

THIRD DIVISION

[G.R. No. 120389. November 21, 1996]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. ALEXANDER ALEX BENEMERITO and PRECY BENEMERITO (at large), *accused*.

ALEXANDER ALEX BENEMERITO, *accused-appellant*.

D E C I S I O N

DAVIDE, JR., J.:

This is an appeal by accused-appellant Alexander Alex Benemerito from a Joint Decision^[1] of the Regional Trial Court of Quezon City, Branch 91, convicting him of illegal recruitment and three counts of estafa. The dispositive portion of the decision reads, as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Finding accused Alexander Alex Benemerito guilty beyond reasonable doubt, as principal, of the crime of Illegal Recruitment in large scale, as defined in Article 38, in relation to Article 39 of the Labor Code, as amended by P.D. No. 2018 in Crim. Case No. Q-93-51511 and sentencing him to suffer the penalty of life imprisonment, to pay a fine of P100,000.00, and to pay the cost;
2. Finding accused Alexander Alex Benemerito guilty beyond reasonable doubt, as principal, of the crime of estafa in Crim Case No. Q-93-51513 and sentencing him to suffer an indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to ten (10) years of *prision mayor*, as maximum; to indemnify Benjamin Quitoriano in the amount of P50,000.00 and to pay the cost;
3. Finding accused Alexander Alex Benemerito guilty beyond reasonable doubt, as principal, of the crime of Estafa in Crim. Case No. Q-93-51514 and sentencing him to suffer an indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to ten (10) years of *prision mayor*, as maximum, to indemnify Fernando Arcal in the amount of P50,000.00 and to pay the costs;
4. Finding accused Alexander Alex Benemerito guilty beyond reasonable doubt, as principal, of the crime of estafa in Crim. Case No. Q-93-51515 and sentencing him to suffer an indeterminate penalty of ten (10) years and one (1) day of *prision mayor*, as minimum, to fifteen (15) years of *reclusion temporal*, as maximum, to indemnify Carlito Gumarang in the amount of P95,000.00 and to pay the costs; and,
5. Acquitting accused Alexander Alex Benemerito of the crime of Estafa in Crim. Case No. Q-93-51512 for lack of evidence.^[2]

The amended information in Criminal Case No. Q-93-51511 charged the accused-appellant and his sister, Precy Benemerito, with the crime of large Scale Illegal Recruitment allegedly

committed, as follows:

That sometime during the months comprised from February to August 1993 in Quezon City, Philippines, the abovenamed accused, conspiring together, confederating with and mutually helping each other, without any authority of law, did then and there wilfully, unlawfully and feloniously recruit and promise employment to Brunei to the persons of FERNANDO ARCAL, ROLANDO ESPINO, CARLITO B. GUMARANG, BENJAMIN J. QUITORIANO, JULIO CABALLA and JOSE AQUINO, JR., by then and there requiring them to submit certain documentary requirements and exacting from them the total amount of P583,000.00, Philippine Currency as recruitment fees without the required necessary license or authority from the Department of Labor and Employment.

That the crime described above is committed in large scale as the same was perpetrated against six (6) persons individually or as a group as penalized under Article 38 in relation to Article 39 as amended by P.D. No. 2018 of the labor Code.

CONTRARY TO LAW.^[3]

The amended information in Criminal Case No. Q-93-51512 charged them with Estafa allegedly committed, thus:

That sometime during the months comprised from February to August 1993 in Quezon City, Philippines, the said accused conspiring together, confederating with and mutually helping each other, did then and there wilfully, unlawfully and feloniously defraud JOSE N. AQUINO, JR. in the following manner, to wit: representation which they made to said JOSE N. AQUINO, JR. to the effect that they had the power and capacity to recruit and employ JOSE N. AQUINO, JR. as worker and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said JOSE N. AQUINO, JR. to give and deliver, as in fact gave and delivered to said accused the amount of P17,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact did obtain the amount of P17,000.00 which amount once in possession, with intent to defraud him, wilfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said JOSE N. AQUINO, JR. in the aforesaid amount of P17,000.00 Philippine Currency.

CONTRARY TO LAW.^[4]

The informations in Criminal Cases Nos. Q-93-51513, Q-93-51514 and Q-93-51515, charging the accused-appellant and Precy Benemerito with Estafa in each case, contain substantially the same allegations as that in Criminal Case No. Q-93-51512, except as to the names of the complainants and the amounts involved viz., (a) Benjamin Quitariano and P50,000.00 in Criminal Case No. Q-93-51513;^[5] (b) Fernando Arcal and P50,000.00 in Criminal Case No. Q-93-51514;^[6] and (c) Carlito Gumarang and P105,000.00 in Criminal Case No. Q-93-51515.^[7]

Only the accused-appellant was arrested, while Precy Benemerito has remained at large up to the present. These cases were consolidated and joint trial thereon was had only against the accused-appellant after he entered a plea of innocence in the five cases on 27 April 1994.

The witnesses presented by the prosecution were complainants Benjamin Quitariano, Fernando Arcal and Carlito Gumarang; and Graciano Oco, the Senior Labor and Employment Officer of the Philippine Overseas Employment Administration (POEA). Fernando Arcal was recalled as a rebuttal witness.

The trial court summarized the evidence for the prosecution as follows:

Benjamin Quitariano claims to have known both Alex and Precy Benemerito since birth as they are townmates in Gonzaga, Cagayan. Sometime in February, 1993, he met Alex and Precy Benemerito in Gonzaga, Cagayan and the two offered him a job as helper mechanic in Japan and Alex said that they would leave together as he was also applying for a job there. Alex told him to prepare his passport, pictures and certificate of former employment. On March 8, 1993, he went to the residence of Alex and Precy Benemerito at 150-A Scout Hernandez, Kamuning, Quezon City and he submitted the papers to them. Precy told him to pay a placement fee of ₱100,000.00 but he said that he had only ₱50,000.00, which he gave to Precy. Precy asked Alex to count the money and told him to deposit the same in the bank and she issued a receipt for said amount (Exh. A). With respect to the balance of ₱50,000.00, Benjamin Quitariano requested that he be allowed to pay the same in installment by way of salary deduction. Precy then asked him to sign a two-year contract which provided for a salary of one lapad or 10,000 yen a day and medical and housing benefits. Precy gave him a referral for medical examination and told Alex to accompany him to the clinic. Alex accompanied him to the clinic and assured him of the promised job as they would leave together.

Carlito Gumarang, another townmate of Alex and Precy Benemerito, was told by the latter's mother sometime in February, 1993 that her children were recruiting people for employment and gave him their address at 150-A Scout Fernandez, Kamuning, Quezon City where he could see them if he was interested. He went to said address and talked to Alex and Precy who told him that he could leave for Japan to work as helper mechanic within forty-five (45) days after full payment of the placement fee of ₱105,000.00. He paid the amount of ₱105,000.00 in four (4) installments to Precy in the presence of Alex, who counted the money, and Precy gave him the corresponding receipts (Exh. H, I, J and K). He also submitted the necessary documents, such as application form, passport, NBI clearance and certificate of employment to Alex. He was asked by Alex to sign a contract of employment as helper mechanic which provided for a salary of one lapad or the equivalent of ₱2,500.00 a day.

Fernando Arcal was accompanied by his friend, Marcelo Leal, to the house of Alex and Precy at 150-A Scout Fernandez, Kamuning, Quezon City sometime in August, 1992 but the two told him that there was no available job. He returned to said place in March, 1993 and he was shown by Alex and Precy a job order for fifty (50) mechanic helpers for Japan with a salary rate of one lapad or ₱2,500.00 a day. Alex told him to have a medical examination and accompanied him to the clinic in Malate. After three days, Alex and Precy told him that he passed the medical examination and to raise money for the processing of his application. He paid the total amount of ₱50,000.00 in five installments, as evidenced by four (4) receipts issued by Precy (Exh. C, D, E, and F), while his last payment in the amount of ₱5,000.00 on June 15, 1993 was received by Alex who issued the corresponding receipt (Exh. G), as Precy had already left for Brunei. Alex asked him to sign the contract, attended to the processing of his papers, counted the money given by him as placement fee and assured him that he would be able to leave.

As the complainants were not able to leave for Japan as promised, Benjamin Quitariano, Carlito Gumarang and Fernando Arcal, together with other job applicants, filed a complaint against Alex and Precy Benemerito before the NBI. They likewise secured a Certification from the Philippine Overseas Employment Administration that Alexander Benemerito and Precy Benemerito are not licensed nor authorized to recruit workers for overseas employment (Exh. B and B-1), which was confirmed in open court by Graciano Oco, Senior Labor and Employment Officer who personally verified the same from the records of the Office. ^[8]

The defense presented the accused-appellant whose testimony is summarized by the trial court as follows:

Alexander Benemerito tried to show that after graduating from high school, he worked as jeepney

conductor in his hometown, Binaga, Gonzaga, Cagayan. In December, 1992, his sister Precy visited their place and convinced him to work abroad. On January 7, 1993, he went to the apartment at 150-A Scout Fernandez, Kamuning, Quezon City, which Precy was sharing with the owner, Mrs. Susie Mana and the latter's son and four maids. He applied for janitorial work in Brunei and submitted the required documents to Precy, who offered to shoulder the expenses. Precy likewise told him to stay in said apartment while his papers were being processed and he helped in the household chores and in the store of Susie Mana located at Agham Road, Quezon City, for which he was paid P50.00 a day by the latter. He admitted having seen Benjamin Quitarano, Carlito Gumarang and Fernando Arcal in said apartment when they talked to Precy in connection with their application for overseas employment and that he accompanied Benjamin Quitarano to the clinic upon the latter's request. However, he denied having participated in the transaction of Precy with the three complainants or having issued the receipt in favor of Fernando Arcal (Exh. G) as he was outside the apartment cleaning the vehicle of Susie Mana or watering the plants while they talked with Precy. He further claimed that the complainants admitted before the NBI agents who arrested him that he had nothing to do with their transaction with Precy Benemerito, who left for Brunei in August, 1993, and that it was only before the Inquest Fiscal that the complainants pointed to him as the one who received the money, which he denied. Jaime Roblegado claimed to have gone to the house of Precy Benemerito in February, March and April, 1993 in connection with his application for employment as computer programmer in Brunei, that it was only Precy who entertained him and the other applicants, including Fernando Arcal, whom he saw in the house and although Alex Benemerito was also in said place, he did not see the latter entertain any applicants as Alex was either cleaning a car or the living room of the house; and that he had a chance to ask Alex why he was in said place and the latter told him that Precy is his sister and that he was also an applicant and following up his papers. ^[9]

In its Joint Decision ^[10] dated 2 May 1995 and promulgated the following day, the trial court declared that the testimonies of the complainants were positive and credible, and found that accused Alex Benemerito, together with his sister Precy Benemerito, [was] positively identified by Benjamin Quitarano, Carlito Gumarang and Fernando Arcal as having promised them employment abroad for a fee [and that] [a]s shown by a Certification of the Philippine Overseas Employment Administration, both Alex and Precy Benemerito are neither licensed nor authorized by said office to recruit workers for overseas employment (exhibits B and B-1).

The trial court further observed that accused Alex Benemerito has not denied that he is a townmate of both Benjamin Quitarano and Carlito Gumarang and it is difficult to believe that said complainants would fabricate a story that would result in the imprisonment for life of the accused. With respect to Fernando Arcal, while he did not know the accused personally, it was against human nature and experience for a stranger to accuse another stranger of a most serious crime merely to mollify his hurt feelings. ^[11]

The trial court debunked the accused-appellant's testimony as inherently weak for being a mere denial and that Susie Mana did not corroborate his claim that he worked as her houseboy and stayed in her apartment. ^[12]

The trial court then concluded that the evidence for the prosecution established all the elements of the crimes charged, thus:

Thus, the crime of illegal recruitment in large scale is committed when a person (a) undertakes any recruitment activity defined under Article 13(b) or any prohibited practice enumerated under Article 34 of the Labor Code; (b) does not have a license or authority to lawfully engage in the recruitment and placement of workers; and (c) commits the same against three or more persons, individually or as a group.

(People vs. Coronacion, 237 SCRA 227, 239). ^[13]

On the other hand, the elements of estafa in general are (1) that the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit, and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party (People vs. Ong, 204 SCRA 942).

In the cases at bar, accused Alex Benemerito and his sister Precy gave the complainants the impression that they could give them employment abroad so that the complainants were convinced to give them the money they demanded in their desire to be able to earn one lapad or the equivalent of P2,500.00 a day as represented to them. Benjamin Quitoriano and Fernando Arcal each gave accused Alex Benemerito and his sister the amount of P50,000.00, as evidenced by the receipts issued to them (Exh. A, C to G). With respect to Carlito Gumarang, he presented receipts evidencing his payment of a total amount of P95,000.00 (Exh. I, J and K). The receipts dated August 24, 1992 for the amount of P10,000.00 (Exh. H) is in the name of Shally Flor Gumarang, a sister of Carlito Gumarang and likewise an applicant, and cannot thus be considered as part of the payment of Carlito Gumarang. The fact that the receipts were signed only by Precy Benemerito is of no moment, in view of the insistence of the complainants that the money was given by them to both Alex and Precy Benemerito in consideration of their promise of overseas employment as the money was counted first by Alex Benemerito after which Precy Benemerito issued the receipts to the complainant. Thus, the acts of accused Alex Benemerito and his sister establish a common criminal design towards the accomplishments of the same unlawful purpose, evidencing conspiracy between them. [14]

The complainant in Civil Case No. Q-93-51512, however, was unable to testify; hence the trial court declared that the case must perforce fail for lack of evidence. [15] The trial court then rendered judgment as quoted in the opening paragraph of this *ponencia*.

In due time, the accused-appellants filed his appeal and in his Appellants Brief [16] contends that the trial court committed the following errors:

I.

x x x IN HOLDING THAT A CONSPIRACY EXIST BETWEEN ACCUSED-APPELLANT ALEX BENEMERITO AND HIS CO-ACCUSED SISTER PRECY BENEMERITO; AND IN CONVICTING HIM OF THE CRIME AS PRINCIPAL.

II.

x x x IN NOT ACQUITTING THE ACCUSED APPELLANT ON GROUNDS OF REASONABLE DOUBT BY APPLYING THE EQUIPOSE RULE. [17]

As to his first assigned error, the accused appellant maintains that his conviction was based mainly on his association with Precy Benemerito, his sister and co-accused, which the trial court appreciated as evidence of conspiracy. He claims such a conclusion to be erroneous for even assuming he helped his sister entertain the complainants, he did so only because, like the complainants, he was also an applicant eager to work abroad, and his sister promised to pay for his placement fee. Further, he had no knowledge of his sisters criminal intent and might even be considered a victim of his sister.

The accused-appellant also argues that some of the complainants knew that he was not a part of any conspiracy, hence they did not include his name in the complaint filed with the National Bureau of Investigation (NBI), and if he were, he would have gone into hiding instead of facing his accusers. [18]

In the second assigned error, the accused-appellant assert that he should be acquitted under the equipoise rule in view of the doubts as to his guilt as shown in his arguments under the first assigned error, and that the evidence points in fact to his sister Precy Benemerito as the

recruiter who received the money from the complainants.^[19]

The People, through the Office of the Solicitor General, disagrees with the accused-appellant and recommends that we affirm *in toto* the impugned decision.

A careful review of the record discloses that the trial courts findings of fact are supported by the evidence and its conclusions are in accord with the law and jurisprudence. We hold, therefore, that the crimes of large scale illegal recruitment and three counts of estafa were committed, and that the accused-appellant is guilty thereof beyond reasonable doubt. We have no alternative but to dismiss the appeal and affirm the judgment, subject to modifications on the penalties imposed in the cases for estafa.

Indeed, the evidence overwhelmingly established the fact that both the accused-appellant and his sister Precy Benemerito were engaged in the business of illegal recruitment. In their testimonies, Fernando Arcal and Carlito Gumarang were positive, categorical and firm, even under grueling cross-examination, that the accused-appellant actively participated in the recruitment process. The latter was present when each complainant was offered a job in Japan, and the accused-appellant even made representations as to the existence of such jobs^[20] and accompanied the complainants for their medical examinations.^[21] The accused-appellant likewise received installment payments from the complainants.^[22] These acts demonstrated beyond doubt that the accused-appellant was not merely an applicant for a job or an unwitting victim of his sister; on the contrary, he was a knowing and willing participant in the recruitment activities, which were obviously conducted for profit. We do not then hesitate to rule, as did the trial court, that the accused-appellant and his sister Precy Benemerito, who is still at large, were co-conspirators in the recruitment business which, as hereunder discussed, was illegal and on a large scale. Conspiracy exist when two or more people come to an agreement concerning the commission of a felony and decide to commit it.^[23] It can be inferred from the acts of the accused themselves when such point to a joint purpose and design, concerted action and community of interest.^[24] Once conspiracy is established, the act of one conspirator is the act of the others.^[25]

That the accused-appellants name was not included in the sworn statement of Fernando Arcal filed with the NBI is of no moment. As correctly ruled by the trial court, this omission was satisfactorily explained by complainant Fernando Arcal; moreover, all the complainants identified [the accused-appellant] before the Inquest Fiscal as the one who received the money from them.^[26]

Neither are we persuaded by this plea of innocence allegedly evidenced by non-flight. This converse of the evidentiary principle of flight as indicative of guilt,^[27] does not necessarily hold true.^[28] Non-flight may not be positively construed as an indication of innocence.^[29]

The accused-appellants plea for the application of the equipoise rule must likewise fail. This rule provides that where the evidence of the parties in a criminal case is evenly balanced, the constitutional presumption of innocence should tilt the scales in favor of the accused.^[30] There is, therefore, no equipoise if the evidence is not evenly balanced. Not even a semblance of parity is present in this case. Against the direct, positive and convincing evidence for the prosecution, the accused-appellant could only offer a mere denial and the incredible claim that he was an unwitting victim of his sister Precy Benemerito. He miserably failed to overcome the prosecutions evidence, hence the rule is unavailable to him.^[31]

We now turn to the criminal liability of the accused-appellant.

Illegal recruitment is defined in Article 38 of the Labor Code, as amended, as follows:

ART. 38. *Illegal Recruitment.* -- (a) Any recruitment activities including the prohibited activities including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment or any law enforcement officer may initiate complaints under this Article.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Article 13(b) of the same Code defines recruitment and placement as:

any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: *Provided, that* any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

To prove illegal recruitment, only two elements need be shown, viz., (1) the person charged with the crime must have undertaken recruitment activities (or any of the activities enumerated in Article 34 of the Labor Code, as amended); and (2) the said person does not have a license or authority to do so. It is not required that it be shown that such person wrongfully represented himself as licensed recruiter.^[32] A license is a document issued by the Department of Labor and Employment (DOLE) authorizing a person or entity to operate a private employment agency, while an authority is a document issued by the DOLE authorizing a person or association to engage in recruitment and placement activities as a private recruitment agency.^[33]

There is large scale illegal recruitment if it is committed against three (3) or more persons individually or as a group; its elements, therefore, are the two above mentioned plus the fact that it is committed against three or more persons.^[34]

Large scale illegal recruitment involves economic sabotage,^[35] and is penalized by Article 39(a) of the Labor Code, as amended, with life imprisonment and a fine of ₱100,000.00.

The accused-appellant having recruited at least three persons, giving them the impression of his ability to send workers abroad, assuring them of their employment in Japan, and collecting various amounts for alleged processing and placement fees, without license nor authority to so recruit or offer job placements abroad, thus committed large scale illegal recruitment.

It is settled in our jurisdiction that a person who commits illegal recruitment may be charged and convicted separately of illegal recruitment and estafa under paragraph 2(a), Article 315 of the Revised Penal Code, as the former is *malum prohibitum* where the criminal intent of the accused is not necessary for conviction, while estafa is *malum in se* where the criminal intent of the accused is necessary for conviction.^[36] In short, a conviction for offenses under the Labor

Code does not bar punishment for offenses punishable by other laws. ^[37]

The elements of estafa in general are: (1) that the accused defrauded another: (a) by abuse of confidence, or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. ^[38]

All these elements are present in the instant case: the accused-appellant deceived the complainants into believing that he had the authority and capability to send them abroad for employment; that there were available jobs for them in Japan for which they would be hired; and that by reason or on the strength of such assurance, the complainants parted with their money in payment of the various processing and placement fees. As all these representations of the accused-appellant proved false, paragraph 2(a), Article 315 of the Revised Penal Code is thus applicable.

The penalty for estafa depends on the amount defrauded. The opening paragraph of Article 315 of the Revised Penal Code, as amended, provides:

[T]he penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over 12,000 but does not exceed 22,000 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such a case, and in connection with the accessory penalties which may be imposed, and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

The amount proved to have been defrauded in Criminal Case No. Q-93-51513 and Criminal Case No. Q-93-51514 was P50,000.00 in each case. Hence, the penalty prescribed above should be imposed in its maximum period. The maximum period thereof following the rule prescribed in the last paragraph of Article 77 of the Revised Penal Code ^[39] ranges from six (6) years, eight (8) months and twenty one (21) days to eight (8) years. We add to it two (2) years and nine (9) months for the amount beyond the first P22,000.00 (at the rate of one (1) year for every P10,000.00 and nine (9) months for the remaining P8,000.00 by ratio and proportion). Applying the Indeterminate Sentence Law, the accused-appellant can be sentenced to an Indeterminate penalty whose minimum shall be within the range of the penalty next lower in degree than that prescribed by law, viz., *prision correccional* in its minimum and medium periods (six (6) months and one (1) day to four (4) years and two (2) months) and whose maximum shall be the abovementioned imposable penalty. The indeterminate penalty can range, therefore, from two (2) years, eleven (11) months and ten (10) days of *prision correccional*, as minimum, to ten (10) years and nine (9) months of *prision mayor*, as maximum.

In Criminal Case No. Q-93-51515, the amount proved to have been defrauded is only P85,000.00, as the receipt for the P10,000.00 is in the name of Shally Flor Gumarang, not the complainant Carlito Gumarang. The principal penalty imposable is likewise the maximum of the prescribed penalty provided for in article 315 as stated in the immediately preceding paragraph, plus six (6) years and three (3) months for the amounts beyond the first P22,000.00 (at the rate of one (1) year for every additional P10,000.00 and three (3) months for the remaining P3,000.00). Applying the Indeterminate Sentence Law, and the foregoing disquisition, the accused-appellant can be sentenced to an indeterminate penalty ranging from four (4) years and two (2) months of *prision correccional*, as minimum, to fourteen (14) years and three (3) months of *reclusion temporal*, as maximum.

WHEREFORE, the Joint Decision in Criminal Cases Nos. Q-93-51511, Q-93-51512, Q-93-51513, Q-93-51514 and Q-93-51515 is AFFIRMED, except as to the penalties imposed in the last three cases which are modified, as stated above. As modified, accused-appellant

ALEXANDER ALEX BENEMERITO is thus sentenced in the said cases to suffer, as follows:

1. In Criminal Case No. Q-93-51513, an indeterminate penalty ranging from Two (2) years, Eleven (11) months and Ten (10) days of *prision correccional*, as minimum, to a total of Ten (10) years and Nine (9) months of *prision mayor*, as maximum, and to indemnify complainant Benjamin Qutoriano in the amount of Fifty Thousand (₱50,000.00) Pesos;
2. In Criminal Case No. Q-93-51514, an indeterminate penalty ranging from Two (2) years, Eleven (11) months and Ten (10) days of *prision correccional*, as minimum, to a total of Ten (10) years and Nine (9) months of *prision mayor*, as maximum, and to indemnify complainant Fernando Arcal in the amount of Fifty Thousand (₱50,000.00) Pesos; and
3. In Criminal Case No. Q-93-51515, an indeterminate penalty ranging from Four (4) years and Two (2) months of *prision correccional*, as minimum, to a total of Fourteen (14) years and Three (3) months of *reclusion temporal*, as maximum, and to indemnify complainant Carlito Gumarang in the amount of Eighty-Five Thousand (₱85,000.00) Pesos.

Cost against the accused-appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Original Record (OR), 161-169. Per Judge Marina I. Buzon.

[2] OR, 168-169.

[3] *Id.*, 78; *Rollo*, 13.

[4] *Id.*, 80-81; *Id.*, 15-16.

[5] OR, 82-83 *Rollo*, 17-18.

[6] *Id.*, 84-85; *Id.*, 19-20.

[7] *Id.*, 86-87; *Id.*, 21-22.

[8] OR, 162-163; *Rollo*, 47-48.

[9] *Id.*, 163-164; *Id.*, 48-49.

[10] See footnote 1.

[11] Citing *People v. Coronacion*, 237 SCRA 227, 239 [1994]; OR, 167; *Rollo*, 52.

[12] *Id.*, 165; *Id.*, 50.

[13] *Id.*, 167; *Id.*, 52.

[14] *Id.*, 167-168; *Id.*, 52-53.

[15] OR. 167-168; *Rollo*, 52-53.

[16] *Rollo*, 62-84.

[17] *Id.*, 71.

[18] Citing *People v. Javier*, 229 SCRA 638 [1994]; *People v. Galit*, 230 SCRA 486 [1994].

[19] Citing *People v. Pacana*, 47 Phil. 48 [1924].

[20] TSN, 4 July 1994, 21; TSN, 11 July 1994, 4; TSN, 25 July 1994, 4-5. 15-17.

[21] TSN, 11 July 1994, 7-8; TSN, 25 July 1994, 5.

[22] TSN, 4 July 1994, 6, 28; *Id.*, 6-11, 26-29; *Id.*, 6-7, 21.

[23] Article 8, Revised Penal Code.

- [24] People v. Martinado, 214 SCRA 712, 732 [1992]; People v. Canillo, 236 SCRA 22, 41-42 [1994].
- [25] People v. De Leon, 225 SCRA 651, 662 [1993].
- [26] OR, 166; *Rollo*, 51.
- [27] See People v. Garcia, 209 SCRA 164, 177 [1992].
- [28] People v. Comia, 236 SCRA 185, 195 [1994].
- [29] People v. Enciso, 223 SCRA 675, 688 [1993].
- [30] Federico B. Moreno, Philippine Law Dictionary [1991-1992 supplement], 30.
- [31] See Corpuz v. People, 194 SCRA 73 [1991]; People v. Deunida 231 SCRA 520 [1994].
- [32] People v. Cabacang, 246 SCRA 530, 537 [1995].
- [33] Article 13(d) and (f), Labor Code, as amended.
- [34] People v. Comia, *supra* note 28, at 193; People v. Bautista, 241 SCRA 216, 222 [1995].
- [35] Section 38(b), Labor Code, as amended; People v. De Leon, *supra* note 25, at 658.
- [36] People v. Manungas, 231 SCRA 1, 8 [1994].
- [37] People v. Bautista, *supra* note 34, at 222, citing People v. Turda, 233 SCRA 702 [1994]. See also People v. Alforte, 219 SCRA 458 [1993].
- [38] People v. Ong, 204 SCRA 942, 955 [1991].
- [39] It provides: Whenever the penalty prescribed does not have one of the forms specially provided for in this Code, the periods shall be distributed, applying by analogy the prescribed rules.