

## FIRST DIVISION

[G.R. Nos. 118950-54. February 6, 1997]

**THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. LUCRECIA GABRES, also known as MONA GABRES, *accused-appellant*.**

### DECISION

VITUG, J.:

Five counts of estafa were filed against the spouses Perlito (Lito) and Lucrecia (Mona) Gabres and, except for the names of the private complainants and the amounts involved, the text in each of the corresponding informations is substantially the same in all; viz:<sup>[1]</sup>

"The undersigned accuses SPOUSES LITO and LUCRECIA GABRES also known as MONA GABRES of the crime of Estafa, defined and penalized under Article 315, paragraph 2(a) of the Revised Penal Code, committed as follows:

"That on or about the months of April, 1992 up to July, 1992 and sometime subsequent thereto, at Acop, Municipality of Tublay, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud and by means of deceit through false representations and pretenses made by them prior to or simultaneous with the commission of the fraud, did then and there willfully unlawfully and feloniously defraud JOEL PANIDA, by then and there representing themselves as a duly authorized or licensed recruiters for overseas employment, when in truth and in fact they were not, thereby inducing the said person to give to them the sum of FORTY-FIVE THOUSAND PESOS (P45,000), Philippine Currency, for placement abroad, which amount they misappropriated for their own use and benefit and then either fail or refuse and continue to fail or refuse to return the same despite repeated demands, all to the damage and prejudice of said person in the total sum aforesaid and other consequential damages.

"Contrary to Law."<sup>[2]</sup>

In addition, the spouses were charged with having engaged in large scale illegal recruitment; thus:

"The undersigned accuses Lito Gabres and Lucrecia Gabres also known as Mona Gabres of Illegal Recruitment, defined under par. 1, Art. 38 of P.D. 442, as amended, otherwise known as The Labor Code of the Philippines, and penalized under Art. 39(b) of the same Code, as amended by P.D. 2018, committed as follows:

"That on or about the month of April, 1992 up to July, 1992 and sometime subsequent thereto, at the Municipality of Tublay, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other, did then and there willfully, unlawfully and knowingly recruit ORETA NISPEROS, TARCISO DACSIG, JULIUS AOAY, JOEL PANIDA and RONALD MIRABUENO for overseas employment, by then and there misrepresenting themselves as a duly authorized or licensed recruiters when in truth and in fact they were

not and by reason of said misrepresentations, they were able to obtain from the said complainants the aggregate sum of ONE HUNDRED EIGHTY FIVE THOUSAND PESOS (P185,000.00) Philippine Currency, all to the damage and prejudice of the above-named complainants in the total sum aforesaid sum and other consequential damages.

"That such illegal recruitment having been committed by in large scale, it constitutes economic sabotage.

"Contrary to Law."<sup>[3]</sup>

The six cases were tried, preceded by the arraignment of the accused, jointly.

The following version of the case is culled from the evidence given by the prosecution.

Some time in March of 1992, Oreta Nisperos heard that the accused couple were recruiting factory workers for abroad. With great anticipation, Nisperos, accompanied by her son, Ramil, and her neighbors, Joel Panida and Julius Aoay,<sup>[4]</sup> went to the residence of the Gabreses in Bauang, La Union. After the group was introduced by Nisperos' cousin, Rosario Zapanta, the spouses confirmed their being engaged in the recruitment of factory workers for Korea. A "package deal" was reached. Each applicant was to be charged a placement fee of P45,000.00. The parties agreed to meet again on 12 April 1992 at the Dr. Yares Clinic in Baguio City. On the appointed date and time, Mona Gabres alone showed up to meet with the applicants. The latter were joined, in this meeting, by Tarciso Dacsig, Jr., Jonard Dulay and Ronaldo Mirabueno, who all promised to also come up with the required "placement fees."

At the respective dates stated below, the accused spouses received the following amounts from each of the applicants; thus:

<u>DATE OF PAYMENT</u>	<u>NAME OF PAYOR</u>	<u>AMOUNT</u>
1. April 26, 1992	- Oreta Nisperos (for Ramil Nisperos)	- P5,000.00(No receipt)
	- Joel Panida	- P5,000.00 (Exh. `A' - CR No. 1800)
	- Tarciso Dacsig, Jr.	- P5,000.00 (Exh. 'A' - CR No. 1803)
2. May 1, 1992	- Julius Aoay	- P5,000.00 (Exh. `A' - CR No. 1802)
3. May 5, 1992	- Tarciso Dacsig, Jr.	- P5,000.00 (Exh. `B' - CR No. 1803)
	- Oreta Nisperos (for Ramil Nisperos)	- P5,000.00 (No receipt)
4. June 7, 1992	- Oreta Nisperos (for Ramil Nisperos)	- P5,000.00 (Exh. `B' - CR No. 1800)
	- Joel Panida	- P5,000.00 (Exh. `B' - CR No. 1800)
	- Tarciso Dacsig, Jr.	- P5,000.00 (Exh. `B' - CR No. 1800)
	- Julius Aoay	- P5,000.00 (Exh. `B' - CR No. 1800)

- |                  |                                       |   |
|------------------|---------------------------------------|---|
| 5. June 10, 1992 | - Oreta Nisperos (for Ramil Nisperos) | - P30,000.00 (Exh. `B' - CR No. 1801)                 |
| 6. June 17, 1992 | - Oreta Nisperos (for Joan Nisperos)  | - P5,000.00 (Exh. `C' - CR No. 1801)                  |
| 7. June 18, 1992 | - Oreta Nisperos (for Jonard Dulay)   | - P5,000.00 (Exh. `D' - CR No. 1801)                  |
| 8. July 3, 1992  | - Joel Panida                         | - P35,000.00 (Exh. `C' - CR No. 1800)                 |
|                  | - Tarciso Dacsig, Jr.                 | - P25,000.00 (Exh. `D' - CR No. 1803)                 |
|                  | - Julius Aoay                         | - P30,000.00 (Exh. `C' - CR No. 1802)" <sup>[5]</sup> |

On 03 July 1992, the accused spouses assured Ramil Nisperos, Joan Nisperos, Joel Panida, Tarciso Dacsig, Jr., Julius Aoay, Jonard Dulay and Ronaldo Mirabueno that they could expect within a few days their departure for abroad. The promise was not fulfilled. Then, in order to appease the applicants, the spouses explained that it was only the call of the Korean employer, Mr. Kim, that was being awaited so as to firm up the flight schedule. The call never came. After a series of follow-ups, the applicants were directed by the spouses to confer with the latter's supposed associate in Manila, one Rebecca (Vicky) Naval, who was said to be managing the Bachs and Cochs Travel Agency. Naval initially denied any association with the Gabreses; she later, however, told the group that she had been engaged by the spouses to process the travel documents, plane tickets and flight bookings of the applicants, and that the required visas were already being applied for.

After several more months of waiting and still getting nowhere, the applicants finally demanded the return of their money from the spouses. Each applicant was issued four checks, each for P10,000.00, but which, when presented for payment, all bounced.<sup>[6]</sup>

The would-be overseas workers sought the assistance of the Philippine Overseas Employment Administration-Cordillera Administrative Region ("POEA-CAR") which certified, through Atty. Justinian O. Lichnahan, that the accused spouses were "not licensed or authorized to recruit workers for overseas employment within the City of Baguio or any part of the region."

Lito Gabres managed to elude arrest, and the trial proceeded only against his wife. Mona Gabres pleaded "not guilty" to each of the accusations. She denied any involvement in her husband's activities.

The defense sought to establish that Mona was a mere fish vendor in Bauang, La Union, and that this work demanded her full attention. Her husband used to be an overseas contract worker himself and, thereafter, a liaison officer for Caro Fran Recruitment Agency, whose job included the processing and following-up of travel papers with the Department of Foreign Affairs. In July, 1992, her husband introduced her to Vicky Naval who requested Mona to safekeep the collection of placement fees from the applicants. She admitted having joined her husband, but only once, in collecting the payments made by private complainants on 03 July 1992 at Acop, Tublay, Benguet, which was duly remitted to Naval.

[In a decision, dated 14 December 1994, Judge Romeo A. Brawner<sup>\[9\]</sup>](#) (now Associate Justice of the Court of Appeals) rendered judgment that concluded:

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

"1. In Criminal Case No. 93-CR-1800, this Court finds accused Lucrecia `Mona' Gabres **GUILTY** beyond reasonable doubt to suffer an indeterminate sentence of imprisonment of five (5) years, two (2) months and one (1) day of prision correccional as MINIMUM to nine (9) years and ten (10) months of prision mayor as MAXIMUM;

"3. In Criminal Case No. 93-CR-1802, this Court finds accused Lucrecia `Mona' Gabres **GUILTY** beyond reasonable doubt of the offense charged and hereby sentences her to suffer an indeterminate sentence of imprisonment of two (2) years, eight (8) months and one (1) day of prision correccional as MINIMUM to seven (7) years of prision mayor as MAXIMUM;

"4. In Criminal Case No. 93-CR-1803, this Court finds accused Lucrecia `Mona' Gabres **GUILTY** beyond reasonable doubt of the offense charged and hereby sentences her to suffer an indeterminate sentence of imprisonment of two (2) years, eight (8) months and one (1) day of Prision correccional as MINIMUM to seven (7) years of prision mayor as MAXIMUM;

"5. In Criminal Case No. 93-CR-1804, this Court finds accused Lucrecia `Mona' Gabres **NOT GUILTY** of the offense charged due to insufficiency of evidence and hereby acquits her with proportionate costs de officio;

"6. In Criminal Case No. 93-CR-1805, this Court finds accused Lucrecia `Mona' Gabres **GUILTY** beyond reasonable doubt of the crime charged and hereby sentences her to suffer the penalty of life imprisonment and to pay a fine of ONE HUNDRED THOUSAND PESOS (P100,000.00).

"On the civil liability in the estafa cases, accused Lucrecia `Mona' Gabres is hereby ordered to pay to Joel Panida, Oreta Nisperos, Julius Aoay and Tarciso Dacsig, Jr. the amounts of P45,000.00, P55,000.00, P40,000.00 and P40,000.00, respectively, as actual damages.

"Proportionate costs against the accused Lucrecia `Mona' Gabres.

"In the service of her sentence, the accused shall be credited to the full term of her preventive imprisonment as provided for by Article 29 of the Revised Penal Code, provided the conditions set forth therein for the enjoyment of the same have been met.

"With respect to accused Perlito `Lito' Gabres, let these cases be sent to the files without prejudice to their revival as soon as he shall have been arrested and brought to the jurisdiction of this Court.

"In order that he may not escape the clutches of the law, let Warrants of Arrest issue addressed to the PNP Station Commander, Bauang, La Union and the National Bureau of Investigation (NBI), Manila. Further, the Commission of Immigration and Deportation (CID), Manila is ordered to include the name of accused Perlito `Lito' Gabres in its Hold Departure List.

"SO ORDERED."<sup>[10]</sup>

Mona Gabres appealed the decision to this Court. Appellant, in main, would wish to sway the Court into thinking that the real culprit was Lito Gabres and that the complaining witnesses gave stress over her participation only because her husband could not be apprehended.

The Court, regrettably, must sustain the conviction.

The testimony given by each of the private complainants unquestionably would point to both the spouses to be the culprits in an elaborate scheme to defraud the hopeful applicants for overseas work. The Court quotes from the transcript of the proceedings.

**Testimony of Oreta Nisperos:**

"ATTY. PAOAD:

"Now, Madam witness, you said a while ago that it was the later part of March, 1992 that you and your cousin went to see the two accused in Bauang, what transpired then?

"A They told us that they were recruiting factory workers for Korea.

"Q What else happened?

"A They told us that if my children are interested we will see each other in Baguio City on April 12.

"Q What was your agreement as to where shall you meet each other and the date.

"A I suggested that we will see each other at the clinic of Dr. Yares.

"Q Where is the clinic of Dr. Yares located?

"A It is located at Harrison Road, Baguio City.

"Q On that particular of April 12, 1992 were you able to meet each other?

"A Yes, ma'am.

"Q Who were your companions?

"A My companions were Julius Aoay, Joel Panida and my son Ramil Nisperos.

"Q Who from the side of the accused came to see you on April 12, 1992.

"A Mrs. Mona Gabres, ma'am.

"Q How about the other accused, Lito Gabres.

"A He was not there, ma'am.

"Q Now, what transpired on April 12, 1992?

"A They told us that if we are interested we will pay an advance payment of ₱5,000.00 each.

"Q For each applicant?

"A Yes, ma'am.

"Q What else did you talk about?

"A They told us that if we have money we will see each other on April 26.

"Q Where will you see each other on April 26?

"A I told her that we will see at Acop, Tublay because they knew where we are.

"Q What particular place in Acop?

"A At our residence, sir.

"ATTY. PAOAD:

"Now, how much all in all are the two accused asking you to pay in consideration of the same in

Korea?

"A They were asking P45,000.00.

"Q Now, you said that you agreed to meet each other again on April 26, 1992, what happened on that date?

"A They came at our residence, both of them.

"Q The two accused?

"A Yes, ma'am.

"Q Now, when the two accused came to your residence on April 26, what happened?

"A My son paid an amount of P5,000.00.

"Q Who particularly paid for your son?

"A I paid for my son, ma'am.

"Q Aside from you and your son who else were present?

"A Also present were Joel Panida, Tarcisio Dacsig.

"Q How about Julius Aoay?

"A He was also present, ma'am.

"Q You said a while ago, Madam witness, that on April 26 you paid P5,000.00 for your son, what is your basis in saying that you paid P5,000.00 on that day?

"A They issued us a receipt, ma'am.

"Q Who received the payment?

"A It was Mona Gabres, ma'am.

"Q Who issued the receipt?

"A It was Lito Gabres who was making the receipt, ma'am.

"x x x x x x x x.

"Q Now, after April 26, 1992 what happened?

"A They told us that they will go back at our residence on May 1 and if the other applicants will have their money at that time they will process their papers.

"Q Who paid on May 1, 1992?

"A Julius Aoay, ma'am.

"ATTY. PAOAD:

"Who received the payment?

"A Both the two accused, ma'am. One will receive the amount and the other will issue the receipt."<sup>[11]</sup>

### **Testimony of Tarciso Dacsig, Jr.:**

"Q Now, to whom did you give this P5,000.00?

"A I handed it to Aunt Oreta who gave it to Mona Gabres, Ma'am.

"Q Now, who issued you a receipt?

"A Mona Gabres.

"Q What about her husband Lito Gabres?

"A Aunt Oreta gave the ₱5,000.00 to Mona Gabres who counted the money, after counting the money Lito Gabres gave it to Mona Gabres.

"x x x x x x x x.

"Q I would like to show to you this receipt dated July 31, 1992 previously marked as Exhibit `B-1' for Crim. Case No. 92-CR-1803 and Exhibit `I-1' in Crim. Case No. 92-CR-1805, is this the receipt you are referring to?

"A Yes, Ma'am.

"Q Now, who issued you this receipt?

"A Lito Gabres, Ma'am.

"Q Now, if this receipt was issued by Lito Gabres what was the participation of Mona Gabres?

"A I handed this ₱25,000.00 to Lito Gabres, he counted it and then handed it to Mona Gabres, Ma'am."<sup>[12]</sup>

### **Testimony of Julius Aoay:**

"Q I would like to show you a receipt dated June 7, 1992 which has been previously marked as Exhibit `A' in Criminal Case 1801, as Exhibit `B' in Criminal Case 1805, as Exhibit `B' in Criminal Case 1800, as Exhibit `C' in Criminal Case 1803 and as Exhibit `B' in Criminal Case 1802, is this the receipt issued to you?

"A Yes, it is.

"Q Could you tell us who wrote this receipt?

"A It was Mona Gabres, ma'am.

"Q How about Lito Gabres what was his participation?

"A He was the one counting the money."<sup>[13]</sup>

In the scheduled meeting on 12 April 1992, it was only accused-appellant who, in fact, showed up to meet with the applicants for overseas work. Joel Panida testified:

"Q On April 12, 1992 were you present in that meeting?

"A Yes, I was also there, ma'am.

"Q Who else were present on that day, April 12, 1992?

"A Mrs. Nisperos, Tarcisio Dacsig, Ramil Nisperos and Julius Aoay.

"Q Who from the side of the accused came to see you?

"A It was Mona Gabres only, ma'am.

"Q How about Lito Gabres, was he also present?

"A He was not there, ma'am.

"Q On April 12, 1992 what transpired in that meeting?

"A She introduced herself as a recruiter for workers going to Korea. She also asked us that if we are interested then we will give P5,000.00 each as down payment." <sup>[14]</sup>

The Court finds it hard to accept the claim that private complainants have prevaricated the evidence to implicate Mona Gabres only because the authorities have yet to succeed in arresting her husband. It is, of course, unfortunate that the husband, at least momentarily, is able to ward off the long arm of the law; nevertheless, it should, in the end, still catch up with him.

Accused-appellant has indeed committed estafa by means of deceit punishable under Article 315 (2)(a) of the Revised Penal Code. <sup>[15]</sup> The trial court's brief ratiocination is well taken; viz:

"There is no dispute that damages have been incurred by the complainants. They parted with their money in consideration of deployment for work in a foreign country, but which unfortunately remains unrestituted despite the failure in that regard of the person or persons who promised that they will be sent off to work abroad." <sup>[16]</sup>

Accused-appellant is likewise guilty of illegal recruitment in large scale, an offense under Article 38(b), in relation to Article 39, of the Labor Code which provides:

"ART. 38. Illegal Recruitment. - (a) Any recruitment 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."

"x x x x x x x x.

"ART. 39. Penalties. - (a) The penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein."

Quite appropriately, the trial court has observed:

"(T)here are two elements of the crime (of illegal recruitment), namely: (1) that the offender is a non-licensee or non-holder of authority to lawfully engage in the recruitment and placement of workers; and (2) that the offender undertakes any of the recruitment activities defined under Article 13 (b) of the Labor Code, as amended, or any prohibited practices enumerated under Article 34 of the same code. (PEOPLE vs. CORAL, G.R. Nos. 97849-54, March 1, 1994, 230 SCRA 499). Without any doubt, this Court finds the two elements of the crime present in the case at bar. That the accused are non-licensees or non-holders of authority to lawfully recruit is evident in the certification issued by Atty. Justinian Lichnachen of the POEA-CAR Regional Extension Office of Baguio City (Exhibit 'D,' 93-CR-1800). Article 13(b) of the Labor 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.' The act of the accused in holding out a placement fee of ₱45,000.00 per applicant in exchange for an employment abroad; the several collections made by them; and their promise to send off the applicants for work in Korea were just some of the circumstances that would qualify the acts of the accused under the definition of recruitment and placement."<sup>[17]</sup>

The Court, however, would have to reduce the award of actual damages to Oreta Nisperos from ₱55,000.00 to ₱50,000.00. Oreta concededly could not present any receipt for the supposed payments she allegedly made on 26 April 1992 and on 05 May 1992, for ₱5,000.00 each, on behalf of Ramil Nisperos. Joel Panida, in his testimony, attested to the payment made on 26 April 1992<sup>[18]</sup> but no similar evidence was presented to prove the payment made on 05 May 1992.

Article 315 of the Revised Penal Code provides:

"ART 315. *Swindling (estafa)*. - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

"1st. 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 pesos 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;

"2nd. The penalty of *prision correccional* in its minimum and medium periods, if the amount of the fraud is over 6,000 pesos but does not exceed 12,000 pesos;

"3rd. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if such amount is over 200 pesos but does not exceed 6,000 pesos; and

"4th. By *arresto mayor* in its medium and maximum periods, if such amount does not exceed 200 pesos, provided that in the four cases mentioned, the fraud be committed by any of the following means."

Under the Indeterminate Sentence Law, the maximum term of the penalty shall be "that which, in view of the attending circumstances, could be properly imposed" under the Revised Penal Code, and the minimum shall be "within the range of the penalty next lower to that prescribed" for the offense.<sup>[19]</sup> The penalty next lower should be based on the penalty prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime.<sup>[20]</sup> The determination of the minimum penalty is left by law to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided.<sup>[21]</sup> The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.<sup>[22]</sup>

The fact that the amounts involved in the instant case exceed ₱22,000.00 should not be considered in the initial determination of the indeterminate penalty; instead, the matter should be so taken as analogous to modifying circumstances in the imposition of the maximum term of the full indeterminate sentence. This interpretation of the law accords with the rule that penal laws should be construed in favor of the accused. Since the penalty prescribed by law for the estafa charge against accused-appellant is *prision correccional* maximum to *prision mayor*

minimum, the penalty next lower would then be *prision correccional* minimum to medium. Thus, the minimum term of the indeterminate sentence should be anywhere within six (6) months and one (1) day to four (4) years and two (2) months while the maximum term of the indeterminate sentence should at least be six (6) years and one (1) day because the amounts involved exceeded ₱22,000.00, plus an additional one (1) year for each additional ₱10,000.00.

Accordingly, the Court thus finds some need to modify in part the penalties imposed by the trial court; *viz*:

In Criminal Case No. 93-CR-1800, the amount involved is ₱45,000.00. Hence, the minimum penalty should be reduced to four (4) years and two (2) months of *prision correccional*, which is the maximum of the allowable minimum penalty of the indeterminate sentence. The maximum penalty imposed by the court *a quo* is within lawful range.

In Criminal Case No. 93-CR-1801, the amount involved, as so modified by this Court, is ₱50,000.00. The minimum penalty should then be reduced to four (4) years and two (2) months of *prision correccional* (the maximum of the minimum of the indeterminate sentence). The maximum penalty should at least be six (6) years and one (1) day of *prision mayor* plus a period of two (2) years (one [1] year for each additional ₱10,000.00) for a total maximum period of eight (8) years and one (1) day of *prision mayor*.

In Criminal Case No. 93-CR-1802 and No. 93-CR-1803, the amounts involved in each total ₱40,000.00. The minimum penalty of the indeterminate sentence imposed by the court *a quo* of two (2) years, eight (8) months and one (1) day of *prision correccional* is within lawful range. The maximum penalty, however, should at least be six (6) years and one (1) day of *prision mayor* plus a period of one (1) year for a total maximum period of seven (7) years and one (1) day of *prision mayor*.

**WHEREFORE**, the decision appealed from is **AFFIRMED** with modification only insofar as the penalties therein imposed are concerned; thus -

(1) In Criminal Case No. 93-CR-1800, accused-appellant is sentenced to an indeterminate sentence of imprisonment of from four (4) years and two (2) months of *prision correccional* as MINIMUM, to eight (8) years and ten (10) months of *prision mayor* as MAXIMUM.

(2) In Criminal Case No. 93-CR-1801, accused-appellant is sentenced to an indeterminate sentence of imprisonment of from four (4) years and two (2) months of *prision correccional* as MINIMUM, to eight (8) years and one (1) day of *prision mayor* as MAXIMUM, the actual damages being reduced to ₱50,000.00.

(3) In Criminal Case No. 93-CR-1802, accused-appellant is sentenced to an indeterminate sentence of imprisonment of from two (2) years, eight (8) months and one (1) day of *prision correccional* as MINIMUM, to seven (7) years and one (1) day of *prision mayor* as MAXIMUM.

(4) Criminal Case No. 93-CR-1803, accused-appellant is sentenced to an indeterminate sentence of from two (2) years, eight (8) months and one (1) day of *prision correccional* as MINIMUM, to seven (7) years and one (1) day of *prision mayor* as MAXIMUM.

All other aspects of the dispositive portion of the decision appealed from are **AFFIRMED**.

Costs against accused-appellant.

**SO ORDERED.**

[1] Criminal Case No. 93-CR-1800.

[2] *Rollo*, pp. 46-47.

[3] *Rollo*, p. 47.

[4] All residents of Acop, Tublay, Benguet.

[5] *Rollo*, pp. 44-45.

[6] Apparently, though, it was Vicky Naval who issued the checks (Julius Aoay, TSN, 15 June 1994, pp. 3-4).

[7] *Rollo*, p. 46.

[8] In his resolution, dated 12 August 1993, the investigating prosecutor recommended the exoneration of Rebecca Naval on the ground that her liability was purely civil in nature. The resolution was approved by the Provincial Prosecutor (Records, p.13).

[9] Regional Trial Court, Branch 10, La Trinidad, Benguet.

[10] *Rollo*, pp. 53-54.

[11] TSN, 05 April 1994, pp. 6-11.

[12] TSN, 10 May 1994, pp.5-6.

[13] TSN, 23 May 1994, p.6.

[14] TSN, 26 April 1994, p. 12.

[15] "ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

"x x x x x x x x.

"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."

[16] *Rollo*, p. 49.

[17] *Rollo*, p. 52.

[18] TSN, 26 April 1994, pp. 12-13.

[19] See Section 1 of Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

[20] *People vs. Gonzales*, 73 Phil. 549.

[21] *People vs. Ducosin*, 59 Phil. 109.

[22] *People vs. Joya*, 98 Phil. 238.