three of the abovementioned charges, with the rest to be taken into consideration for sentencing (*Goh Hock Meng* at [3]). He was sentenced to an aggregate sentence of seven weeks' imprisonment (*Goh Hock Meng* at [5]), and the sentence was upheld on appeal. In that case, the offender made significant financial gains (of $74,134.23) by under-paying the foreign employees (by over-declaring their actual salaries to the Controller, and furnishing fake salary vouchers), though substantial restitution of $55,758.98 was eventually made to the foreign employees (*Goh Hock Meng* at [11], [17], [19], [40] and [44]). With respect, I did not place much weight on this case as a sentencing precedent as its facts were quite distinct from the present matter, and, in my view, the term of imprisonment imposed in that case was lenient and could well have been lengthier.

Conclusion

100 For the above reasons, I dismissed the appellant's appeal against conviction, and allowed the Prosecution's appeal against the sentence imposed.

Vincent Hoong
Judge of the High Court

Shehzhadee binte Abdul Rahman (Shehzhadee Law Corporation) for the appellant;
Houston Johannus and Karl Tan (Attorney-General's Chambers) for the respondent.