

SECOND DIVISION

[G.R. No. 115350. September 30, 1996]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. RESTITUTO PABALAN y CALILONG, *accused-appellant*.

[G.R. Nos. 117819-21. September 30, 1996]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. RESTITUTO PABALAN y CALILONG, *accused-appellant*.

DECISION

REGALADO, J.:

Accused-Appellant Restituto C. Pabalan was charged with illegal recruitment in large scale and three counts of estafa in separate informations filed before the Regional Trial Court of Valenzuela, Metro Manila, Branch 171.^[1]

The information in each case reads as follows:

Criminal Case No. 3089-V-93:

That during the period from April up to June 1993 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, representing himself to have the capacity to contract, enlist and recruit workers for employment abroad, did then and there wilfully and unlawfully, for a fee, recruit and promise employment/job placement in a large scale to HENRY LUCIANO y PALLASIGUE, JUNE BARRERA Y PINEDA and MANUEL GARCIA Y RAGUA, without said accused having secured first the necessary license or authority to engage in recruitment activity from the Philippine Overseas Employment Administration (POEA), in violation of the aforementioned provision of law.

Contrary to law.

Valenzuela, Metro Manila, August 18, 1993.^[2]

Criminal Case No. 3090-V-93

That sometime in the month of May, 1993 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, defrauded and deceived one JUNE D. BARRERA, in the following manner to wit: said accused, by means of false manifestations and fraudulent representation which (he) made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary amount to meet the requirements thereof, knowing said manifestations and representation to be false and fraudulent and w(e)re made only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to

₱100,000.00, but said accused, once in possession of the same, with intent to defraud and deceive the herein complainant, did then and there wilfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of ₱100,000.00 said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the complainant in the aforementioned amount of ₱100,000.00.

Contrary to law.

Valenzuela, Metro Manila, August 18, 1993. [\[3\]](#)

Criminal Case No. 3091-V-93

That sometime in the month of April, 1993 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, defrauded and deceived one MANUEL R. GARCIA, in the following manner to wit: said accused, by means of false manifestations and fraudulent representation which (he) made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary amount to meet the requirements thereof, knowing said manifestations and representation to be false and fraudulent and w(e)re made only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to ₱26,000.00 and \$1,600.00, said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the complainant in the aforementioned amount of ₱26,000.00 and \$1,600.00.

Contrary to law.

Valenzuela, Metro Manila, August 18, 1993. [\[4\]](#)

Criminal Case No. 3092-V-93

That sometime in the month of May, 1993 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, defrauded and deceived one HENRY LUCIANO y PALLASIGUE, in the following manner to wit: said accused, by means of false manifestations and fraudulent representation which (he) made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary amount to meet the requirements thereof, knowing said manifestations and representation to be false and fraudulent and w(e)re made only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to ₱100,000.00, but said accused, once in possession of the same, with intent to defraud and deceive the herein complainant, did then and there wilfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of ₱100,000.00, said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the complainant in the aforementioned amount of ₱100,000.00.

Contrary to law.

Valenzuela, Metro Manila, August 18, 1993. [\[5\]](#)

Upon arraignment, appellant pleaded not guilty to the offenses charged. As said indictments are founded on the same facts, the cases were tried jointly. The prosecution presented the three complainants in the criminal cases and they identified appellant as the person who perpetrated the crimes of illegal recruitment and estafa against them.

According to June D. Barrera, [\[6\]](#) he met appellant on May 9, 1993 in Lacmit, Arayat,

Pampanga. Appellant told him that he could send him abroad and promised him a job in a construction company in Japan. On that assurance, Barrera gave an initial amount of ₱2,000.00 on that same day to appellant for the processing of his passport. Thereafter, he gave another ₱5,000.00 on May 15, 1993. On May 19, 1993, Barrera went to appellants residence in Marulas, Bulacan and gave him ₱20,000.00 for the airplane ticket for the trip to Japan. These three amounts were covered by a receipt for ₱27,000.00 breaking down the expenses as follows: services rendered, round-trip plane ticket, travel tax and hotel reservations.^[7]

Appellant subsequently explained to Barrera that they would have to use Saipan as an entry point to Japan. Accordingly, Barrera gave appellant \$500.00 as an additional payment for the plane ticket to Saipan.

Accompanied by appellant, he and other job-seekers were able to reach Saipan where they stayed for six days in a hotel. In Saipan, Barrera gave appellant another \$2,000.00, supposedly required as show money attesting to his financial capacity, in order to obtain an airplane ticket to Japan. They were able to reach Japan but were detained immediately upon arrival for want of a job order to work in that country. On the following day, they were sent back to the Philippines.

Back in this country, appellant kept on assuring Barrera that he would send him back to Japan, but nothing materialized from his promises. Barrera disclosed to the court that he only borrowed money and mortgaged his land to raise the necessary amounts demanded by appellant.

Henry Luciano testified^[8] that he met appellant on May 9, 1993 in Lacmit, Arayat, Pampanga through his cousin, June Barrera. Appellant told him that he could arrange employment for him abroad for ₱100,000.00 and once he shall already be working, he should give him an additional ₱20,000.00. To start the processing of the documents needed for his travel, Luciano gave ₱3,500.00 to appellant.^[9] Then on May 19, 1993, in the company of his cousin, Luciano gave ₱28,900.00 to appellant for the following expenses services rendered, round-trip plane ticket, travel tax and hotel reservations.^[10] Then, on May 27, 1993, he gave ₱12,000.00 more to appellant as additional payment for his airplane ticket.

Luciano, appellant and other job-seekers left Manila for Saipan on June 2, 1993 and stayed in said territory for six days. In Saipan, Luciano again gave \$2,000.00 to appellant for his airplane ticket to Japan. However, upon reaching Japan, they were detained by the immigration officers at the airport in Narita because they had no working visas. After staying overnight in a detention house, they were deported to the Philippines.

Just like his cousin, Luciano declared that he had borrowed money and mortgaged his land just to raise the amount needed for his placement overseas.

Manuel Garcia testified^[11] December 3, 1993, 2-10.11 that he was introduced by a friend to appellant sometime in March, 1993. Appellant promised him in that meeting that he could get him a job abroad. On April 3, 1993, Garcia gave ₱26,000.00 to appellant as payment for the latters services in finding him employment overseas.

Together with Barrera, Luciano, one Emerito Isip, one Aquilino Espino, Jr., and appellant himself, Garcia left the Philippines for Saipan sometime in June of that year. In Saipan, he gave an additional \$1,600.00 to appellant as requested by the latter. Thereafter, upon instructions of appellant, he and Espino left one day ahead of the group in going to Japan. Just like the misfortune that would befall their other companions, the two were apprehended upon reaching the airport in Japan and were later deported to the Philippines.

It is undisputed that appellant was not qualified to recruit workers. He admitted the authenticity and due execution of the certification issued by the Philippine Overseas

Employment Administration (POEA) to the effect that he was not licensed or authorized by the Administration to recruit workers for overseas employment.^[12]

However, he anchored his defense on a total denial of the illegal acts imputed to him. Appellant contended that he was never engaged in illegal recruitment when he dealt with Barrera and Luciano, and that he had no transaction whatsoever with Garcia.

In his testimony in the lower court,^[13] appellant claimed that he first met Barrera and Luciano in the last week of April, 1993 when the duo came to his house with a letter from a former mayor of Arayat requesting him to help them get tourist visas for Japan. They told him that they wanted to go to Japan as tourists.

Knowing that it was hard to get a tourist visa at the Japanese Embassy, he advised them to first go to Saipan and then proceed from there to Japan. He explained that it was easy to go to Japan through Saipan because foreigners who stay in Saipan for one week can enter Japan as transit passengers for seventy-two hours and secure short pass visas for their use.

After the two had gotten their passports, appellant accompanied them to the Philippine Travel Agency at Ermita, Manila to buy their round-trip airplane tickets for Saipan. Appellant also bought a ticket for himself because he allegedly had a friend in Japan whom he wanted to visit.

In Saipan, they stayed at the MMF Hotel for seven days and paid for their own expenses. It was also in Saipan where they bought their tickets for Japan. Upon entering Japan, however, they were brought to the Narita rest house immigration jail. They were denied short pass visas because of tight security in connection with the preparations for the wedding of the Emperors son. Subsequently, they were expatriated from Japan.

Appellant, on the other hand, claimed that it was only in Saipan that he met Garcia and disclaimed having promised a job to the latter. He further denied having received any money from complainants, but admitted that the signatures in the receipts are his. After joint trial duly conducted, the lower court found appellant guilty of all the charges and rendered the following judgment:

WHEREFORE, finding accused Restituto Pabalan y Calilong:

CRIMINAL CASE NO. 3089-V-93

Guilty beyond reasonable doubt of Illegal Recruitment (in) large scale, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay a fine of ONE HUNDRED THOUSAND PESOS (P100,000.00) and the costs of suit.

CRIMINAL CASE NO. 3090-V-93

Guilty beyond reasonable doubt of Estafa defined and punished under Article 315 (2) (a) of the Revised Penal Code, he is hereby sentenced to suffer an indeterminate imprisonment from EIGHT (8) YEARS and ONE (1) DAY of Prision Mayor, as minimum, to FOURTEEN (14) YEARS of Reclusion Temporal, as maximum, with the accessory penalties prescribed by law and to pay the costs.

The accused is hereby ordered to pay the offended party the sum of P89,000.00.

CRIMINAL CASE NO. 3091-V-93

Guilty beyond reasonable doubt of Estafa defined and punished under Article 315 (2) (a) of the Revised Penal Code, he is hereby sentenced to suffer an indeterminate imprisonment from SIX (6) YEARS of Prision Correccional, as minimum, to TWELVE (12) YEARS of Prision Mayor, as maximum, with the accessory penalties prescribed by law and to pay the costs.

The accused is ordered to pay the offended party the sum of P66,000.00

CRIMINAL CASE NO. 3092-V-93

Guilty beyond reasonable doubt of Estafa defined and punished under Article 315 (2) (a) of the Revised Penal Code, he is hereby sentenced to suffer an indeterminate imprisonment from EIGHT (8) YEARS and ONE (10) DAY of Prision Mayor, as minimum, to FIFTEEN (15) YEARS of Reclusion Temporal, as maximum, with the accessory penalties prescribed by law and to pay the costs.

The accused is ordered to pay the offended party the sum of P94,400.00.

SO ORDERED. ^[14]

Hence, this appeal, on the ground that the trial court erred in convicting appellant of the crimes of illegal recruitment in large scale and estafa despite the absence of evidence showing his guilt beyond reasonable doubt. ^[15] Upon motion of appellant, the First Division of this Court ordered the consolidation of G.R. Nos. 117819-21 (the appeal in Criminal Case Nos. 3090-V-93, 3091-V-93 and 3092-V-93) with G.R. No. 115350 (the appeal in Criminal Case No. 3089-V-93). ^[16] His brief filed thereafter presents a slew of arguments seeking to overturn his conviction in the aforementioned cases.

Firstly, appellant posits that he cannot be convicted of illegal recruitment because of the absence of receipts indicating that complainants did pay him fees in consideration of his services. ^[17]

Although not all of the amounts testified to by complainants were covered by receipts, the fact that there were no receipts for some of the amounts delivered to him does not mean that appellant did not accept or receive such payments. This Court has ruled in several cases that the absence of receipts in a criminal case for illegal recruitment does not warrant the acquittal of the accused and is not fatal to the case of the prosecution. ^[18] As long as the witnesses had positively shown through their respective testimonies that the accused is the one involved in the prohibited recruitment, he may be convicted of the offense despite the want of receipts.

The Statute of Frauds and the rules of evidence do not require the presentation of receipts in order to prove the existence of a recruitment agreement and the procurement of fees in illegal recruitment cases. The amounts may consequently be proved by the testimony of witnesses.

The finding of illegal recruitment in large scale is justified whenever the following elements are present: (1) that the offender engages in the recruitment and placement of workers as defined in Article 13(b) of the Labor Code or in any prohibited activities under Article 34 of the same code; (2) that the offender does not have a license or authority to recruit and deploy workers, either locally or overseas; and (3) that the offender commits the same against three (3) or more persons, individually or as a group. ^[19] Article 13(b) characterizes 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.*

It will readily be noted, as earlier explained, that the exhibition of receipts is not necessary for the successful prosecution of the offense of illegal recruitment in large scale. Since all of the above elements were satisfactorily proven by the prosecution before the court *a quo* through the testimonies of its witnesses and by competent documents, then the non-presentation of receipts should not in any way hinder the conviction of appellant.

Secondly, appellant faults the lower court for giving credence to the testimony of complainant Garcia. He claims that aside from the testimony of Garcia, there is no other evidence presented by the prosecution to show that there was a recruitment agreement between them and that money was received by appellant. His alleged companion in Saipan, Aquilino Espino, was not even presented to corroborate his story.^[20]

The fact that no additional evidence was presented, aside from the testimony of Garcia, will not militate against his credibility. Corroborative evidence is necessary only when there are reasons to warrant the suspicion that the witness falsified the truth or that his observations are incorrect.^[21] Complainant Garcia's straightforward and clear testimony renders unnecessary the presentation of documents and other evidence to prove that appellant was the one who engaged him to work abroad.

Neither will the failure of the prosecution to present Espino diminish the credibility of Garcia. It has been held that the non-presentation of certain witnesses by the prosecution is not a plausible defense and the matter of whom to present as witnesses for the prosecution lies in the sound discretion of the prosecutor handling the case.^[22] Thus no adverse inference against the case of the People can be deduced from the failure of the prosecution to present Espino. Besides, if the prosecution had opted to present Espino, his testimony would merely be corroborative and can thus be dispensed with.^[23]

Appellant further attacks the credibility of Garcia by theorizing that it was preposterous to buy the latter's airplane ticket on March 29, 1993 when, according to his own testimony, he met appellant only on April 3, 1993.^[24] It is, however, well settled that minor discrepancies in the testimony of a prosecution witness do not affect his credibility.^[25]

The alleged inconsistencies are too insignificant to adversely affect the testimony of witness Garcia. Given the natural frailties of the human mind and its incapacity to assimilate all material details of a given incident, slight inconsistencies and variances in the declarations of a witness hardly weaken their probative value.^[26]

Lastly, appellant asserts that his version should have been believed by the court below since the fact that complainants reached Japan indicates that he did not recruit them.^[27] It will be observed therefrom that appellant's arguments seeking to disprove the conclusion on illegal recruitment actually assail the stamp of confidence placed by the court *a quo* upon the testimonies of the prosecution witnesses.

The best arbiter on the issue of the credibility of the prosecution witnesses and of appellant is the trial court. When the inquiry is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case.^[28]

After a thorough and painstaking review, the Court is satisfied that there is nothing in the records of these cases which signify that the trial court might have ignored or misappreciated substantial facts as would warrant a reversal of its findings and conclusions.

All the witnesses for the prosecution categorically testified that it was appellant who promised them that he could arrange for and facilitate their employment abroad. We quote with approval the conclusion of the lower court that x x x the narration of the prosecution witnesses Henry Luciano, June Barrera and Manuel Garcia are the more believable story. Their testimonies

appeared credible. There is no reason not to believe or discard their testimonies. There is no sign that they testified falsely against the accused.^[29]

Denials of an accused cannot be given greater evidentiary weight than the positive declarations of credible witnesses who testify on affirmative matters.^[30] Verily, the trial court was correct in accepting the version of the prosecution witnesses as their statements are positive and affirmative in nature. Their testimonies are more worthy of credit than the uncorroborated^[31] and self-serving denials of appellant.

Just like the lower court, we find it hard to believe the story presented by appellant that he merely helped Barrera and Luciano in going to Japan as tourists. Barrera was without gainful work and Luciano was merely a farmer^[32] at the time they met appellant. It is incompatible with human behaviour and contrary to ordinary experience that people already in dire financial straits will make their lives more miserable by borrowing money and mortgaging their properties just so they can visit and tour a foreign land.

Appellant finally stresses that if indeed he was guilty of illegal recruitment, he could have simply changed his residence to evade prosecution.^[33] This argument is, unfortunately, purely hypothetical and clearly *non sequitur*. It cannot, by itself, strengthen his credibility or weaken those of the prosecution witnesses. We have already ruled that non-flight is not a conclusive proof of innocence because such inaction may be due to several factors.^[34]

We now come to appellants supporting arguments on his supposed innocence in the estafa cases. On these charges, appellant claims that the evidence and circumstances on record do not show any act of deceit on his part, and that the money received from Barrera and Luciano were utilized in procuring their passports and were therefore not misappropriated.^[35]

Appellant was charged with and convicted for violating Article 315(2)(a) of the Revised Penal Code which provides for one of the modes of committing estafa, thus:

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

Deceit in the instant cases is shown by the false pretenses by which appellant deluded complainants into believing that he had the power and qualifications to send people abroad for employment.^[36] Through this hoax, he was able to convince complainants to surrender their money to him in the vain hope, as it turned out, of securing employment abroad.

The reliance of appellant on the absence of the element of misappropriation is sorely misplaced and decidedly off-tangent. A reading of the law on estafa will readily show that misappropriation or conversion is referred to and is applicable in estafa under Article 315 (1)(b), and not to that in Article 315(2)(a).

He also avers that his conviction in the second estafa case was without legal basis because there was no other evidence, documentary or testimonial, establishing the crime of estafa except for the testimony of Garcia.^[37]

Although this contention has already been disposed of in the discussions above, it also bears mention that the testimony of a single prosecution witness, where credible and positive, is

sufficient to prove beyond reasonable doubt the guilt of the accused.^[38] There is no law which requires that the testimony of a single witness has to be corroborated, except where expressly mandated in determining the value and credibility of evidence. Witnesses are to be weighed, not numbered.^[39]

A final observation and reminder on the penalties imposed by the lower court.

When the offense of illegal recruitment constitutes economic sabotage, as in the present case of illegal recruitment in large scale, the penalty provided by law is life imprisonment and a fine of one hundred thousand pesos (P100,000.00).^[40] *Reclusion perpetua* was never prescribed by the law as the punishment for such crime. This Court has repeatedly emphasized the differences between the penalty of *reclusion perpetua* and life imprisonment in numerous decisions and administrative circulars. We do not wish to again belabor such distinctions in this decision, but we do expect all judges to take note of the difference and impose the proper penalty with the correct nomenclature.

On the imposable penalty for the particular felony of estafa in the present cases, we are constrained to discuss the pertinent provision of Article 315 of the Revised Penal Code. Under the said article, an accused found guilty of estafa shall suffer:

Ist. The 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 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.^[41]

The amount of the fraud in Criminal Case No. 3090-V-93 is P88,500.00;^[42] Criminal Case No. 3091-V-93, P66,000.00; and in Criminal Case No. 3092-V-93, P94,400.00. Subtracting P22,000.00 from each of the aforesaid amounts will leave P66,500.00 P44,000.00 and P72,400.00 in the respective criminal cases. To determine the additional years of imprisonment prescribed in the above article, each of the latter amounts shall be divided by P10,000.00, disregarding any amount below P10,000.00. Thus, in the foregoing estafa cases, the incremental penalties of six (6) years, four (4) years and seven (7) years should be correspondingly added to the maximum period of the basic penalty provided in the aforequoted paragraph of Article 315.

Applying the mandate of the Indeterminate Sentence Law, the maximum penalty shall therefore be taken from the maximum period of said basic penalty in Article 315 as augmented by the additional years of imprisonment, while the minimum term of the indeterminate sentence shall be within the range of the penalty next lower in degree to that provided by law without considering the incremental penalty for the amounts in excess of P22,000.00. That penalty immediately lower in degree is *prision correccional* in its minimum and medium periods,^[43] with a duration of six (6) months and one (1) day to four (4) years and two (2) months.

Based on the foregoing considerations, the lower court incorrectly imposed the penalty of *reclusion perpetua* in the illegal recruitment case, and likewise erred in fixing the minimum terms of the indeterminate sentences in the estafa cases.

WHEREFORE, the judgment of the court *a quo* finding accused-appellant Restituto Pabalan guilty beyond reasonable doubt of the crimes of illegal recruitment in large scale (Criminal Cases No. 3089-V-93) and estafa (Criminal Cases Nos. 3090-V-93, 3091-V-93 and 3092-V-93) is

hereby AFFIRMED, but the respective penalties in said cases are hereby MODIFIED, to wit:

1. In Criminal Case No. 3089-V-93, the penalty of life imprisonment is imposed on accused-appellant, instead of *reclusion perpetua* which is deleted by amendment.
2. In Criminal Case No. 3090-V-93, the award of P89,000.00 is reduced to P88,500.00. Accused-appellant shall serve an indeterminate sentence of four (4) years and two (2) months of *prision correccional*, as minimum, to fourteen (14) years of *reclusion temporal*, as maximum.
3. In Criminal Case No. 3091-V-93, accused-appellant shall serve an indeterminate sentence of four (4) years and two (2) months of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum.
4. In Criminal Case No. 3092-V-93, accused-appellant shall serve an indeterminate sentence of four (4) years and two (2) months of *prision correccional*, as minimum, to fifteen (15) years of *reclusion temporal*, as maximum.

In the service of the aforementioned sentences, the provisions of Article 70 of the Revised Penal Code shall be observed.

SO ORDERED.

Puno, and Torres, Jr., JJ., concur.
Romero, and Mendoza, JJ., on leave.

[1] Presided over by Judge Adriano R. Osorio.

[2] *Rollo*, G.R. No. 115350, 7.

[3] *Rollo*, G.R. No. 117819-21, 6.

[4] *Ibid., id.*, 7.

[5] *Ibid., id.*, 8.

[6] TSN, September 24, 1993, 2-12.

[7] Exhibit B - Barrera; Original Record, 49.

[8] TSN, October 1, 1993, 2-8.

[9] Exhibit A - Luciano; Original Record, 40.

[10] Exhibit B - Luciano; Original Record, 41.

[11] TSN, November 12, 1993, 3-11; December 3, 1993, 2-10.

[12] *Ibid.*, October 29, 1993, 2.

[13] *Ibid.*, February 11, 1994, 2-10.

[14] Original Record, 84; Decision, 12.

[15] *Rollo*, G.R. Nos. 117819-21, 51; Appellants Brief, 1.

[16] *Ibid., id.*, 72.

[17] *Rollo*, G.R. Nos. 117819-21, 64; Appellants Brief, 14.

[18] See *People vs. Goce, et al.*, G.R. No. 113161, August 29, 1995, 247 SCRA 780; *People vs. Sendon*, G.R. Nos. 101579-82, December 15, 1993, 228 SCRA 489; *People vs. Naparan*, G.R. No. 98443, August 30, 1993, 225 SCRA 714.

- [19] [People vs. Bautista](#), G.R. No. 113547, February 9, 1995, 241 SCRA 216; [People vs. Coronacion, et al.](#), G.R. No. 97845, September 29, 1994, 237 SCRA 227.
- [20] [Rollo](#), G.R. Nos. 117819-21, 67; Appellants Brief, 17.
- [21] [People vs. Naparan](#), *supra*.
- [22] [People vs. Samillano](#), G.R. No. 62088, March 6, 1992, 207 SCRA 50.
- [23] [People vs. Kyamko](#), G.R. No. 103805, May 17, 1993, 222 SCRA 183.
- [24] [Rollo](#), G.R. Nos. 117819-21, 68; Appellants Brief, 18.
- [25] [People vs. Sendon](#), *supra*.
- [26] [People vs. Coronacion](#), *supra*.
- [27] [Rollo](#), G.R. Nos. 117819-21, 68; Appellant Briefs, 18.
- [28] [People vs. Comia](#), G.R. No. 109761, September 1, 1994, 236 SCRA 185.
- [29] Original Record, 82; Decision, 10.
- [30] [People vs. Sendon](#), *supra*.
- [31] The lower court did not accept Exhibit 1 for the defense because of the failure of the accused to submit his formal offer of evidence within the time granted by the court (Original Record, 64).
- [32] Garcia introduced himself as a businessman at the start of his direct examination.
- [33] [Rollo](#), G.R. No. 117819-21, 68-69; Appellants Brief, 18-19.
- [34] [People vs. Comia](#), *supra*.
- [35] [Rollo](#), G.R. Nos. 117819-21, 69; Appellants Brief, 19.
- [36] See [People vs. Coral](#), G.R. Nos. 97849-54, March 1, 1994, 230 SCRA 499.
- [37] [Rollo](#), G.R. Nos. 117819-21, 69; Appellants Brief, 19.
- [38] [People vs. Javier](#), G.R. No. 70997, February 28, 1990, 182 SCRA 830.
- [39] [People vs. Villalobos, et al.](#), G.R. No. 71526, May 27, 1992, 209 SCRA 304.
- [40] Article 39, Labor Code.
- [41] For easy reference and as the basis of an indeterminate sentence, the basic penalty provided herein and the penalty next lower in degree, with the duration thereof, are as follows:
Basic Penalty Duration One Degree Lower Duration
Prision correccional 4 years, 2 months *Prision correccional* 6 months and 1 in its maximum period and 1 day to 8 in its minimum to day to 4 years to *prision mayor* in its years medium periods and 2 months minimum period
- [42] The computation of the trial court was in excess by P500.00.
- [43] Since the basic penalty consists of two consecutive periods of divisible penalties, the next lower degree shall likewise consist of the succeeding two periods in the scale of penalties, pursuant to Art. 61(5) of the Code.