FIRST DIVISION

[G.R. No. 116382. January 29, 1998]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, *vs*. MA. LOURDES DE GUIANG y VILLANUEVA, *accused-appellant*.

D E C I S I O N

VITUG, *J*.:

Accused-appellant Lourdes Bautista de Guiang was indicted before the Regional Trial Court ("RTC") of Manila in three separate informations, one for Illegal Recruitment proscribed under Article 38 and Article 39, in relation to Article 13(b) and (c), of the Labor Code, as amended, and the other two for estafa under Article 315 of the Revised Penal Code. The averments made by the City State Prosecutor in each of the three respective Informations read:

<u>In Criminal Case No. 92-104614</u> -

"That in or about and sometime during the period comprised between October 1991 and February 9, 1992, inclusive, in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and wilfully and unlawfully for a fee, recruit and promise employment/job placement in Japan to the following persons, namely: Reynaldo R. Jugo, Jose R. Jugo and Rosita R. Jugo, without first having secured the required license or authority from the Department of Labor."i[1]

<u>In Criminal Case No. 92-104615</u> -

"That in or about and sometime the period comprised between December 2, 1991 and February 9, 1992, inclusive, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously defraud Jose R. Jugo in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said Jose R. Jugo to the effect that she had the power and capacity to recruit and employ him as factory worker in Japan 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 R. Jugo to give and deliver, as in fact he gave and delivered to said accused the amount of ₱70,000.00 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 she did obtain the amount of ₱70,000.00 which amount once in her possession, with intent to defraud, she wilfully, unlawfully, and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of said Jose R. Jugo in the aforesaid amount of ₱70,000.00."ii[2]

In Criminal Case No. 92-104616 -

"That in or about and sometime the period comprised between October 1991 and December 1991, inclusive, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously defraud Reynaldo R. Jugo in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said Reynaldo R. Jugo to the effect that she had the power and capacity to recruit and employ him as factory worker in Japan 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 Reynaldo R. Jugo to give and deliver, as in fact he gave and delivered to said accused the amount of ₱20,500.00 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 she did obtain the amount of ₱20,500.00 which amount once in her possession, with intent to defraud, she wilfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of said Reynaldo R. Jugo in the aforesaid amount of ₱20,500.00."iii[3]

The court held a joint hearing of the cases following the plea by the accused of "not guilty" to all the charges.

The Office of the Solicitor General, in its Appellee's Brief, made an extensive narration of the evidence submitted by the prosecution. Thus -

"On the last week of October 1991, private complainant Reynaldo R. Jugo, a farmer, was visited by his `kumpadre,' Alberto Maclang, a member of the Western Police District (WPD), at his house in Sta. Rosa, Nueva Ecija. Maclang was accompanied by appellant whom the former introduced to Reynaldo as a recruiter for jobs abroad. Appellant talked with Reynaldo, convincing him that she could do something about Reynaldo's previous application for a job abroad. She represented that she could work on his travel papers within a period of two (2) months and he would be able to work in Japan as a factory worker. Further, appellant told Reynaldo that he only had to produce the initial sum of ₱5,000.00 for the immediate processing of his papers. Reynaldo thus signed the application form appellant presented to him (TSN, September 8, 1992, pp. 2-4; TSN, August 18, 1992, pp. 3-5; TSN, February 8, 1994, p. 12).

"A week later, appellant and Maclang again went to see Reynaldo at his house in Nueva Ecija. They told him that they would be the ones to first advance the amount of ₱5,000.00 to cover the expenses for the initial processing of his papers, to which private complainant agreed (TSN, September 8, 1992, p. 4; TSN, August 18, 1992, p. 5).

"Two (2) weeks after, Reynaldo who was still in Nueva Ecija, learned that appellant was trying to get in touch with him relative to his application for a job abroad. So, he left Nueva Ecija and proceeded to the house of Maclang at Naval Street, Malabon, Metro Manila. Maclang confirmed that appellant was indeed looking for Reynaldo. He thus called up appellant and it was arranged that the three (3) of them would meet at the headquarters of the Western Police District (WPD) at U.N. Avenue, Manila, sometime on November 1991 (TSN, August 18, 1992, pp. 5-7).

"During the meeting at the WPD headquarters at U.N. Avenue, appellant asked Reynaldo to give her the amount of ₱5,000.00 for the processing of his papers. Since Reynaldo had with him only ₱2,500.00, he was able to give that amount only, for which appellant did not issue any receipt. Thereafter, the three (3) of them proceeded to Ermita to take some snacks. In the course of taking their snacks, appellant was trying to convince Reynaldo to look for persons interested to go abroad for employment and to refer them to her. After they parted ways, Reynaldo returned to Nueva Ecija (TSN, September 8, 1992, p. 4; August 18, 1992, pp. 6-7).

"Subsequently, sometime on January 1992, Reynaldo was informed by appellant that his passport will soon be released. She told Reynaldo to prepare the amount of ₱18,000.00 for his plane fare to Japan. Reynaldo thus prepared that amount which he borrowed from his sister, Rosita Jugo. When Reynaldo and appellant met at the house of Reynaldo's mother at Malabon, Metro Manila, he asked appellant to issue him a receipt for the amount he was about to pay her. Appellant however refused and replied that `it seems you do not trust me.' Feeling assured and trusting appellant, Reynaldo was persuaded to hand to appellant the amount of ₱18,000.00 (TSN, August 18, 1992, pp. 7-8; February 22, 1994, pp. 11-12).

"Two (2) weeks after, appellant went to see Reynaldo at his house in Nueva Ecija. She presented him with a passport issued in his name. However, verification with the Department of Foreign Affairs (DFA) and the Japanese Embassy revealed that the passport given to him by appellant was a fake. When the passport was likewise referred to the National Bureau of Investigation (NBI), it was also determined to be a fake. Reynaldo was thus advised to file a complaint against appellant (TSN, September 8, 1992; p. 5; TSN, August 18, 1992, pp. 8-10).

"Earlier, Reynaldo had introduced his brother, Jose Jugo, and their sister, Rosita Jugo, to appellant. Almost simultaneously with appellant's transactions with Reynaldo, appellant also transacted with Reynaldo's brother and sister. Jose and Rosita met appellant for the first time on December 2, 1991, along with Alberto Maclang, the `kumpadre' of their brother, Reynaldo, and the alleged `second' husband of appellant. They met at appellant's office at Tayabas, Tondo, Manila. Jose and Rosita were made to fill up application forms after they were informed that they would be deployed as factory workers to Japan for the consideration of ₱70,000.00 (TSN, September 8, 1992, pp. 6-8; TSN, August 18, 1992, p. 11; TSN, September 22, 1992, pp. 2, 5).

"The following day or on December 3, 1991, Jose Jugo personally paid to appellant the first installment in the amount of ₱2,000.00 at Dampalit, Malabon, Metro Manila. It was followed by subsequent installments paid to appellant at her office at Tayabas, Tondo, Manila, in the following amounts:

2nd Installment	-	₱ 20,000.00
3rd Installment	-	₱ 10,000.00
4th Installment	-	₱ 18,000.00
5th Installment	-	₱ 2,000.00
6th Installment	-	₱ 18,000.00

Jose Jugo gave the last installment to complete the total amount of ₱70,000.00 on January 9, 1992. Appellant, however, did not issue any receipt for any of the above-stated amounts she received from Jose Jugo. When the latter asked for receipts of payment, appellant countered that he seems to have no trust in her (TSN, September 8, 1992, pp. 8-10; TSN, September 22, 1992, pp. 4, 6).

"After receipt of Jose Jugo's last installment on January 9, 1992, appellant handed to him a passport with numbers 203409 issued in his name, bearing what appellant represented to be a visa to enable him to work in Japan. Then, for several times, he was allegedly scheduled to depart for Japan but none of those scheduled departures ever pushed through. When Jose caused the alleged visa to be verified by the Japanese Embassy, and later by the Bureau of Immigration, it was determined to be a fake and the alleged visa number a tampered one. The alleged passport was likewise determined to be fake (TSN, September 8, 1992, pp. 10-12; TSN, September 22, 1992, p. 8).

"For her part, Rosita Jugo attested that she likewise gave the amount of ₱2,500.00 to appellant upon the latter's assurance of a job placement in Japan as a factory worker. She gave the amount to appellant at the latter's office at Tondo, Manila for which no receipt was issued to her. Rosita was also not able to leave for Japan. Worse, appellant did not heed Rosita's request that her money be returned although appellant had earlier executed an undertaking to return all the money she received from Rosita and private complainants Reynaldo and Jose (TSN, October 13, 1992, pp. 2-4).

Verification from the Philippine Overseas Employment Administration (POEA) revealed that appellant was not a licensed recruiter and a certification to that effect was issued. The Jugos referred the matter to the NBI which conducted an investigation. Thereafter, the case was referred to the Office of the City State Prosecutor, Manila, which filed the cases at bar (TSN, October 13, 1992, p. 3).

"While trial was ongoing and before the prosecution could rest its case on September 25, 1992, appellant escaped from her jail guard while under confinement at the UST Hospital. Consequently, the prosecution adduced evidence in appellant's absence and the case was submitted for resolution. Appellant managed to stay out of jail for one (1) year during which period, she made arrangements with private complainants to pay them the amount of ₱120,000.00 through Alberto Maclang. It was only sometime on

September 1993 when appellant was again apprehended by agents of the NBI. At her instance, the trial court reopened the case to accord appellant the opportunity to present her defense. Appellant presented as evidence an alleged affidavit of desistance which contents and due execution were, however, repudiated and disclaimed by private complainant Reynaldo Jugo, the alleged affiant thereof (TSN, February 8, 1994, pp. 19-21)."iv[4]

The defense had its own version. Counsel Felixberto C. de la Cruz, joined by Atty. Ma. Soledad Derquito-Mawis, recited what the defense considered to be the brief factual settings of the three cases.

"At the time of the commission of the acts complained of, appellant Ma. Lourdes Bautista de Guiang was a licensed contractor of a low-cost housing project earning a monthly net income of ₱50,000.00 to ₱70,000.00 (Exh. 3; pp. 17-19, tsn. Feb. 8, 1994). Prior thereto, she operated business under the name LGB Enterprises and General Services, earning ₱10,000.00 to ₱15,000.00 a month (Exh. 2; p. 2, tsn. Feb. 22, 1994). She had never been engaged in the processing of travel documents in recruitment basis (p. 5, tsn., Feb. 8, 1996).

"On the other hand, private complainants, namely: Reynaldo Jugo, Jose Jugo and Rosita are brothers and sister (p. 6, tsn., Aug. 18, 1996).

"Sometime in 1991, appellant and one Alberto Maclang went to Nueva Ecija to get the harvested rice of the latter. When they were about to return to Manila, Maclang decided to visit his friend and compadre Reynaldo Jugo. During this visit, Maclang and Reynaldo Jugo talked about the latter's lost passport and visa. Reynaldo Jugo asked Maclang how he could retrieve said travel documents which were never returned to him when he applied in the Japanese Embassy. Maclang, in turn, asked appellant if she could help. Appellant replied that she will try her best through the help of a certain Mr. Salazar, her friend in the Japanese embassy. Since Reynaldo Hugo had no money at that time, he promised to leave his stainless jeep if she could cause the re-issuance of his lost [passport] and visa, subject to redemption upon his return from Japan (pp. 3-6, Feb. 8, 1994).

"Subsequently, Maclang, introduced appellant to Jose Jugo who was also interested in applying for a tourist visa for Japan. Thereafter, Reynaldo Jugo, Jose Hugo and Rosita Jugo directly transacted business with Mr. Salazar for the issuance of their tourist visas (p. 8, tsn., Feb. 8, 1994). In the course of the Jugos' transaction with Mr. Salazar, appellant received a call from Mr. Salazar informing her that the Jugos were going to pay ₱40,000.00 for the processing of their passports and visas. Appellant received the said amount from the Jugos but turned over the same to Mr. Salazar without a receipt (pp. 8-16, tsn., Feb. 8, 1994).

"Reynaldo Jugo and Jose Jugo received their respective passports and tourist visa but were found to be fake. Appellant was thus arrested and subsequently charged of illegal recruitment and estafa on two counts.

"On March 16, 1992, appellant she signed a promissory note (Exh. B-Reynaldo Jugo, Folder of Exhibits) which reads: `Promise to pay Rosita Jugo the amount of ₱93,000.00 as payment for money received by me for having failed to [send] them abroad;' else, the NBI would publish the incident in the newspaper and report the same in the television (pp. 22-23, tsn., Feb. 8, 1994).

"After the filing the cases in court, Reynaldo Jugo executed an affidavit of desistance (Exh. 1, p. 77, Rec.) stating that he filed the illegal recruitment case against appellant was really due to misunderstanding with a request the case be dismissed."v[5]

The RTC, Hon. William Bayhon presiding, convicted the accused on all counts. The respective dispositive portions of its decision on the three jointly tried cases read:

"WHEREFORE, the Court finds the accused Lourdes Bautista de Guiang guilty beyond reasonable doubt of Violation of Art. 38 (a), Presidential Decree No. 1412, amending certain provisions of Book L, Pres. Decree No. 442, otherwise known as the New Labor Code of the Philippines in relation to Art. 13 (b) and (c) of said code as further amended by Pres. Decree Nos. 1693, 1920 and 2018 and is sentenced to suffer the maximum penalty of Life Imprisonment and pay a fine of ₱100,000.00 as provided for by law with subsidiary imprisonment in case of insolvency with respect to the fine but in no case shall it exceed 1/3 of the principal penalty.

"Likewise the Court finds accused guilty beyond reasonable doubt of the crime of Estafa in the other two cases.

"In Criminal Case No. 92-104616 for Estafa involving ₱20,500.00, she is sentenced to suffer an imprisonment of One (1) year, Eight (8) Months and Twenty-One (21) Day[s] of *Prision Correccional* as the minimum to Five (5) Years, Five (5) Months and Eleven (11) days as maximum of *Prision Correccional* in its maximum period and to pay Reynaldo Jugo the sum of ₱20,500.00.

"In Criminal Case No. 92-104615 for Estafa in the amount of ₱70,000.00, she is sentenced to suffer imprisonment of Four (4) years and Two (2) Months of *Prision Correccional* as the minimum to Six (6) years, Eight (8) Months and Twenty-One (21) days of *prision correccional* as the maximum plus One (1) year imprisonment for every ₱10,000.00 in excess of P22,000.00 and to indemnify the offended party Jose Jugo the sum of ₱70,000.00

"SO ORDERED."vi[6]

In her appeal to this Court, accused-appellant Lourdes Bautista de Guiang faults the trial court for having relied heavily on the testimony of prosecution witnesses, complainants Reynaldo Jugo, Jose Jugo and Rosita Jugo, anchoring her argument on, firstly, the supposed nefarious motives of the complainants and, secondly, on the affidavit of desistance executed by Reynaldo Jugo attributing the complaint against appellant merely to a "misunderstanding."

The appeal lacks merit.

The allegation of improper motives on the part of the prosecution witnesses has not been satisfactorily shown in evidence. Appellant merely hypothesizes, in effect, that the non-inclusion of a certain Alberto Maclang, whom the trial court described as having had a significant role in the deception played on the complainants, has only been to "force appellant to convince Maclang to refund the money"vii[7] to the Jugos. Aside from being a conjecture, the proposition advanced is, to say the least, much too strained and hard to follow. It does not seem to make any sense for the complainants to go through an elaborate and circuitous scheme, such as by initiating and prosecuting these cases against appellant, merely to pin ultimate liability on Maclang. The fact alone that Maclang is a "*kumpadre*" of one of the complainants could scarcely be reason enough for complainants not to directly and promptly implicate Maclang. Equating appellant's culpability to that of Maclang, in any event, will not necessarily either tie up the guilt or dictate the innocence of appellant.

Neither does the affidavit of desistance by Reynaldo Jugo subvert the testimony given by the witnesses. Not only did Reynaldo Jugo repudiate the affidavitviii[8] but that also affidavits of desistance are best ignored when pitted against positive evidence given at the witness stand.

The matter of assessing credibility, most of all, is a function that lies with the trial court more than an appellate court. Nor has the trial court been here inattentive to details; thus, it has observed:

"There is no reason to doubt the testimony of the witnesses for the prosecution who are simple barrio folks, one a farmer from Nueva Ecija and the other one a fisherman. From their appearances and manner of testifying in Court, pervision of the truth is far and remote. The Court could see that they are not the type of persons who would fabricate and concoct stories only to prosecute the accused. Reynaldo Jugo will not come all the way from Sta. Rosa, Nueva Ecija to follow up his case and attend the trial on several occasions had it not been for the assurance of accused to deploy them to Japan for a consideration. They would not take the trouble of coming to Court on several occasions if they have no other motive, except to seek for justice for themselves.

"On the other hand, accused have resorted to trickeries, even feigning illness for herself with the connivance of some jail personnel if only to escape from the clutches of the law. And finally thru the evil doings of Alberto Maclang, he coerced and threatened complainant Reynaldo Jugo into signing an Affidavit of Desistance hoping that the Court would dismiss these cases against accused Lourdes Bautista Guiang."ix[9]

Be that, such as it may, the Court itself has gone over the testimony of each of the complainants, and the credence of their declarations is quite evident. Thus -

Testimony of Jose Jugo -

"FISCAL

"Q Mr. Jose Jugo, are you the same Jose Jugo who is one of the complainants in this case against the accused for illegal recruitment and Estafa?

"A Yes, sir.

"Q And if the accused is in this courtroom, can you please point to her?

"BRANCH CLERK

Witness points to a lady in yellow who identified herself as Lourdes Guiang.

"FISCAL

Q Please tell the court when was the first time you saw the accused.

"A The first time I saw her was on Dec. 2, 1991, personally.

"Q But previous to the time when you personally saw her, did you know about her?

"A Yes, sir

. "Q And what circumstances did you come to know about her?

"A Because my brother Reynaldo Jugo was the first one who applied to her and then my brother told me that the name of his recruiter is Malou and because she calls by telephone to us whenever she needs my brother Reynaldo.

"Q And you said the accused was calling through the telephone. How did you come to know that she is the accused who was calling?

"A Because she says that she is the recruiter of my brother.

"Q Now, you stated that you saw the accused on Dec. 2, 1991, where?

"A In her office.

"COURT

Where is this office?

"A Tayabas, Tondo, Manila.

"x x x x x x x x x.

"COURT

Who was with you in going there?

"A	Me and my sister, sir, and Alberto.

"Q	Who is this sister of yours?

"A	Rosita Jugo.

"Q	Were you able to reach the office of the accused?

"A	Yes, sir.

"Q	And what happened in the office of the accused?

"A	We were asked to fill up an application.

"Q	Who asked you?

"A	She, the accused.

"Q	Now, did you fill up the application?

"A	Yes, sir.

"Q	When you fill up the application, was there any agreement or any discussion as to why you are filling up the application?

"A	For employment abroad in Japan, sir.

"Q	And what were the condition, if any?

"A	I was told I would be working in Japan as factory worker.

"Q	Did you talk about expenses?

"A	Yes, sir.

"Q	What was your agreement about that?

"A	I was asked to pay the amount of ₱70,000.00 but not in a lump sum.

"Q	And what purpose was this ₱70,000.00 about?

"A For the processing of papers like those that would be done in Japanese Embassy.

"Q Did you give this ₱70,000.00?

"A Yes, sir, I was able to give all of it.

"COURT

In one giving?

"A No, installment.

"FISCAL

"Q In how many installment did you give this ₱70,000.00?

"A In six (6) installments.

"COURT

On that day when you went there, Dec. 2, did you give any money?

"A No, sir.

"FISCAL

"Q When was the first time that you gave the first installment, if you know?

"A The first time I gave installment was on Dec. 3.

"Q The next day?

"A Yes, sir.

"Q How much did you give?

"A Only ₱2,000.00.

"Q Where did you give the money?

"A She went to our house.

"Q And where is this house located?

"A 219 Sioson St. Dampalit, Malabon, Metro Manila.

"Q Was there a receipt issued by the accused when you gave the ₱2,000.00?

"A No, sir.

"Q How about the second installment, where and when?

"A The second time was in Tayabas, Tondo already.

"Q How much?

"A I cannot remember the date, ₱20,000.00.

"Q How about the third installment?

"A Also in Tondo, I cannot remember the date, in the amount of ₱10,000.00.

"Q How about the fourth installment?

"A I cannot remember the date. Eighteen Thousand (₱18,000.00) Pesos, also in Tondo.

"Q The fifth?

"A ₱2,000.00.

"Q Where was it given?

"A Also in Tondo.

"Q How about the sixth?

"A Eighteen Thousand (₱18,000.00) Pesos.

"Q Where was it given?

"A Also in Tondo.

"Q All these amounts given to the accused personally by you?

"A Yes, sir.

"COURT

Was that amount for you alone and this include your sister's?

"A That is only for me, sir.

"FISCAL

"Q Why is it that the amount is big and you did not ask the accused to issue you a receipt?

"A I was asking but she countered I feel to have no trust on her.

"Q After you gave the amount, what happened?

"A She gave me a visa.

"Q What is that visa for?

"A That visa was for the purpose of going out from the Philippines so that I could work in Japan.

"Q About when was this?

"A She gave it on Jan. 9, 1992.

"x x x x x x x x x.

"FISCAL

"Q So when the accused gave you this, what did you do?

"A I waited for her schedule because I was scheduled many times.

"Q Were you finally scheduled?

"A Every week I was scheduled two times to fly out but I could never fly out and that is the same every week.

"Q So what finally happened with that scheduled of yours?

"A What we did, sir, was to verify in the Japanese Embassy about this. We were told there is no such number released.

"Q Are you referring to this number appearing in Exh. A-1-a?

"A Yes, sir.

"Q And when you came to know that there is no such number as this, what did you do?

"A In order to be doubly sure, really sure, I made a verification in the Bureau of Immigration.

"Q What did you verify in the Bureau of Immigration?

"A If this Visa is genuine.

"Q And what did you find out?

"A We found out that the number, this number is tampered and I was advised not to proceed otherwise I might land in jail.

"Q So when you came to know about this, what did you do?

"A I still have it examined by the NBI in order to be sure.

"Q And what did the NBI do?

"A Director Salvador Ramin said it was indeed fake.

"Q Which is fake, the passport or Visa?

"A The Visa.

"Q How about the passport, did you inquire about the Passport, Exh. A?

"A I did not verify but according to Dir. Salvador Ramin, it was also fake.

"Q So when Dir. Ramin of the NBI told you that this Document, passport and Visa are fake, what did you do?

"A We complained to the NBI.

"Q In other words, you were not able to go abroad to Japan?

"A No, because I am here.

"Q How about the money which you gave to the accused?

"A It was not returned to us. We are asking to her . . ."x[10]

Testimony of Reynaldo Jugo -

"FISCAL

"Q Mr. Jugo do you know a certain person by the name of Alberto Maclang?

"A	Yes, sir, I know such person.

"Q	And who is this Alberto Maclang?

"A	He is my compadre.

"Q	Now in the last week of October 1991 do you have any occasion to see or meet this Alberto Maclang?

"A	In the month of October he visited me in my house.

"Q	Where is this house located?

"A	Sta. Rosa, Nueva Ecija.

"Q	Was he with somebody?

"A	He was with a companion.

"Q	And who was this?

"A	Malou Guiang.

"x x x x x x   x x x.

"Q	If you see this Malou Guiang again will you be able to identify her?

"A	Yes, sir.

"Q	Will you look around and see the persons inside the courtroom and tell the Court whether Malou Guiang is inside the courtroom?

"A	Yes, sir, there she is.

"INTERPRETER:

Witness stood up, extends her arm, and with the forefinger points to a woman wearing a yellow T-shirt who answered by the name of Lourdes Guiang when asked what is her name.

"Q	Do you know why this Alberto Maclang and Malou Guiang went to your house in Sta. Rosa, Nueva Ecija.

"A	I know sir the reason. My compadre was in the company of the accused and they just visited me.

"Q Were there any conversation between you and these two persons?

"A Yes, sir, there was a conversation among the three of us.

"Q What was the subject of that conversation?

"A We talked about the application for employment abroad or for overseas job, my application.

"Q Why? Were you applying for a job abroad?

"A That was before I had my application with another person.

"Q So what has that application for abroad to do with your application with Maclang and Guiang.

"A Because Alberto Maclang introduced her (Malou Guiang) as a recruiter.

"Q So when she was introduced to you as recruiter what transpired?

"A Malou Guiang, the accused herein, convinced me that she will work or take care of the papers relative to my application for my employment abroad.

"Q And where are you supposed to work?

"A In Japan.

"Q And what job.

"A As factory worker.

"Q And when she told you about this possibility of working in Japan as factory worker what did you tell her?

"A She convinced me that in two months time she can arrange or fix my papers.

"Q And what was your reply to that?

"A I told her that I have no money yet for her to really convince me to seek employment abroad.

"Q Why, was there any amount asked by her?

"A Yes, sir, I will make a down payment of ₱5,000.00 and she would work on my papers relative to my overseas employment.

"Q	When you told her that you don't have any money what happened?

"A	We parted ways that day.

"Q	Was there any occasion that you have to meet Malou Guiang again?

"A	After one week they [came] back again to my house in Nueva Ecija. Meaning Mr. Maclang and Malou Guiang.

"Q	And what transpired when you saw each other?

"A	Malou Guiang told me that she will advance the money for the purpose of processing my papers.

"Q	Did you agree?

"A	Yes, I agreed.

"Q	So what happened afterwards?

"A	We parted ways again but after two weeks they called up by phone in the house of my mother in Malabon, Metro Manila.

"Q	Why do you know that Malou Guiang called your mother's house?

"A	When Malou Guiang called up our house my brother went to Nueva Ecija to fetch me to come to Malabon.

"Q	When you were in Malabon what transpired?

"A	I went first for a while to the house of my mother in Malabon and from there I proceeded to the house of my compadre Alberto Maclang.

"COURT:

Did you ask your mother why they ask you to come to Malabon?

"A	Actually my mother was staying in Nueva Ecija.

"Q	To whom did you talk to in that house of yours in Malabon?

"A	My sister Rosita, my brother Jose and Jerry.

"COURT:

DID you find out from them why they fetched you to go to Malabon?

"A Yes, sir.

"Q What did they tell you?

"A Malou Guiang wanted to talk to me.

"x x x x x x x x x.

"Q So what did you do afterwards?

"A My compadre Alberto Maclang accompanied me and we went to the house of Malou Guiang. My compadre called Malou Guiang first by phone to find out where we would be meeting, or where would be the meeting place for us to see each other.

"Q And where is the meeting place?

"A We saw each other at United Nations Avenue at the compound of the police headquarters.

"Q Were you able to talk to Malou Guiang?

"A Yes, sir, I talked to her.

"Q And what was your conversation about?

"A Because of the need for me to give money to her.

"Q How much did she tell you?

"A Actually she was asking for ₱5,000.00 but I only have ₱2,500.00 with me at that time.

"Q Did you give the ₱2,500.00 to Malou Guiang?

"A I gave the amount to her.

"Q Now did they tell you for what is that ₱2,500.00 intended for?

"A For the processing of the paper, sir.

"Q Was there any receipt given to you by Malou Guiang when you gave her the ₱2,500.00?

"A She did not issue a receipt for the amount I gave her.

"x x x x x x x x x.

"Q What transpired with your application for abroad?

"A Last January 1992 she told me that my passport will already be released.

"Q What else, if any, did she tell you?

"A That I should produce already the sum of money with which to purchase the plane fare for Japan.

"Q And did she tell you how much?

"A ₱18,000.00, sir.

"Q And were you able to produce that amount?

"A Yes, sir.

"Q And when that amount was produced by you what did you do with the amount?

"A I gave the amount of ₱18,000.00 to her.

"Q When you said `to her' to whom are you referring?

"A I gave the amount to Malou Guiang.

"Q Where did you give her that amount?

"A In the house of my parents at Malabon, Metro Manila.

"Q Was there any receipt issued by Malou Guiang when you paid her the ₱18,000.00?

"A She did not issue any receipt for the amount I gave her.

"Q The amount is big enough why did you not ask any receipt from her?

"A I was asking or demanding for a receipt but she said that as if I did not trust her.

"Q After that what happened else?

"A I gave to Malou Guiang the amount of ₱18,000.00.

"Q And were you able to get the passport and the plane ticket which Malou Guiang told you will be released and bought the ticket?

"A Up to now she has not given me the passport and the promised plane ticket.

"Q When she failed to deliver the passport and the plane ticket what did you do?

"A I just waited for some more time. I was just thinking that the passport [has] not been fully prepared and the passport is not finished yet so I waited for a little more time.

"Q After that little more time what happened?

"A After two weeks, after the lapse of two weeks she came to my house in Nueva Ecija with the passport.

"Q And what happened? Did she deliver to you the passport?

"A Yes, sir, she gave me the passport.

"Q And what did you do with the passport?

"A I read the contents of the passport. I examined it.

"Q What did you find out?

"A I saw or read my name, the date and when I am supposed to use the passport.

"Q Were you able to use the passport?

"A I was not able to use the same, sir.

"Q Why?

"A We showed it to other person to have it verified to find out whether the passport was genuine or a fake one.

"Q What was the result?

"A This who saw the passport said that it was fake.

"Q When they told you that the passport was a fake one what did you do, if any?

"A I sought the help of a friend of mine who was connected with the NBI at United Nations Avenue.

"Q And what did the NBI friend of yours do, if any?

"A He confirmed that the passport is fake.

"Q So after that what happened?

"A My NBI friend told me to file a complaint and there should be three of us.

"Q So did you make a complaint?

"A Yes, sir.

"x x x x x x   x x x.

"COURT:

Were you able to bring other complainant to the NBI in as much as the NBI said that there should be 3 complainants?

"A Yes, Your Honor, I was able to bring others.

"Q Who are they?

"A My brother and a sister of mine.

"COURT:

Now will you please tell the Court how this brother and sister of yours happened to be supposedly a victim of Malou Guiang?

"A Because my brother came to know this Malou Guiang my brother and my sister came to know Malou Guiang thru me. I introduced them to Malou Guiang.

"COURT:

And so what if they met her?

"A Malou Guiang was able to convince my brother and my sister to apply also for a job abroad.

"COURT:

When was that, before your transaction or after?

"A It was at the midway of the transaction with her.

"COURT:

Do you know if your brother and sister gave money also to the accused Malou Guiang?

"A I know that they gave money to her.

"COURT:

Did your brother and sister inform you when they gave the money?

"A We did not talk about that as to the date when the money was given by them to Malou Guiang.

"COURT:

Now in as much as first you gave ₱2,500.00 and later on you came to know that the passport was fake did you not caution them not to proceed with the transaction with Malou Guiang in as much as you have given her ₱2,500.00 and that the passport was fake?

"A We have not discovered yet that the passport was fake when my brother and my sister applied to her or have transaction with her.

"x x x x x x x x x.

"Q Up to this day was there any amount that was reimbursed to you by the accused or was the money returned to you?

"A None, sir. No amount was returned by her.

"Q Was she able to send you abroad?

"A I was not able to go abroad."xi[11]

Testimony of Rosita Jugo -

"Q Rosita Jugo, you're one of the complainants in this case against Madam Malou Bautista Guiang, docketed as Crim. Case No. 92-104614 to 16, for Estafa and Illegal Recruitment, do you know the accused in this case?

"A Yes, sir.

"Q You stated you are charging her of Estafa, how much did she obtain from you?

"A ₱2,500.00.

"Q And where did she obtain the amount of money?

"A Tayabas, Tondo, Manila at her office.

"Q And do you know for what purpose is this ₱2,500.00 which she obtained from you?

"A She said it is for the passport.

"Q Why, what was the passport for?

"A She said for my use for the trip in Japan.

"Q What is your purpose in going to Japan?

"A To be employed in Japan as factory worker.

"Q And who recruited you for this purpose?

"A Malou Guiang, sir.

"Q The accused in this case?

"A Yes, sir.

"Q And do you know whether this Malou Guiang was authorized as recruiter by the POEA?

"A I don't know, sir.

"Q But were you able to find out whether she is an authorized recruiter for overseas employment?

"A Later on I came to know about that.

"Q How did you come to know that she is not an authorized recruiter?

"A My brothers went to the POEA.

"Q And what did they find out at the POEA?

"A They were informed that the accused herein is not authorized.

"Q Was there any certification issued by the POEA to this effect, if you know?

"A Yes, sir.

"Q Showing to you this certification from the POEA issued on 18, October 199_, stating that Malou Guiang Bautista in her personal capacity is neither licensed nor authorized to recruit worker for overseas employment. What is the relation of this document you are referring to, certification you are referring to?

"A Yes, sir, this is the one.

"FISCAL

May I request that the said certification be marked as Exh. A Rosita Jugo.

"COURT

Mark it.

"FISCAL

"Q Now, was the accused able to employ you for overseas employment?

"A No, sir.

"Q And was she able to return the money which she obtained from you?

"A No, sir.

"Q Now, when did you ask for the return of the money which she got from you?

"A She promised that she will return to me.

"Q Is there any evidence to show that she is going to pay back the money?

"A She signed a document to the effect that she will return all the money that she got from us.

"Q You are referring to this undertaking which was previously marked as Exh. B?

"A Yes, sir.

"Q When you talked about your employment, where did you talk about this matter?

"A At first when she used to talk to us over the phone and after in her office.

"Q Where is this office?

"A At Tayabas, Tondo, Manila."xii[12]

The prosecution has adequately established that appellant did offer to the complainants, namely, Reynaldo Jugo, Jose Jugo and Rosita Jugo, overseas employment for a fee without first being duly licensed to so engage in such activity, an act embraced within the term "recruitment and placement" prohibited by Article 38, in relation to Article 13 and Article 39, of the Labor Code. The crime, if perpetrated against at least three persons, whether individually or as a group, is deemed committed "in large scale" that carries, pursuant to Article 38, in relation to Article 39, of the Labor Code, the penalty of life imprisonment and a fine of One Hundred Thousand Pesos.

Appellant, through misrepresentations and deceit, has likewise succeeded in defrauding complainant Jose Jugo in the sum of ₱70,000 and complainant Reynaldo Jugo in the amount of ₱20,500. These acts have independently transgressed Article 315 of the Revised Penal Code. Estafa, pursuant to that law, is committed by a person who defrauds another by abuse of confidence or deceit to the latter's damage. If the amount of the fraud is over ₱12,000 but does not exceed ₱22,000, the penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period is imposed; if the fraud exceeds ₱22,000, the above prescribed penalty is imposed in its maximum period, adding one year for each additional ₱10,000, provided, however, that the total penalty shall not exceed twenty years.

The Court agrees with the observation of the Solicitor General that the trial court erred neither in its findings nor in its judgment appealed from.

WHEREFORE, the decision of the court *a quo* is AFFIRMED. Costs against appellant.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, and Kapunan, JJ., concur.

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i[1] Records, p. 2.

ii[2] *Ibid*., p. 10.

iii[3] *Ibid*., p. 11.

iv[4] *Rollo*, pp. 134-144.

v[5] *Rollo*, pp. 86-89.

vi[6] *Rollo*, p. 21.

vii[7] *Rollo*, pp. 90-91.

viii[8] He testified that it was signed under duress (Reynaldo Jugo, TSN, 22 February 1994, p. 6).

ix[9] *Rollo*, pp. 20-21.

x[10] Jose Jugo, TSN, 08 September 1992, pp. 6-12.

xi[11] Reynaldo Jugo, TSN, 18 August 1992, pp. 3-12.

xii[12] Rosita Jugo, TSN, 13 October 1992, pp. 2-4.