

SECOND DIVISION

[G.R. Nos. 115338-39. September 16, 1997]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. LANIE ORTIZ-MIYAKE *accused-appellant*.

DECISION

REGALADO, J.:

Accused-appellant Lanie Ortiz-Miyake was charged with illegal recruitment in large scale in the Regional Trial Court of Makati on a complaint initiated by Elenita Marasigan, Imelda Generillo and Rosamar del Rosario. In addition, she was indicted for estafa by means of false pretenses in the same court, the offended party being Elenita Marasigan alone.

The information in the charge of illegal recruitment in large scale in Criminal Case No. 92-6153 reads as follows:

That in or about the period comprised from June 1992 to August 1992, in the Municipality of Paraaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, falsely representing herself to have the capacity and power to contract, enlist and recruit workers for employment abroad did then and there willfully, unlawfully, and feloniously collect for a fee, recruit and promise employment/job placement abroad to the following persons, to wit: 1) Rosamar del Rosario; 2) Elenita Marasigan; 3) Imelda Generillo, without first securing the required license or authority from the Department of Labor and Employment, thus amounting to illegal recruitment in large scale, in violation of the aforesaid law. ^[1]

The information in the charge for estafa in Criminal Case No. 92-6154 alleges:

That in or about or sometime in the month of August, 1992, in the Municipality of Paraaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of false pretenses executed prior to or simultaneously with the commission of the fraud, falsely pretending to have the capacity and power to send complainant Elenita Marasigan to work abroad, succeeded in inducing the latter to give and deliver to her the total sum of P23,000.00, the accused knowing fully well that the said manifestations and representation are false and fraudulent and calculated only to deceive the said complainant to part with her money, and, once in possession thereof, the said accused did then and there willfully, unlawfully and feloniously appropriate, apply and convert the same to her own personal use and benefit, to the damage and prejudice of the said Elenita Marasigan, in the aforementioned amount of P23,000.00. ^[2]

Upon arraignment, appellant pleaded not guilty to the charges and the cases were tried jointly in Branch 145 of the Regional Trial Court of Makati.

Of the three complainants in the case for illegal recruitment in large scale, Marasigan was the only one who testified at the trial. The two other complainants, Generillo and Del Rosario, were unable to testify as they were then abroad.

Marasigan testified that she was a 32 year-old unmarried sales representative in 1992 when she was introduced to appellant by her co-complainants. ^[3] Appellant promised Marasigan a job as a factory worker in Taiwan for a P5,000.00 fee. At that time, Marasigan had a pending

application for overseas employment pending in a recruitment agency. Realizing that the fee charged by appellant was much lower than that of the agency, Marasigan withdrew her money from the agency and gave it to appellant. [\[4\]](#)

Marasigan paid appellant P5,000.00, but she was later required to make additional payments. By the middle of the year, she had paid a total of P23,000.00 on installment basis. [\[5\]](#) Save for two receipts, [\[6\]](#) Marasigan was not issued receipts for the foregoing payments despite her persistence in requesting for the same.

Marasigan was assured by appellant that obtaining a Taiwanese visa would not be a problem. [\[7\]](#) She was also shown a plane ticket to Taiwan, allegedly issued in her name. [\[8\]](#) Appellant issued Marasigan a photocopy of her plane ticket, [\[9\]](#) the original of which was promised to be given to her before her departure. [\[10\]](#)

Marasigan was never issued a visa. [\[11\]](#) Neither was she given the promised plane ticket. Unable to depart for Taiwan, she went to the travel agency which issued the ticket and was informed that not only was she not booked by appellant for the alleged flight, but that the staff in the agency did not even know appellant.

Later, Marasigan proceeded to the supposed residence of appellant and was informed that appellant did not live there. [\[12\]](#) Upon verification with the Philippine Overseas Employment Administration (POEA), it was revealed that appellant was not authorized to recruit workers for overseas employment. [\[13\]](#) Marasigan wanted to recover her money but, by then, appellant could no longer be located.

The prosecution sought to prove that Generillo and Del Rosario, the two other complainants in the illegal recruitment case, were also victimized by appellant. In lieu of their testimonies, the prosecution presented as witnesses Lilia Generillo, the mother of Imelda Generillo, and Victoria Amin, the sister of Del Rosario.

Lilia Generillo claimed that she gave her daughter P8,000.00 to cover her application for placement abroad which was made through appellant. [\[14\]](#) Twice, she accompanied her daughter to the residence of appellant so that she could meet her; however, she was not involved in the transactions between her daughter and appellant. [\[15\]](#) Neither was she around when payments were made to appellant. Imelda Generillo was unable to leave for abroad and Lilia Generillo concluded that she had become a victim of illegal recruitment.

The prosecution presented Victoria Amin, the sister of Rosamar Del Rosario, to show that the latter was also a victim of illegal recruitment. Victoria Amin testified that appellant was supposed to provide her sister a job abroad. She claimed that she gave her sister a total of P10,000.00 which was intended to cover the latter's processing fee. [\[16\]](#)

Victoria Amin never met appellant and was not around when her sister made payments. She assumed that the money was paid to appellant based on receipts, allegedly issued by appellant, which her sister showed her. [\[17\]](#) Del Rosario was unable to leave for abroad despite the representations of appellant. Victoria Amin claimed that her sister, like Marasigan and Generillo, was a victim of illegal recruitment.

The final witness for the prosecution was Riza Balbarte, [\[18\]](#) a representative of the POEA, who testified that appellant was neither licensed nor authorized to recruit workers for overseas employment, POEA certificate certification. [\[19\]](#)

Upon the foregoing evidence, the prosecution sought to prove that although two of the three complainants in the illegal recruitment case were unable to testify, appellant was guilty of committing the offense against all three complainants and, therefore, should be convicted as charged.

On the other hand, appellant, who was the sole witness for the defense, denied that she

recruited the complainants for overseas employment and claimed that the payments made to her were solely for purchasing plane tickets at a discounted rate as she had connections with a travel agency. ^[20]

She denied that she was paid by Marasigan the amount of P23,000.00, claiming that she was paid only P8,000.00, as shown by a receipt. She further insisted that, through the travel agency, ^[21] she was able to purchase discounted plane tickets for the complainants upon partial payment of the ticket prices, the balance of which she guaranteed. According to her, the complainants were supposed to pay her the balance but because they failed to do so, she was obliged to pay the entire cost of each ticket.

The evidence presented by the parties were thus contradictory but the trial court found the prosecution's evidence more credible. On December 17, 1993, judgment was rendered by said court convicting appellant of both crimes as charged. ^[22]

In convicting appellant of illegal recruitment in large scale, the lower court adopted a previous decision of Branch 78 of the Metropolitan Trial Court of Parañaque as a basis for the judgment. Said previous decision was a conviction for estafa promulgated on July 26, 1993, ^[23] rendered in Criminal Cases Nos. 74852-53, involving the same circumstances in the instant case, wherein complainants Generillo and Del Rosario charged appellant with two counts of estafa. This decision was not appealed and had become final and executory.

In thus convicting appellant in the illegal recruitment case, the decision therein of the Regional Trial Court stated that the facts in the foregoing estafa cases were the same as those in the illegal recruitment case before it. It, therefore, adopted the facts and conclusions established in the earlier decision as its own findings of facts and as its rationale for the conviction in the case before it. ^[24]

In Criminal Case No. 92-6153, the Makati court sentenced appellant to serve the penalty of life imprisonment for illegal recruitment in large scale, as well as to pay a fine of P100,000.00. Appellant was also ordered to reimburse the complainants the following payments made to her, viz.: (a) Marasigan, P23,000.00; (b) Generillo, P2,500.00; and (c) Del Rosario, P2,500.00.

In the same judgment and for the estafa charged in Criminal Case No. 92-6154, the Makati court sentenced appellant to suffer imprisonment of four (4) years and two (2) months of prison correccional, as minimum, to eight (8) years of prison mayor, as maximum, and to pay the costs.

In the instant petition, appellant seeks the reversal of the foregoing judgment of the Regional Trial Court of Makati convicting her of illegal recruitment in large scale and estafa. Specifically, she insists that the trial court erred in convicting her of illegal recruitment in large scale as the evidence presented was insufficient.

Moreover, appellant claims that she is not guilty of acts constituting illegal recruitment, in large scale or otherwise, because contrary to the findings of the trial court, she did not recruit the complainants but merely purchased plane tickets for them. Finally, she contends that in convicting her of estafa, the lower court erred as she did not misappropriate the money paid to her by Marasigan, hence there was no damage to the complainants which would substantiate the conviction.

We uphold the finding that appellant is guilty but we are, compelled to modify the judgment for the offenses she should be convicted of and the corresponding penalties therefor.

Appellant maintains that her conviction for illegal recruitment in large scale is erroneous. It is her view that in the prosecution of a case for such offense, at least three complainants are required to appear as witnesses in the trial and, since Marasigan was the only complainant presented as a witness, the conviction was groundless.

The Solicitor General also advocates the conviction of appellant for simple illegal recruitment

which provides a lower penalty. The Court finds the arguments of the Solicitor General meritorious and adopts his position.

The Labor Code defines recruitment and placement as x x x 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 x x x. [\[25\]](#)

Illegal recruitment is likewise defined and made punishable under the Labor Code, thus:

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. x x x.

(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.

x x x Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Art. 39. *Penalties.* -

(a) The penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000.00) shall be imposed if Illegal Recruitment constitutes economic sabotage as defined herein;

x x x

(c) Any person who is neither a licensee nor a holder of authority under this Title found violating any provision thereof or its implementing rules and regulations shall, upon conviction thereof, suffer the penalty of imprisonment of not less than four (4) years nor more than eight (8) years or a fine of not less than P20,000.00 nor more than P100,000.00, or both such imprisonment and fine, at the discretion of the court. x x x [\[26\]](#)

During the pendency of this case, Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, was passed increasing the penalty for illegal recruitment. This new law, however, does not apply to the instant case because the offense charged herein was committed in 1992, before the effectivity of said Republic Act No. 8042. Hence, what are applicable are the aforesaid Labor Code provisions.

It is evident that in illegal recruitment cases, the number of persons victimized is determinative. Where illegal recruitment is committed against a lone victim, the accused may be convicted of simple illegal recruitment which is punishable with a lower penalty under Article 39(c) of the Labor Code. Corollarily, where the offense is committed against three or more persons, it is qualified to illegal recruitment in large scale which provides a higher penalty under Article 39(a) of the same Code.

The position of the Solicitor General is that the conviction of appellant should be merely for the lesser offense of simple illegal recruitment. He submits that the Regional Trial Court of Makati erred in convicting appellant of illegal recruitment in large scale because the conviction was based on an earlier decision of the Metropolitan Trial Court of Paraaque where appellant was found guilty of estafa committed against Generillo and Del Rosario.

It is argued that the Makati court could not validly adopt the facts embodied in the decision of the Paraaque court to show that illegal recruitment was committed against Generillo and Del

Rosario as well. Illegal recruitment was allegedly proven to have been committed against only one person, particularly, Elenita Marasigan. Appellant, therefore, may only be held guilty of simple illegal recruitment and not of such offense in large scale.

He further submits that the adoption by the Makati court of the facts in the decision of the Paraaque court for estafa to constitute the basis of the subsequent conviction for illegal recruitment is erroneous as it is a violation of the right of appellant to confront the witnesses, that is, complainants Generillo and Del Rosario, during trial before it. He cites the pertinent provision of Rule 115 of the Rules of Court, to wit:

Section 1. *Rights of accused at the trial.* In all criminal prosecutions, the accused shall be entitled:

X X X

(f) To confront and cross-examine the witnesses against him at the trial. Either party may utilize as part of its evidence the testimony of a witness who is deceased, out of or cannot, with due diligence be found in the Philippines, unavailable or otherwise unable to testify, given in another case or proceeding, judicial or administrative, involving the same parties and subject matter, the adverse party having had the opportunity to cross-examine him.

X X X

It will be noted that the principle embodied in the foregoing rule is likewise found in the following provision of Rule 130:

Section 47. *Testimony or deposition at a former proceeding.* - The testimony or deposition of a witness deceased or unable to testify, given in a former case or proceeding, judicial or administrative, involving the same parties and subject matter, may be given in evidence against the adverse party who had the opportunity to cross-examine him.

Under the aforecited rules, the accused in a criminal case is guaranteed the right of confrontation. Such right has two purposes: first, to secure the opportunity of cross-examination; and, second, to allow the judge to observe the deportment and appearance of the witness while testifying. [\[27\]](#)

This right, however, is not absolute as it is recognized that it is sometimes impossible to recall or produce a witness who has already testified in a previous proceeding, in which event his previous testimony is made admissible as a distinct piece of evidence, by way of exception to the hearsay rule. [\[28\]](#) The previous testimony is made admissible because it makes the administration of justice orderly and expeditious. [\[29\]](#)

Under these rules, the adoption by the Makati trial court of the facts stated in the *decision* of the Paraaque trial court does not fall under the exception to the right of confrontation as the exception contemplated by law covers only the utilization of *testimonies* of absent witnesses made in previous proceedings, and does not include utilization of previous decisions or judgments.

In the instant case, the prosecution did not offer the testimonies made by complainants Generillo and Del Rosario in the previous estafa case. Instead, what was offered, admitted in evidence, and utilized as a basis for the conviction in the case for illegal recruitment in large scale was the previous decision in the estafa case.

A previous decision or judgment, while admissible in evidence, may only prove that an accused was previously convicted of a crime. [\[30\]](#) It may not be used to prove that the accused is guilty of a crime charged in a subsequent case, in lieu of the requisite evidence proving the commission of the crime, as said previous decision is hearsay. To sanction its being used as a

basis for conviction in a subsequent case would constitute a violation of the right of the accused to confront the witnesses against him.

As earlier stated, the Makati courts utilization of and reliance on the previous decision of the Paraaque court must be rejected. Every conviction must be based on the findings of fact made by a trial court according to its appreciation of the evidence before it. A conviction may not be based merely on the findings of fact of another court, especially where what is presented is only its decision *sans* the transcript of the testimony of the witnesses who testified therein and upon which the decision is based.

Furthermore, this is not the only reason why appellant may not be held liable for illegal recruitment in large scale. An evaluation of the evidence presented before the trial court shows us that, apart from the adopted decision in the previous estafa case, there was no other basis for said trial courts conclusion that illegal recruitment in large scale was committed against all three complainants.

The distinction between simple illegal recruitment and illegal recruitment in large scale are emphasized by jurisprudence. Simple illegal recruitment is committed where a person: (a) undertakes any recruitment activity defined under Article 13(b) or any prohibited practice enumerated under Articles 34 and 38 of the Labor Code; and (b) does not have a license or authority to lawfully engage in the recruitment and placement of workers. [\[31\]](#) On the other hand, illegal recruitment in large scale further requires a third element, that is, the offense is committed against three or more persons, individually or as a group. [\[32\]](#)

In illegal recruitment in large scale, while the law does not require that at least three victims testify at the trial, it is necessary that there is sufficient evidence proving that the offense was committed against three or more persons. This Court agrees with the trial court that the evidence presented sufficiently proves that illegal recruitment was committed by appellant against Marasigan, but the same conclusion cannot be made as regards Generillo and Del Rosario as well.

The testimonies of Generillos mother, Lilia Generillo, and Del Rosarios sister, Victoria Amin, reveal that these witnesses had no personal knowledge of the actual circumstances surrounding the charges filed by Generillo and Del Rosario for illegal recruitment in large scale. Neither of these witnesses was privy to the transactions between appellant and each of the two complainants. The witnesses claimed that appellant illegally recruited Generillo and Del Rosario. Nonetheless, we find their averments to be unfounded as they were not even present when Generillo and Del Rosario negotiated with and made payments to appellant.

For insufficiency of evidence and in the absence of the third element of illegal recruitment in large scale, particularly, that the offense is committed against three or more persons, we cannot affirm the conviction for illegal recruitment in large scale. Nonetheless, we agree with the finding of the trial court that appellant illegally recruited Marasigan, for which she must be held liable for the lesser offense of simple illegal recruitment.

Appellants defense that she did not recruit Marasigan but merely purchased a plane ticket for her is belied by the evidence as it is undeniable that she represented to Marasigan that she had the ability to send people to work as factory workers in Taiwan. Her pretext that the fees paid to her were merely payments for a plane ticket is a desperate attempt to exonerate herself from the charges and cannot be sustained.

Furthermore, no improper motive may be attributed to Marasigan in charging appellant. The fact that Marasigan was poor does not make her so heartless as to contrive a criminal charge against appellant. She was a simple woman with big dreams and it was appellants duplicity which reduced those dreams to naught. Marasigan had no motive to testify falsely against appellant except to tell the truth. [\[33\]](#)

Besides, if there was anyone whose testimony needed corroboration, it was appellant as there was nothing in her testimony except the bare denial of the accusations. ^[34] If appellant really intended to purchase a plane ticket and not to recruit Marasigan, she should have presented evidence to support this claim. Also, in her testimony, appellant named an employee in the travel agency who was allegedly her contact person for the purchase of the ticket. She could have presented that person, or some other employee of the agency, to show that the transaction was merely for buying a ticket. Her failure to do the foregoing acts belies her pretensions.

The Court likewise affirms the conviction of appellant for estafa which was committed against Marasigan. Conviction under the Labor Code for illegal recruitment does not preclude punishment under the Revised Penal Code for the felony of estafa. ^[35] This Court is convinced that the prosecution proved beyond reasonable doubt that appellant violated Article 315(2)(a) of the Revised Penal Code which provides that estafa is committed:

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.

The evidence is clear that in falsely pretending to possess power to deploy persons for overseas placement, appellant deceived the complainant into believing that she would provide her a job in Taiwan. Her assurances made Marasigan exhaust whatever resources she had to pay the placement fee required in exchange for the promised job. The elements of deceit and damage for this form of estafa are indisputably present, hence the conviction for estafa in Criminal Case No. 92-6154 should be affirmed.

Under the Revised Penal Code, an accused found guilty of estafa shall be sentenced to:

x x x 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 x x x. ^[36]

The amount involved in the estafa case is ₱23,000.00. Applying the Indeterminate Sentence Law, the maximum penalty shall be taken from the maximum period of the foregoing basic penalty, specifically, within the range of imprisonment from six (6) years, eight (8) months and twenty-one (21) days to eight (8) years.

On the other hand, the minimum penalty 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 amount in excess of ₱22,000.00. ^[37] That penalty immediately lower in degree is *prison correccional* in its minimum and medium periods, with a duration of six (6) months and one (1) day to four (4) years and two (2) months. On these considerations, the trial court correctly fixed the minimum and maximum terms of the indeterminate sentence in the estafa case.

While we must be vigilant and should punish, to the fullest extent of the law, those who prey upon the desperate with empty promises of better lives, only to feed on their aspirations, we must not be heedless of the basic rule that a conviction may be sustained only where it is for the correct offense and the burden of proof of the guilt of the accused has been met by the prosecution.

WHEREFORE, the judgment of the court *a quo* finding accused-appellant Lanie Ortiz-Miyake guilty beyond reasonable doubt of the crimes of illegal recruitment in large scale

(Criminal Case No. 92-6153) and estafa (Criminal Case No. 92-6154) is hereby MODIFIED, as follows:

1) Accused-appellant is declared guilty beyond reasonable doubt of simple illegal recruitment, as defined in Article 38(a) of the Labor Code, as amended. She is hereby ordered to serve an indeterminate sentence of four (4) years, as minimum, to eight (8) years, as maximum, and to pay a fine of ₱100,000.00.

2) In Criminal Case No. 92-6154 for estafa, herein accused-appellant is ordered to serve an indeterminate sentence of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, and to reimburse Elenita Marasigan the sum of ₱23,000.00.

In all other respects, the aforestated judgment is AFFIRMED, with costs against accused-appellant in both instances.

SO ORDERED.

Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Original Record, 1.

[2] *Ibid.*, 10.

[3] TSN, November 10, 1992, 8-9; TSN, June 22, 1993, 8.

[4] *Ibid.*, *Id.*, 8-9.

[5] *Ibid.*, *Id.*, 9-11.

[6] *Ibid.*, *Id.*, *Id.*

[7] *Ibid.*, September 22, 1993, 2-3.

[8] *Ibid.*, November 10, 1992, 5-6.

[9] Exhibits A and 4; Original Record, 151.

[10] TSN, November 10, 1992, 5-6.

[11] *Ibid.*, September 22, 1993, 2-3.

[12] *Ibid.*, November 10, 1992, 7.

[13] Exhibits D and F; Original Record, 152, 154.

[14] TSN, February 9, 1993, 4.

[15] *Ibid.*, *Id.*, 6.

[16] *Ibid.*, March 24, 1993, 3.

[17] *Ibid.*, *Id.*, 6-7.

[18] Her name is also spelled as Riza Belberde in the transcript of records.

[19] Exhibits D and F; Original Record, 192, 154.

[20] TSN, June 22, 1993, 11.

[21] *Ibid.*, *id.*, *id.*

[22] Per Judge Job B. Madayag, Branch 145, Regional Trial Court of Makati; Original Record, 200-207.

[23] The decision was penned by Judge Vivencio G. Lirio, Branch 78, Metropolitan Trial Court of Paraaque; Exhibits G, G1-G3; Original Record, 155-158.

[24] Original Record, 206.

- [25] Article 13(b), Labor Code (Presidential Decree No. 442, as amended).
- [26] Articles 38 and 39 of the Labor Code, as amended by Presidential Decree No. 2018 which took effect on January 26, 1986.
- [27] *People vs. Estenzo, etc., et al.*, L-41166, August 25, 1976, 72 SCRA 428; *U.S. vs. Javier*, 37 Phil. 449 (1918).
- [28] *People, et al. vs. Villaluz, etc., et al.*, L-33459, October 20, 1983, 125 SCRA 116.
- [29] 29A Am Jur 2d, Evidence Sec. 891, 310.
- [30] *Arambulo vs. Manila Electric Co.*, 55 Phil. 75 (1930).
- [31] *People vs. Coral*, G.R. Nos. 97849-54, March 1, 1994, 230 SCRA 499; *People vs. Sendon*, G.R. Nos. 101579-82, December 15, 1993, 228 SCRA 489; *People vs. Duque*, G.R. No. 100285, August 13, 1992, 212 SCRA 607.
- [32] *People vs. Coronacion, et al.*, G.R. No. 97845, September 29, 1994, 237 SCRA 227; *People vs. Comia*, G.R. No. 109761, September 1, 1994, 236 SCRA 185.
- [33] See *People vs. Villafuerte*, G.R. Nos. 93723-27, May 6, 1994, 232 SCRA 225; *People vs. Alforte, et al.*, G.R. Nos. 91711-15, March 3, 1993, 219 SCRA 458.
- [34] *People vs. Reyes, et al.*, G.R. No. 105204, March 9, 1995, 242 SCRA 264.
- [35] *People vs. Turda*, G.R. Nos. 97044-46, July 6, 1994, 233 SCRA 702; *People vs. Manungas, Jr.*, G.R. Nos. 91552-55, March 10, 1994, 231 SCRA 1.
- [36] Article 315, Revised Penal Code.
- [37] *People vs. Pabalan*, G.R. Nos. 115350 and 117819-21, September 30, 1996.