

## FIRST DIVISION

[G.R. No. 121179. July 2, 1998]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. ANTONINE B. SALEY a.k.a. ANNIE B. SALEY, *accused-appellant*.

## DECISION

VITUG, J.:

The case before the Court focuses on the practice of some "illegal recruiters" who would even go to the extent of issuing forged tourist *visas* to aspiring overseas contract workers. These unsuspecting job applicants are made to pay exorbitant "placement" fees for nothing really since, almost invariably, they find themselves unable to leave for their purported country of employment or, if they are able to, soon find themselves unceremoniously repatriated. This Court once described their plight in a local proverb as being *naghangad ng kagitna, isang salop ang nawala*.<sup>i[1]</sup>

In this appeal from the 3rd March 1995 decision of the Regional Trial Court of La Trinidad, Benguet, Branch 10,<sup>ii[2]</sup> appellant Antonine B. Saley, *a.k.a.* Annie B. Saley, seeks a reversal of the verdict finding her guilty beyond reasonable doubt of eleven counts of *estafa* punishable under the Revised Penal Code and six counts of illegal recruitment, one committed in large scale, proscribed by the Labor Code.

Appellant was indicted in eleven separate informations for *estafa* under Article 315, paragraph 2(1), of the Revised Penal Code. The cases (naming the complainants and stating the amounts therein involved) include: (1) Criminal Case No. 92-CR-1397<sup>iii[3]</sup> (Francisco T. Labadchan ₱45,000.00); (2) Criminal Case No. 92-CR-1414 (Victoria Asil ₱33,000.00); (3) Criminal Case No. 92-CR-1415 (Cherry Pi-ay ₱18,000.00); (4) Criminal Case No. 92-CR-1426 (Corazon del Rosario ₱40,000.00); (5) Criminal Case No. 92-CR-1428 (Arthur Juan ₱24,200.00); (6) Criminal Case No. 93-CR-1644 (Alfredo C. Arcega ₱25,000.00); (7) Criminal Case No. 93-CR-1646 (Brando B. Salbino ₱25,000.00); (8) Criminal Case No. 93-CR-1647 (Mariano Damolog ₱25,000.00); (9) Criminal Case No. 93-CR-1649 (Lorenzo Belino ₱25,000.00); (10) Criminal Case No. 93-CR-1651 (Peter Arcega ₱25,000.00) and (11) Criminal Case No. 93-CR-1652 (Adeline Tiangge ₱18,500.00).

Except for the name of the offended party, the amount involved and the date of the commission of the crime, the following information in Criminal Case No. 93-CR-1652 typified the other informations for the crime of *estafa*:

That in or about the month of December, 1991, and sometime prior to or subsequent thereto, at Buyagan, Municipality of La Trinidad, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud ADELINE TIANGGE y MARCOS and by means of deceit through false representations and pretenses made by her prior to or simultaneous with the commission

of the fraud, did then and there willfully, unlawfully and feloniously defraud said ADELINE TIANGGE y MARCOS, by then and there representing herself as a duly authorized or licensed recruiter for overseas employment, when in truth and in fact she was not, thereby inducing the said ADELINE TIANGGE y MARCOS to give and deliver to her the total amount of EIGHTEEN THOUSAND FIVE HUNDRED PESOS (₱18,500.00), Philippine Currency, for placement abroad and after having received it, she appropriated and misappropriated the same for her own use and benefit and despite repeated demands made upon (her) to return the same, she refused, failed, neglected, and still refuses, fails and neglects to comply therewith, all to the damage and prejudice of ADELINE TIANGGE y MARCOS in the total sum aforesaid.

"Contrary to law.<sup>iv[4]</sup>

For the violation of Article 38, in relation to Article 39, of the Labor Code, five separate informations were also instituted against appellant on various dates. These cases (with the names of the complainants) include: (1) Criminal Case No. 92-CR-1396 (Francisco T. Labadchan); (2) Criminal Case No. 92-CR-1413 (Cherry Pi-ay); (3) Criminal Case No. 92- CR-1416 (Victoria Asil); (4) Criminal Case No. 92-CR-1425 (Corazon del Rosario) and (5) Criminal Case No. 92-CR-1427 (Arthur Juan). The typical information in these indictments read:

That sometime in the month of April, 1991 and subsequent thereto at Buyagan, Municipality of La Trinidad, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and knowingly recruit one ARTHUR JUAN for overseas employment, by then and there ably misrepresenting herself as a duly authorized or licensed recruiter when in truth and in fact she fully knew it to be false but by reason of her said misrepresentations which were completely relied upon by Arthur Juan, she was able to obtain from the latter the total amount of TWENTY FOUR THOUSAND TWO HUNDRED PESOS (₱24,200.00), Philippine Currency, all to the damage and prejudice of Arthur Juan in the total sum aforesaid.

"Contrary to Law.<sup>v[5]</sup>

The information in Criminal Case No. 93-CR-1645 for illegal recruitment in large scale under Article 38, paragraph 1, of Presidential Decree No. 442 (Labor Code), as amended, filed on 16 April 1993, read:

That in or about the months of August and September, 1992, in the Municipality of La Trinidad, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and knowingly recruit the following: PETER ARCEGA, LORENZO BELINO, MARIANO DAMOLOG, FIDEL OPDAS, BRANDO B. SALBINO, DEMBER LEON and ALFREDO C. ARCEGA for overseas employment, by then and there misrepresenting herself as a duly authorized or licensed recruiter when in truth and in fact she was not and by reason of her said misrepresentation which was completely relied upon by the said complainants whom she recruited, either individually or as a group amounting to illegal recruitment in large scale causing economic sabotage, she was able to obtain and

received from them the aggregate total amount of ONE HUNDRED SEVENTY FIVE THOUSAND PESOS (₱175,000.00), Philippine Currency, all to the damage and prejudice of the foregoing complainants in the total sum aforesaid.

"Contrary to law.vi[6]

Appellant pleaded not guilty to all the charges of illegal recruitment and *estafa*. The criminal cases filed were raffled off to two (2) branches of the Regional Trial Court of Benguet; later, however, the cases were consolidated at the instance of the prosecution.

Parenthetically, appellant jumped bail pending trial but she was soon arrested by agents of the Criminal Investigation Service ("CIS").

The Evidence for the Prosecution. -

In Criminal Case No. 92-CR-1397 and Criminal Case No. 92-CR-1396

Francisco Labadchan, a 25-year-old employee in the Navy Base in Pacdal, Baguio City, was introduced to appellant by Crispin Perez. In September 1991, the two went to the house of Conchita Tagle at Kilometer 3, La Trinidad, Benguet, who was known to be recruiting workers for abroad. After Labadchan had expressed interest in applying for a job in Korea, Tagle told Labadchan to prepare ₱45,000.00, ₱30,000.00 of which was to be paid that month and the balance of ₱15,000.00 before his departure for abroad. Labadchan paid Tagle the amount of ₱30,000.00 on 23 September 1991. Appellant, in turn, received that amount when she went to La Trinidad to "brief" him. She told Labadchan that his flight would be on the 9<sup>th</sup> of October 1991 and that he should have paid by then the balance of ₱15,000.00 of the fees. He paid Tagle the ₱15,000.00 balance on 05 October 1991. When he requested her to make a receipt, Tagle included the amount in the old receipt for the ₱30,000.00 previously given. Appellant handed over to Labadchan some papers to fill up and gave last-minute instructions before she boarded a green-colored aircraft.

On 08 October 1991, Labadchan and his wife went to Manila and stayed, as so instructed by Tagle, at the Prince Hotel near the terminal of the Dangwa bus company in Dimasalang, Manila. There, he met other people, among them, his co-complainant Arthur Juan. In the morning of 09 October 1991, Labadchan and the others were told to go to the airport with Tagle, where appellant was supposed to give the travel papers including passports and plane tickets for Korea. At the airport, however, appellant told the group that their flight had been re-scheduled for 11 October 1991. Labadchan returned to Baguio City.

On 11 October 1991, Labadchan returned to the airport only to be told this time, however, that his passport was still with the Department of Foreign Affairs. Appellant told her husband to accompany Labadchan to the Foreign Affairs office. When Labadchan received the passport, he saw that while his picture appeared on it, the passport was made out in the name of a person from Negros Occidental. Labadchan had to imitate the signature on the passport just so he could get it. Back at the airport, he was allowed inside the terminal but only to be later sent out because the ticket he had was one intended for passage *from* Korea and not *to* Korea. Asserting that he and

company were mere "chance passengers," appellant sent them all home with a promise that another departure date would be set. She also took back the show money of US\$1,000.00.

Appellant would repeatedly schedule a departure date but nothing tangible came out of her assurances. Finally, Labadchan was able to get appellant to promise that the money he had given her would be refunded. When this promise neither materialized, Labadchan finally reported the matter to the National Bureau of Investigation ("NBI"). In that office, appellant executed a promissory note stating that she would return the amount of ₱46,500.00, which included the amount of ₱1,500.00 allegedly used for getting a passport, to Labadchan.<sup>viii[7]</sup>

In Criminal Case No. 92-CR-1414 and Criminal Case No. 92-CR-1416

Victoria Asil, a 40-year-old housewife from Imelda Village, Roxas Street, Baguio City, heard from her elder sister, Feling Derecto, that appellant was recruiting workers for abroad. During the second week of January 1992, she, along with her husband Gabriel, went to appellants house in Buyagan, La Trinidad. Appellant assured her that she could have a job in a factory in Korea. Appellant asked for an advance fee of ₱25,000.00 of the ₱40,000.00 agreed fee. Victoria gave appellant the "advance fee" on 13 January 1992 at her (Victorias) shop in Shoppers Lane, Baguio City which appellant acknowledged by issuing a receipt for the amount. She told Victoria to be at appellant's house in Buyagan after three weeks.

When Victoria went to appellants house as so directed, appellant told her that her flight had been postponed supposedly because prior applicants had to be accommodated first. Victoria met appellant seven more times only to be ultimately told that the latter had been allegedly fooled by the main office in Manila. Appellant, nevertheless, demanded an additional ₱5,000.00 from Victoria so that she could leave on 18 April 1992. Victoria gave appellant the amount of ₱5,000.00 at her shop on 31 March 1992 for which appellant gave a corresponding receipt.

When on 18 April 1992 still nothing happened, Victoria demanded from appellant a refund. Appellant gave her an advance of ₱15,000.00. An acknowledgment receipt with appellants signature affixed thereon would evidence that payment. Appellant, however, failed to return the rest of the promised refund.<sup>viii[8]</sup>

In Criminal Case No. 92-CR-1413 and Criminal Case No. 92-CR-1415

Cherry Pi-ay, a 26-year-old nursing student from Acop, Tublay, Benguet, was visited once in March 1991 by appellant who encouraged Cherry to apply for work in a textile or a plastic factory in Korea with a monthly salary of US\$800.00. Appellant told Cherry that the moment she would pay the amount of ₱45,000.00, she could be deployed in Korea. Cherry prepared her bio-data and gave it to appellant at the latter's residence during the first week of April 1991.

Cherry was able to leave the country on 04 July 1991 after having paid the total amount of ₱45,000.00. Appellant told her that a certain Ramil would meet her at the airport in Korea. When she arrived, a Filipina, named Marlyn, instead met her. Marlyn introduced herself as appellants friend and accompanied Cherry to a certain house owned by a Korean. There, Cherry met, among other compatriots, Corazon del Rosario and Jane Kipas. Cherry soon realized that she was

not going to have a job in the factory promised by appellant. Instead, she was made to work for the Korean applying rugby on and folding leather jackets. About a month later, men from the Korean Immigration accosted her and the others. Brought in for questioning by Immigration officials, Cherry and her companions were informed that they were illegal workers. After the investigation, Cherry and her group were allowed to go but on 08 August 1991, all were deported.

Back to the Philippines, the deportees were assured by appellant that they would get a refund of their money. Cherry executed a sworn statement narrating her experience in Korea.<sup>ix[9]</sup>

Ayson Acbaya-an, Cherrys "boyfriend" who later was to become her husband, corroborated Cherrys testimony that appellant first received ₱18,000.00 from Cherry. Thereafter, appellant also received ₱27,000.00 from Cherry, fifteen thousand pesos (₱15,000.00) of which amount came from him. In both instances, appellant signed receipts for the payments. The receipts were among Cherry's papers confiscated in Korea.<sup>x[10]</sup>

In Criminal Case No. 92-CR-1425 and Criminal Case No. 92-CR-1426

Corazon del Rosario, a 34-year-old housemaid from 48 Happy Homes, Baguio City, had known appellant, an acquaintance, since 1980. One day in December 1990, she happened to chance upon appellant at a PLDT telephone booth in Kilometer 4, La Trinidad, Baguio City. Appellant, representing herself to be an authorized recruiter, tried to persuade Corazon to work abroad. Corazon showed interest. From then on, appellant would visit Corazon in her brothers house in Kilometer 4. Ultimately, appellant was able to convince Corazon that, for a fee of ₱40,000.00, she could be sent to Korea. Corazon gave appellant the amount of ₱15,000.00. She paid the balance of ₱25,000.00 in May 1991. The payments were both made in the presence of Cherry Pi-ay and Jane Kipas. Appellant issued the corresponding receipts for these amounts.

Corazon took the flight for Korea on 28 June 1991. Appellant had instructed Corazon, upon landing in Korea, to call up a certain Ramil. At the airport, Corazon, including her companions among them Jane Kipas, kept on dialing the number but each time only a Korean woman would answer the call. Later, that evening, a certain Marlyn, who introduced herself as appellants friend, took them to a hotel. There, Marlyn took their show money of US\$1,000.00. The group stayed overnight in the hotel and the following morning, a Korean took them to a house proximately two hours away by car from the airport. For about a month, they did nothing but apply rugby on leather jackets, for which they were not paid, until a policeman arrived and took all ten of them to the airport. All that the immigration and airport personnel would tell them was that they should be thankful they were only being repatriated home. Immigration and airport authorities confiscated everything that they had.

At home, appellant promised to return Corazons money. Not having received the promised refund, Corazon went to the CIS stationed at Camp Dangwa where, on 28 July 1992, she executed her sworn statement.<sup>xi[11]</sup>

Avelina Velasco Samidan, a friend of Corazon and in whose house the latter would stay whenever she was in Baguio, corroborated the testimony of Corazon that she gave to appellant

the amount of ₱15,000.00, ten thousand pesos of which amount Corazon borrowed from Avelina, and that some time in April 1991, Corazon withdrew ₱25,000.00 from the bank which she likewise paid to appellant.<sup>xii</sup>[12]

In Criminal Case No. 92-CR-1427 and Criminal Case No. 92-CR-1428

Arthur Juan, a 30-year-old farmer from Dumulpot, Tublay, Benguet, first met appellant in her house at Buyagan, La Trinidad, Benguet, when he, together with Maxima Gomez, Tirso Gomez and Francisco Labadchan, went to see appellant who was said to be recruiting workers for Korea. Juan promptly submitted his bio-data form after being told that he could work in a factory in Korea at US\$400.00 a month. Appellant quoted a processing fee of ₱40,000.00. Juan initially paid the amount of ₱6,500.00 in April 1991. On 09 October 1991, the scheduled date of the flight, Juan went to the airport and gave appellant another ₱15,000.00; the final balance of the fees were, by their agreement, to be remitted to appellant on a salary deduction basis. Appellant then told Juan that he could not leave on that day (09 October 1991) because the airplane was already full. Appellant took back Juans passport, telling Juan that he should be able to depart in a few days. Appellant, however, kept on rescheduling the flight for about five more times until it became clear to Juan that he had been deceived. Juan paid out a total amount of ₱24,200.00, including the US\$100.00 that would have been his pocket money, to appellant. The latter executed receipts for the amounts.

Juan executed a sworn statement narrating the unfortunate incident.<sup>xiii</sup>[13]

In Criminal Case No. 93-CR-1652

Adeline Tiangge, a 43-year-old housekeeper from Bangao, Buguias, Benguet, learned that appellant was recruiting workers for abroad. Adeline, accompanied by her sister, went to see appellant at her house in Buyagan some time in December 1991. There were others, like her, who also went to see appellant. When she produced the required identification pictures and ₱1,500.00 for passport processing, appellant told Adeline that she could be a factory worker in Korea with a monthly salary of US\$350.00. Appellant agreed to be paid by Adeline the additional ₱35,000.00 balance by installment. The first installment of ₱17,000.00 was paid on 15 February 1992, evidenced by a receipt signed by Antonine Saley, with the remaining ₱18,000.00 being payable before getting on her flight for abroad.

Adeline waited in Baguio City for word on her departure. Adeline, together with some other applicants, thrice went to appellants office at the Shoppers Lane to check. She also went to Dimasalang, Manila, in front of the Dangwa terminal, for a like purpose. Appellant informed her that she just had to wait for her flight. Adeline, exasperated, finally demanded a refund of the amount she had paid but appellant merely gave her ₱100.00 for her fare back to Benguet.<sup>xiv</sup>[14]

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The sum of the evidence, *infra.*, in **Criminal Case No. 93-CR-1645** for illegal recruitment in large scale had been submitted to likewise constitute the evidence to establish the People's case, respectively, in -

#### Criminal Case No. 93-CR-1644

Alfredo Arcega, a 42-year-old hotel employee from 16 Q.M. Subdivision, Baguio City, heard from a former co-worker, Fidel Opdas, that appellant was recruiting workers for overseas employment. Interested, he, in the company of his nephew, Peter Arcega, went to appellants house in Buyagan, La Trinidad. There, he met job applicants Dembert Leon, Mariano Damolog and Brando Salbino. Appellant assured the group that they could get employed in Taiwan for a monthly salary of ₱12,000.00 to ₱15,000.00. She told them that the processing and placement fees would amount to ₱40,000.00 each. Arcega and his companions agreed.

On 17 August 1992, Arcega paid appellant ₱10,000.00 in Dimasalang, Manila. Appellant issued a cash voucher for the amount. She told Arcega to just wait for the results. On 30 September 1992, appellant asked Arcega for another ₱15,000.00 which amount he paid. With him at the time were his nephew Peter Arcega, as well as Dembert Leon, Mariano Damolog, Lorenzo Belino and Brando Salbino. Appellant issued a receipt and affixed thereon her signature. Appellant told Arcega that with the payment, his employment abroad was assured. She stressed, however, that the balance of ₱15,000.00 should be paid before his departure for Taiwan. After following up the matter with appellant in October 1992 and then in December 1992, he finally gave up. Arcega went to the POEA office in Magsaysay Avenue, Baguio City, and when he learned that appellant had pending cases for illegal recruitment, he also filed his own complaint and executed an affidavit before Atty. Justinian Licnahan.<sup>xv[15]</sup>

#### Criminal Case No. 93-CR-1646

Brando Salbino, a 36-year-old resident of East Quirino Hill, Baguio City, used to be a "forester" of the DENR. In July 1992, he met appellant at her Buyagan residence after his brother-in-law, Fidel Opdas, had said that she was recruiting workers for abroad. Appellant told him that she could help him get employed in Taiwan with a ₱12,000.00 monthly salary. Salbino submitted various documents required by appellant. On 11 August 1992, Salbino paid appellant the amount of ₱10,000.00 at her Dimasalang "temporary office" so that, according to her, his travel papers could be processed. The payment was receipted. On 30 September 1992, he paid her another ₱15,000.00, for which appellant again issued an acknowledgment receipt.

Appellant told Salbino to merely wait in Baguio City. When she failed to show up, he went to appellants house in Buyagan to verify. She was not there. The following week, he went to Manila with Fidel Opdas hoping to see her. Appellant's whereabouts could not be determined. Having failed to locate her, Salbino and his companions went to the POEA office in Magsaysay, Baguio City. It was at the POEA office that they were to learn that appellant was not in the list of licensed recruiters. He, along with the others, then executed an affidavit-complaint before Atty. Licnahan.<sup>xvi[16]</sup>

#### Criminal Case No. 93-CR-1647

Mariano Damolog, a 33 year-old farmer from 26 P. Burgos Street, Baguio City, went to appellants residence in Buyagan in July 1992 when informed by Fidel Opdas, his co-worker at the MIDO Restaurant, that appellant was recruiting workers for Taiwan. Appellant herself later

told Damolog that she was licensed to recruit workers. He forthwith applied for a position at a factory in Taiwan with a salary of between US\$400.00 and US\$500.00 a month. He, after being required to pay a processing fee, paid the amount of ₱10,000.00 to appellant at her Manila office. Appellant gave him a cash voucher. Damolog was then supposed to just wait in Baguio City for a telegram.

When he did not receive word from appellant, Damolog went to Manila to see what had happened to his application. Appellant was again told to simply stand by in Baguio City. After several days, Opdas, who had meanwhile gone to Manila, told Damolog to see appellant in Manila. In Manila, appellant told Damolog to sign a bio-data form for screening purposes. Like Peter Arcega, Fred Arcega, Brando Salbino and Lorenzo Belino, he was also asked to pay another ₱15,000.00. The group went back to Baguio City to raise the amount of ₱15,000.00 each. On 30 September 1992, he, together with Fred and Peter Arcega, Brando Salbino and Lorenzo Belino, returned to Manila. Damolog handed over his ₱15,000.00 to appellant who issued an acknowledgment receipt, signed by Annie Saley which, according to appellant, was her name. Appellant assured him that he would be among the first to go to Taiwan by December 1992.

December 1992 came but no word was received prompting Damolog and his companions to repair to appellants house in Buyagan. She was not home. Damolog proceeded to Manila where appellant told him to wait a few more days. When still nothing happened, Damolog and his companions went to the POEA office where Atty. Licnachan issued a certification stating that appellant was not authorized to recruit workers. Damolog and his companions filed a joint affidavit-complaint executed before Atty. Licnachan<sup>xvii</sup>[17] against appellant.

Criminal Case No. 93-CR-1649

Lorenzo Belino, a 37-year-old farmer from Tawang, La Trinidad, Benguet, was in Manila in August 1992 looking for employment. Fidel Opdas, a companion in his trip to Manila, mentioned that perhaps appellant could help. Belino saw appellant who then told him about the prospect of getting employed in Taiwan. Appellant invited him to see her on 20 September 1992 in Buyagan.

On the appointed date, Belino found Mariano Damolog, Fidel Opdas, Brando Salbino, Dembert Leon, Alfredo Arcega and Peter Arcega already in appellants residence in Buyagan. Appellant asked ₱10,000.00 from each of them if they wanted her to be responsible for representing them to get themselves employed in Taiwan with a monthly income of ₱15,000.00. When the group agreed, appellant made them fill up and sign a bio-data form. Appellant also made them understand that they would each have to pay her the total amount of ₱40,000.00, ₱10,000.00 of which was to be forthwith paid and the balance to be paid as and when everything would have been arranged for their flight to Taiwan.

On 23 September 1992, Belino paid appellant the amount of ₱10,000.00 at her Dimasalang office. Appellant issued a cash voucher therefor. Belino returned to Baguio City. Five days later, Belino went down to Manila after appellant had sent word that he had to come to Manila. On 30 September 1992, Belino paid in Manila the amount of ₱15,000.00 demanded by appellant.

Appellant signed her name as Annie Saley on the receipt. Appellant informed Belino that he should wait for her telephone call regarding the schedule of his flight. He waited but when no calls came, Belino and Opdas decided to visit appellant in her house in Buyagan. Appellant asked to be given until January to deploy them in Taiwan. February 1993 came, and still there was no news from appellant. In March 1993, Belino and others, namely, Fidel Opdas, Brando Salbino, Dembert Leon and Alfredo Arcega,<sup>xviii</sup>[18] decided to file a complaint against appellant with the POEA in Magsaysay Avenue, Baguio City, where their sworn statements were taken.

Criminal Case No. 93-CR-1651

Peter Arcega, a 27-year-old cashier from 317 Magsaysay Avenue, Baguio City, also paid the amount of ₱10,000.00 to appellant for a promised job overseas. A cash voucher was signed by appellant to acknowledge the payment. Peter, subsequently, also paid the amount of ₱15,000.00 to appellant for which the latter issued a receipt signed by Annie Saley. He was among those who signed the affidavit-complaint before the POEA.

Testifying in **Criminal Case No. 93-CR-1645**,<sup>xix</sup>[19] as a corroborative witness, Dembert Leon, a 25-year-old unemployed from 52-F Tandang Sora Street, Baguio City, said that he, desiring to get an employment abroad, likewise went to see appellant at her residence in Buyagan. Accompanied by Fidel Opdas, Leon was told by appellant to complete the necessary papers, including his bio-data, *barangay* clearance, ID and NBI clearance. Leon applied to be a factory worker in Taiwan. He was assured a monthly salary of ₱12,000.00, but first, appellant told him, he should commit to pay a placement fee of ₱40,000.00 of which amount ₱10,000.00 had to be paid forthwith. Leon paid and a cash voucher, dated 08 September 1992, was issued by appellant. On 30 September 1992, he paid appellant another ₱15,000.00 for which another acknowledgment receipt was issued. The remaining ₱15,000.00 was agreed to be paid at the airport before his flight to Taiwan. No further word came from appellant. Finally, in December 1992, when he and the others called her up, appellant informed them to wait until January 1993. January came and still nothing happened. In March 1993, Leon and the others went to the POEA office to lodge a complaint against appellant.<sup>xx</sup>[20]

Jose B. Matias, an Attorney II at the POEA Regional Station Unit in Baguio City, received a request for verification on whether or not appellant was a licensed recruiter. In response, he advised that appellant was not authorized to recruit in the City of Baguio and in the region from 1989 to the present. Atty. Matias issued a certification to that effect.

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The Case for the Defense. -

The defense posited the theory that appellant merely assisted the complainants in applying for overseas employment with duly accredited travel agencies for and from which she derived a commission.<sup>xxi</sup>[21]

According to the 37-year-old appellant, she used to be the liaison officer of the Friendship Recruitment Agency from 1983 to 1986. In that capacity, she would submit to the POEA

contracts for processing job orders for applicants and assist applicants prior to their departure at the airport. When the licensed agency closed in 1986, she went to Baguio where she engaged in the purchase and sale of vegetables and flowers. Even then, however, she would not hesitate extending help to applicants for overseas employment by recommending licensed agencies which could assist said applicants in going abroad. She named the Dynasty Travel and Tours and the Mannings International as such licensed agencies. She had, in the process, been able to help workers, like Cherry Pi-ay, Corazon del Rosario, Arthur Juan and Francisco Labadchan to name some, sent abroad.xxiii[22]

Cherry Pi-ay was able to leave for Kuwait. In 1991, Cherry went to see her again, this time asking for assistance in getting an employment in Korea. She accompanied Cherry to the Dynasty Travel and Tours in Manila that enabled her to get a tourist *visa* to Korea. Appellant herself later gave Cherry her tourist *visa*. For Cherrys *visa* and plane ticket, appellant received from Cherry ₱15,000.00 and US\$250.00. Appellant issued a receipt therefor and delivered the amounts to the Dynasty Travel and Tours which, in turn, issued her a receipt. The CIS men who arrested her in Manila confiscated that receipt. In August 1991, Cherry came back and asked her to look for another travel agency saying she did not like the work she had in Korea.xxiii[23]

Norma Bao-idang, a former client of the Friendship Recruitment Agency, introduced Corazon del Rosario to appellant. Since the agency had already been closed, appellant referred Corazon to Mannings International in Kalaw Street, Ermita, Manila. Corazon was able to leave for Abu Dhabi where she worked as a domestic helper. In 1991, Corazon again sought appellant's assistance in getting an employment in Korea. Appellant introduced her to Dynasty Travel and Tours which, in turn, helped Corazon get a tourist *visa* for Korea. She did ask for ₱15,000.00 and US\$250.00 from Corazon but these amounts, being for Corazons ticket and hotel accommodation, were turned over to Dynasty Travel and Tours. She also knew that Corazon was able to leave for Korea because she herself handed over to Corazon her tourist *visa* and ticket. Appellant received ₱2,000.00 from Dynasty Travel and Tours by way of commission. She was also issued a receipt by that travel agency showing that she had turned over to it the amounts received from Corazon but the CIS men took the receipts and other documents from her. When Corazon returned home in 1991 after going to Korea, she again sought appellants help in looking for a travel agency that could assist her in going back to that country.xxiv[24]

Appellant came to know Arthur Juan through a vegetable vendor named Maxima Gomez. He asked her for help in securing a tourist *visa*. Appellant was able to assist him and others, like Francisco Labadchan, Tirso Gomez and Romeo Balao, by referring them to the Dynasty Travel and Tours. Appellant asked from them the amounts of ₱15,000.00 and US\$250.00 which she turned over to the travel agency. Again, she was issued a receipt by that agency but that, too, was confiscated by the CIS agents who arrested her. Of the men who sought her help in going abroad, seven "were able to leave. The others had been re-scheduled to leave but they failed to arrive at the airport.

Labadchan and Juan met appellant during the first week of January 1993. She gave them back the plane ticket and the amount of US\$250.00 so that they could ask for a refund from the travel agency. The next time she saw Labadchan was at the NBI office when NBI Director Limmayog

invited her for questioning. Appellant tried her best to look for a job for Labadchan but the transaction she had with Fast International failed to push through.<sup>xxv[25]</sup>

Appellant helped Victoria Asil secure a tourist *visa*. The latter's sister was a former client at the Friendship Recruitment Agency who was able to work in Saudi Arabia in 1985. She introduced Victoria to the Dynasty Travel and Tours. Appellant asked Victoria to advance ₱15,000.00 and US\$250.00 for her ticket and hotel accommodation. Victoria gave appellant the amount, and the latter issued corresponding receipts. She turned over the amount to the travel agency which, in turn, issued a receipt to appellant. The CIS, however, confiscated all the documents in her *attache* case.<sup>xxvi[26]</sup> Appellant was able to process Victoria's *visa* for Korea but when someone informed the latter that she could have a *visa* for Taiwan, Victoria opted to change her destination. Appellant told Victoria that her *visa* and ticket for Korea had already been obtained but Victoria insisted on a refund of her money. Appellant returned to her ₱15,000.00 that was supposed to be the amount to be exchanged into dollars for her show money. Victoria issued a receipt for the amount but appellant entrusted it to her former lawyer. Appellant handed over the plane ticket to Victoria.<sup>xxvii[27]</sup>

Mercedes Quimson (Kimson) introduced appellant to Adeline Tiangge. When Adeline said that she was interested in securing a tourist *visa* for Korea, appellant took her to the Dynasty Travel and Tours. Appellant asked from Adeline the amount of ₱17,000.00 for her plane ticket. Appellant was able to buy a plane ticket and to get a passport for Adeline. The latter, however, later said that she was no longer interested in going to Korea and that her passport application should, instead, be diverted to Hongkong. In fact, Adeline was able to leave for Hongkong. Adeline filed a case against appellant because when Adeline sought a refund from Dynasty Travel and Tours, the agency only gave her ₱5,000.00 or just a half of the ₱10,000.00 she wanted.<sup>xxviii[28]</sup>

Fidel Opdas was appellant's client at the Friendship Agency who was able to leave for Saudi Arabia. He asked her if she could find a job for him in Taiwan. When appellant told him that she knew someone who could help, Opdas brought along Mariano Damolog. Appellant introduced them to Marites Tapia and Carol Cornelio of Dynasty Travel and Tours who told Opdas and Damolog to submit the necessary documents for their application for work in Taiwan. In May 1993, Opdas returned with Brando Salbino who also talked to Marites and Carol. Opdas submitted to appellant the documents required by Marites and Carol. Appellant, in turn, gave the papers to Marites and Carol. When, later, Opdas went to see appellant, he brought along Dembert Leon and Lorenzo Belino. Appellant requested Opdas to accompany the two to Marites and Carol with whom they discussed what would be necessary "for their application for Taiwan. Still later when Opdas came back with Peter and Alfredo Arcega to see appellant, she again referred them to Marites and Carol. The job applicants each gave appellant ₱10,000.00 which the latter turned over to Marites and Carol. The two gave her receipts but these were in the same *attache* case that was seized by the CIS agents and never returned. The group subsequently withdrew their applications although it was only Opdas who received a ₱15,000.00 refund.<sup>xxix[29]</sup>

In a bid to prove that CIS agents indeed took away her *attache* case containing documents that could bail her out of the charges, appellant presented Danilo A. Deladia, one of the three policemen who arrested her. Equipped with a warrant of arrest issued by Judge Luis Dictado of

Branch 8, the policemen went to the house of appellants cousin at 2320-B San Antonio, Sampaloc, Manila at 3:00 p.m. of 25 August 1993. According to Deladia, however, they did not get anything from appellant because their mission was only to arrest her. At the counter intelligence branch of the CIS, he did not even hear appellant requesting for the return of a brief case.<sup>xxx[30]</sup> Apparently because of what had turned out to be Deladias adverse testimony, the defense presented George Santiago who claimed to be at the boarding house when appellant was arrested. Santiago said that he had allowed the CIS agents to enter the boarding house. Santiago did not see what might have happened in appellant's room but what he did see was that when the agents all came out, they had with them an *attache* case. Santiago, accompanied by his cousin Atty. Lomboan, went to the CIS in Camp Crame where one of the men asked ₱50,000.00 for the release of appellant. Santiago did not see any brief case in the office but one of the men told them that they would "produce" appellant and the *attache* case if they could "produce" the amount of ₱50,000.00.<sup>xxxi[31]</sup>

On cross-examination, however, Santiago admitted that the ₱50,000.00 was meant for bonding purposes and that they did not make a formal request for the release of the brief case.<sup>xxxii[32]</sup>

The defense next attempted to shift, *albeit* unsuccessfully, the responsibility for the crime from appellant to Maritess and Carol. Presented at the witness stand was Oscar Gaoyen, a 30-year-old farmer, who testified that appellant had failed to assist him in going to Korea to work because it was difficult. While following up his application in Manila, he met Marites and Carol in front of the Dangwa station in Dimasalang and he was told that they knew someone who could "transfer his application to Taiwan." He said that even after he had paid appellant ₱50,000.00, nothing happened constraining him to file charges against her. Appellant returned ₱15,000.00 of the money to him.<sup>xxxiii[33]</sup>

Appellant filed, before the trial court could promulgate its decision, a Motion to Reopen Trial with an urgent motion to defer promulgation on the ground of newly discovered evidence.<sup>xxxiv[34]</sup> In its order of 03 March 1995, the trial court, noting that the newly discovered evidence consisted of affidavits of desistance of seven complainants, found no merit in the motion. It held that presentation of the same does not give valid ground for possible amendment of the decision as the private complainants had already testified. It agreed with the prosecutor that the affidavits of desistance only (had) the effect of satisfying the civil liability.<sup>xxxv[35]</sup>

The Judgment of the Trial Court. -

On 03 March 1995, the trial court rendered its decision finding appellant guilty beyond reasonable doubt of the crimes charged. It found implausible appellants claim that she was merely an agent of Dynasty Travel and Tours and/or Maritess Tapia and Carol Cornelio. If what she claimed were true, said the court, appellant could have presented her principals; instead, that failure exposed her to the adverse inference and legal presumption that evidence suppressed would be adverse if produced. It also found hard to believe, the "self-serving" claim of appellant that her brief case, supposedly containing receipts of her remittances to the travel agencies, was confiscated by the CIS and remained unaccounted for. The trial court concluded:

In fine, accused gave the distinct assurance, albeit false, that she had the ability to send the complainants abroad for work deployment, thereby employing false pretenses to defraud them. This was despite her knowing very well that she was not legally authorized. The complainants willingly parted with their money in the hope of overseas employment deceitfully promised them by the accused. What makes matters worse is that these amounts given to the accused come from hard-earned money, or worse, could have been borrowed from money lenders who have no qualms about collecting usurious interest rates. Complainants who faithfully relied on the accused did not hesitate to painstakingly raise or even beg or borrow money just so they could give a decent future to their families even to the extent of leaving them for far-off lands. But now, all their dreams are gone, their hopes shattered. Some may not have even been able to pay back what they borrowed nor recoup their losses. Now, more than ever, their future appears bleaker. But this time, a glimmering light appears at the end of the tunnel as the Court steps in to lay down the iron fist of the law so as to serve the accused a lesson, a bitter one, with the hope that those who are trekking or those who are about to trek the same pilfered path that the accused took will reconsider their pursuits before it would be too late, and in the end, this form of fraud which invariably victimizes the poor will forever be stopped.<sup>xxxvi</sup>[36]

All given, the trial court then decreed as follows:

WHEREFORE, in all the above-mentioned cases, the Court finds accused Antonine B. Saley, also known as Annie B. Saley, GUILTY beyond reasonable doubt of the corresponding crime as charged in the informations and hereby sentences her in each case, except in Criminal Case NO. 93-CR-1645 where an indeterminate sentence is not applicable, to suffer an indeterminate sentence for the duration hereunder given, and to pay the costs, as well as the damages due the private complainants, to wit:

"Criminal Case No. 92-CR-1396

"Imprisonment from Four (4) Years as MINIMUM to Six (6) Years as MAXIMUM and to pay Francisco T. Labadchan ₱45,000.00 for actual damages, plus costs.

"Criminal Case No. 92-CR-1397

"Imprisonment from Three (3) Years, Six (6) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Seven (7) Years, Four (4) Months and One (1) Day of *prision mayor* as MAXIMUM and to pay Francisco T. Labadchan ₱45,000.00 for actual damages, plus costs.

"Criminal Case No. 92-CR-1413

"Imprisonment from Four (4) Years as MINIMUM to Six (6) Years as MAXIMUM and to pay Cherry Pi-ay ₱20,000.00 for moral damages, plus costs.

"Criminal Case No. 92-CR-1414

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Victoria As-il ₱15,000.00 for actual damages, plus costs.

"Criminal Case No. 92-CR-1415

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Cherry Pi-ay ₱20,000.00 for moral damages, plus costs.

"Criminal Case No. 92-CR-1416

"Imprisonment from Four (4) Years as MINIMUM to Six (6) Years as MAXIMUM and to pay Victoria As-il ₱15,000.00 for actual damages, plus costs.

"Criminal Case No. 92-CR-1425

"Imprisonment from Four (4) Years as MINIMUM to Six (6) Years as MAXIMUM and to pay Corazon del Rosario ₱20,000.00 for moral damages, plus costs.

"Criminal Case No. 92-CR-1426

"Imprisonment from One (1) Year, Seven (7) Months and Eleven (11) Days of *prision correccional* as MINIMUM to Six (6) Years, Five (5) Months and Eleven (11) Days of *prision mayor* as MAXIMUM and to pay Corazon del Rosario ₱20,000.00 for moral damages, plus costs.

"Criminal Case No. 92-CR-1427

"Imprisonment from Four (4) Years as MINIMUM to Six (6) Years as MAXIMUM and to pay the costs.

"Criminal Case No. 92-CR-1428

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay the costs.

"Criminal Case No. 93-CR-1644

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Alfredo C. Arcega ₱25,000.00 for actual damages, plus costs.

"Criminal Case No. 93-CR-1645

"To suffer the penalty of life imprisonment and to pay a fine of One Hundred Thousand Pesos (₱100,000.00), with subsidiary imprisonment in case of insolvency, and to pay the costs. She shall also pay Twenty-Five Thousand Pesos (₱25,000.00) each to Peter Arcega, Lorenzo Belino, Mariano Damolog, Brando Salbino, Dembert Leon and Alfredo Arcega for actual damages, plus costs.

"Criminal Case No. 93-CR-1646

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Brando B. Salbino ₱25,000.00 for actual damages, plus costs.

"Criminal Case No. 93-CR-1647

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Mariano Damolog ₱25,000.00 for actual damages, plus costs.

Criminal Case No. 93-CR-1649

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Lorenzo Belino ₱25,000.00 for actual damages, plus costs.

"Criminal Case No. 93-CR-1651

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Peter Arcega ₱25,000.00 for actual damages, plus costs.

"Criminal Case No. 93-CR-1652

"Imprisonment from One (1) Year, Eight (8) Months and Twenty-One (21) Days of *prision correccional* as MINIMUM to Five (5) Years, Five (5) Months and

Eleven (11) Days of *prision correccional* as MAXIMUM and to pay Adeline Tiangge y Marcos ₱17,000.00 for actual damages, plus costs.

"With respect to accused Conchita Tagle in Criminal Cases Nos. 92-CR-1396 and 92-CR-1397, let these cases be sent to the files without prejudice to their revival as soon as she shall have been arrested and brought to the jurisdiction of this Court.

"In order that Conchita Tagle may not escape the clutches of the law, let Alias Warrants of Arrest issue addressed to the PNP Chief of Police, La Trinidad, Benguet and the National Bureau of Investigation (NBI) in Manila and in Baguio City. Further, the Commission of Immigration and Deportation (CID), Manila is ordered to include her name in the its Hold-Departure List.

"SO ORDERED.<sup>xxxvii</sup>[37]

Appellant filed a motion for reconsideration of the decision asserting that the trial court had erred in giving credence to the testimonies of the complaining witnesses and in finding her guilty of the crimes charged despite the "failure" of the prosecution to fully establish the elements of the crimes beyond reasonable doubt.<sup>xxxviii</sup>[38] Finding no merit in the motion, the trial court, on 03 April 1995, denied a reconsideration of its decision.<sup>xxxix</sup>[39] The following day, appellant filed a notice of appeal.<sup>xl</sup>[40] The trial court gave due course to the appeal on 17 April 1995.<sup>xli</sup>[41]

#### The Instant Appeal. -

Appellant continues to profess before this Court her innocence of the accusation. She reiterates her assertion that the trial court has erred in giving credence to the testimonies of the complaining witnesses and in finding her guilty beyond reasonable doubt of the various offenses she has been charged with by the prosecution.<sup>xlii</sup>[42] She avers that her transactions with the complainants have been limited to her assisting them secure their respective travel *visa* specifically for tourist and that her assistance to them (has been) only to refer them to travel agencies such as the Dynasty Travel and Tours and the Mannings International. She insists that she has remitted the amounts solicited from the complainants to the travel agencies, or to Maritess Tapia and Carol Cornelio, earning only the commissions for bringing in clients interested in getting tourist *visas*.<sup>xliii</sup>[43]

At the outset, it might be explained that this appeal involves the conviction of appellant not only for the crime of illegal recruitment in large scale for which the penalty of life imprisonment is imposed but also for other offenses for which lesser penalties have been meted by the trial court upon appellant. This Court has appellate jurisdiction over ordinary appeals in criminal cases directly from the Regional Trial Courts when the penalty imposed is *reclusion perpetua* or higher.<sup>xliiv</sup>[44] The Rules of Court, allows, however, the appeal of criminal cases involving penalties lower than *reclusion perpetua* or life imprisonment under the circumstances stated in Section 3, Rule 122, of the Revised Rules of Criminal Procedure. Thus -

(c) The appeal to the Supreme Court in cases where the penalty imposed is life imprisonment, or where a lesser penalty is imposed but involving offenses committed on the same occasion or arising out of the same occurrence that gave rise to the more

serious offense for which the penalty of death or life imprisonment is imposed shall be by filing a notice of appeal in accordance with paragraph (a) of this Section.

In giving due course to the notice of appeal filed by appellant, the trial court has directed that the entire records of the seventeen cases should be forwarded to this Court.<sup>xlv[45]</sup> It might be observed that this appeal, which has been assigned only one docket number, involves cases, although spawned under different circumstances could be said to somehow be linked to the incident giving rise to the case for illegal recruitment in large scale. The cases have thus been correctly consolidated and heard jointly below. The appeal made directly to this Court of the seventeen cases, each of which incidentally should have been assigned a separate docket number in this Court, is properly taken.

Article 38(a) of the Labor Code considers illegal any recruitment activity undertaken by non-licensees or non-holders of authority. Recruitment is defined by Article 13, paragraph (b), of the same Code as referring -

x x x to 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.

Illegal recruitment is committed when two elements concur:

- 1) That the offender has no valid license or authority required by law to enable one to lawfully engage in recruitment and placement of workers; and
- 2) That the offender undertakes either any activity within the meaning of recruitment and placement defined under Article 13(b), or any prohibited practices enumerated under Article 34.<sup>xlvi[46]</sup>

Any person who commits the prohibited acts enumerated in Article 13(b) of the Labor Code shall be liable under Article 38(a) thereof.<sup>xlvii[47]</sup> The *proviso* in Article 13(b) lays down a rule of evidence that where a fee is collected in consideration of a promise or offer of employment to two or more prospective workers, the individual or entity dealing with them shall be deemed to be engaged in the act of recruitment and placement.<sup>xlviii[48]</sup> The article also provides that recruitment includes the act of referral or the act of passing along or forwarding of an applicant for employment after an initial interview of a selected applicant for employment to a selected employer, placement officer or bureau.<sup>xlix[49]</sup>

The Court agrees with the trial court that appellant, indeed, violated the law against illegal recruitment.

The prosecution was able to prove by overwhelming evidence that appellant did represent herself as being in a position to get for the aspiring overseas contract workers good-paying jobs abroad. Appellant was thus able to demand and receive various amounts from the applicants. The latter

would then be briefed by appellant on the requirements for employment overseas. Appellant herself testified, thus:

Q From 1986 when separated from Friendship Recruitment Agency and before you were put to jail did you have any occupation?

"A Yes, sometimes we brought vegetables and flowers to Manila for resale.

"Q Aside from buying and selling vegetables down in Manila did you have any other source of income?

"A Sometimes I helped some applicants who are interested to go abroad and asked if I know some agencies who can assist them to go abroad.

"Q Were you able to assist some people to look for an agency to assist them to go abroad?

"A Yes, sir.

"Q Were you being paid when you assist these people applying for overseas employment?

"A Yes, sir.

"Q By whom?

"A The travel agencies give me some amount of commission.

"Q What are the names of these agencies which you know?

"A Dynasty Travel and Tours and Mannings International.

"x x x x x x x x x x.

"Q Do you know also if this Dynasty Travel and Tours and Mannings International is duly licensed by the government to recruit applicants abroad?

"A Yes, sir.

"Q Do you have any document to prove that it is registered?

"A Yes, sir.

"Q Where is that?

"A Mannings International is a licensed agency and Dynasty Travel and Tours is licensed to issue tickets for applicants to go abroad.

"Q You said that Dynasty Travel and Tours is licensed to issue tickets for applicants going abroad what do you mean by applicants going abroad?

"A Those applicants to work as a contract worker and who are ready to leave for abroad and they are being issued tickets.

"Q Were you actually able to help or assist some overseas worker-applicants?

"A Yes, sir.

"Q Do you remember some of them?

"A Cherry Piay, Corazon del Rosario, Arthur Juan, Francisco Labadchan and others.  
(Underscoring supplied.)<sup>[50]</sup>

Appellant at one point claimed that she had helped complainants only in acquiring for them plane tickets and tourist *visas*. On cross-examination, however, she admitted that she had made referrals of job applicants to recruitment agencies.<sup>ii[51]</sup> She evidently knew all along that the persons she was dealing with were applicants for employment abroad.

The law requires that the above activities of appellant should have first been authorized by the POEA.<sup>iii[52]</sup> Rule II, Book II, of the POEA Rules and Regulations Governing Overseas Employment provides:

SEC. 11. *Appointment of Representatives.* Every appointment of representatives or agents of licensed agency shall be subject to prior approval or authority of the Administration.

"The approval may be issued upon submission of or compliance with the following requirements:

- "a. Proposed appointment or special power of attorney;
- "b. Clearances of the proposed representative or agent from NBI;
- "c. A sworn or verified statement by the designating or appointing person or company assuming full responsibility for all acts of the agent or representative done in connection with the recruitment and placement of workers.

"Approval by the Administration of the appointment or designation does not authorize the agent or representative to establish a branch or extension office of the licensed agency represented.

"Any revocation or amendment in the appointment should be communicated to the Administration. Otherwise, the designation or appointment shall be deemed as not revoked or amended.

The claim that appellant did not categorically represent herself as a licensed recruiter, or that she merely helped the complainants secure tourist *visas*, could not make her less guilty of illegal recruitment,<sup>liii[53]</sup> it being enough that he or she gave the impression of having had the authority to recruit workers for deployment abroad.<sup>liv[54]</sup>

The fact that, with the exception of the cases involving Cherry Pi-ay and Corazon del Rosario, only the complainant in each of the cases, have testified against appellant in the illegal recruitment cases does not thereby make the case for the prosecution weak. The rule has always been that the testimony of witnesses is to be weighed, not that the witnesses be numbered, and it is not an uncommon experience to have a conclusion of guilt reached on the basis of the testimony of a single witness.<sup>lv[55]</sup> Corroborative evidence is necessary only when there are reasons to warrant the suspicion that the witness has perjured himself or that his observations have veered from the truth.<sup>lvi[56]</sup>

The absence of receipts to evidence payment to an indictee in a criminal case for illegal recruitment does not warrant an acquittal of the accused, and it is not necessarily fatal to the prosecution's cause. As long as the prosecution is able to establish through credible testimonial evidence that the accused has involved himself in an act of illegal recruitment, a conviction for the offense can very well be justified.<sup>lvii[57]</sup>

Altogether, the evidence against appellant has established beyond any discernible shadow of doubt that appellant is indeed guilty of illegal recruitment on various counts. Being neither a licensee nor a holder of authority to recruit, appellant must suffer under Article 39(c) of the Labor Code the penalty of imprisonment of not less than four years nor more than eight years or a fine of not less than ₱20,000.00 nor more than ₱100,000.00 or both such imprisonment and fine, at the discretion of the court. In imposing the penalty, the provisions of the Revised Penal Code on the application of the circumstances that could modify the criminal liability of an accused cannot be considered, these provisions being inapplicable to special laws.<sup>lviii[58]</sup>

Under the Indeterminate Sentence Law,<sup>lix[59]</sup> whenever the offense is punishable by a special law, the court shall impose on the accused an indeterminate sentence, "the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same."<sup>lx[60]</sup> Accordingly, in imposing the penalty of four (4) years to six (6) years on appellant for each of the five cases of illegal recruitment, the trial court has acted correctly.

Illegal recruitment is committed in large scale if it is perpetrated against three or more persons "individually or as a group." Its requisites are that: (1) the person charged with the crime must have undertaken recruitment activities as so defined by law, (2) the same person does not have a license or authority to do that, and (3) the questioned act is committed against three or more persons.<sup>lxi[61]</sup> The prosecution has been able to successfully show that, for a fee, appellant, not being authorized to recruit workers for abroad, did so in Criminal Case No. 93-CR-1645 against seven complainants. For this offense, Article 39(a) of the Labor Code imposes the penalty of life imprisonment and a fine of one hundred thousand pesos (₱100,000.00). This penalty was thus likewise aptly meted out upon appellant by the trial court.

Conviction for these various offenses under the Labor Code does not bar the punishment of the offender for *estafa*. Illegal recruitment is a *malum prohibitum* offense where criminal intent of the accused is not necessary for conviction while *estafa* is *malum in se* which requires criminal intent to warrant conviction.<sup>lxii[62]</sup> Under Article 315, paragraph 2(a),<sup>lxiii[63]</sup> of the Revised Penal Code, the elements of the offense (*estafa*) are that (1) the accused has defrauded another by abuse of confidence or by means of deceit and (2) damage or prejudice capable of pecuniary estimation is caused to the offended party or third person.<sup>lxiv[64]</sup> Clearly, these elements have sufficiently been shown in the cases under review.

The penalty for the crime is prescribed by Article 315, first to fourth paragraphs, of the Revised Penal Code as follows:

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 cases, 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 maximum period, 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: x x x."

In the case of *People vs. Gabres*,<sup>lxv[65]</sup> the Court has had occasion to so state that -

"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. 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. 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. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.

"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 x x x."lxvi[66]

The Court reiterates the above rule; however, in fixing the maximum term, the prescribed penalty of *prision correccional* maximum period to *prision mayor* minimum period should be divided into "three equal portions of time," each of which portion shall be deemed to form one period; hence -

Minimum Period	Medium Period	Maximum Period
From 4 years, 2 months and 1 day to 5 years, 5 months and 10 days	From 5 years, 5 months and 11 days to 6 years, 8 months and 20 days -	From 6 years, 8 months and 21 days to 8 years

in consonance with Article 65,lxvii[67] in relation to Article 64,lxviii[68] of the Revised Penal Code.

When the amount involved in the offense exceeds ₱22,000.00, the penalty prescribed in Article 315 of the Code "shall be imposed in its maximum period," adding one year for each additional ₱10,000.00 although the total penalty which may be imposed shall not exceed 20 years. The maximum penalty should then be termed as *prision mayor* or *reclusion temporal* as the case may be. In fine, the one year period, whenever applicable, shall be added to the maximum period of the principal penalty of anywhere from 6 years, 8 months and 21 days to 8 years.

Accordingly, with respect to the cases of *estafa* filed by the complainants who individually charged appellant with illegal recruitment, the applicable penalties would, respectively, be, as follows:

In *Criminal Case No. 92-CR-1397* where appellant defrauded Francisco T. Labadchan in the amount of ₱45,000.00, two years for the additional amount of ₱23,000.00 in excess of ₱22,000.00 provided for in Article 315 shall be added to the maximum period of the prescribed penalty of *prision correccional* maximum to *prision mayor* minimum (or added to anywhere from 6 years, 8 months and 21 days to 8 years). As such, aside from paying Labadchan the amount of ₱45,000.00 by way of actual damages, the Court deems it proper to sentence appellant to the indeterminate penalty of three (3) years, six (6) months and twenty-one (21) days of *prision correccional* medium to eight (8) years, eight (8) months and twenty-one (21) days of *prision mayor* medium.

In *Criminal Case No. 92-CR-1414*, appellant defrauded Victoria Asil in the amount of ₱15,000.00. Hence, aside from paying Victoria Asil the amount of ₱15,000.00 by way of actual damages, appellant shall also suffer the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* medium to five (5) years, five (5) months and eleven (11) days of *prision correccional* maximum.

In *Criminal Case No. 92-CR-1415* where appellant defrauded Cherry Pi-ay in the amount of ₱18,000.00, appellant, besides paying Cherry Pi-ay that amount by way of actual damages, shall also suffer the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum to five (5) years, five (5) months and eleven (11) days of *prision correccional* maximum.

In *Criminal Case No. 92-CR-1426* where appellant defrauded Corazon del Rosario in the amount of ₱40,000.00, appellant shall suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional* medium to seven (7) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum.

In *Criminal Case No. 92-CR-1428* where appellant fraudulently solicited the amount of ₱24,200.00 from Arthur Juan, appellant shall pay him actual damages in that amount and shall suffer the indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days (imposed by the court *a quo*) of *prision correccional* minimum period to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum.

In *Criminal Case No. 92-CR-1652* where appellant defrauded Adeline Tiangge the amount of ₱18,500.00, appellant shall pay her the same amount as actual damages and shall suffer the indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum to five (5) years, five (5) months and eleven (11) days of *prision correccional* maximum.

In Criminal Case No. 93-CR-1645, the prosecution has successfully established its case against appellant for illegal recruitment in large scale. Evidently banking on her reputation in the community as a job recruiter, appellant was able to make the seven complainants believe that they could land various jobs in Taiwan. Confident of her assurances, each complainant parted with ₱25,000.00 for supposed processing and placement fees.

It would appear that of the seven complainants for illegal recruitment in large scale, only five<sup>lxix[69]</sup> of them filed separate charges of *estafa* against appellant. Accordingly, appellant was only and could only be held liable for five counts of *estafa* arising from the charge of illegal recruitment in large scale. Since appellant collected the amount of ₱25,000.00 from each of the five (5) victims, she must be held subject to the penalty in its maximum period or *prision mayor* in its minimum period (not any higher on account of the fact that the amount in excess of ₱22,000.00 provided for by Article 315 of the Revised Penal Code is less than ₱10,000.00).<sup>lxx[70]</sup> Applying the Indeterminate Sentence Law, and there being no attending circumstances, appellant shall bear, the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* medium as minimum penalty to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum as maximum penalty for each offense. In addition, appellant should pay the five (5) victims the amount of ₱25,000.00 each as actual damages.

The actual damages awarded here shall be subject to diminution or cancellation should it be shown that appellant had already paid the complainants.

**WHEREFORE**, the Decision finding appellant guilty beyond reasonable doubt of the crimes of illegal recruitment, illegal recruitment in large scale and *estafa* is hereby **AFFIRMED** subject to the modifications hereunder specified, and only to the extent thereof, in the following cases:

- 1) In **Criminal Case No. 92-CR-1397**, accused-appellant is sentenced to an indeterminate penalty of imprisonment of from three (3) years, six (6) months and twenty-one (21) days of *prision correccional* medium period as MINIMUM, to eight (8) years, eight (8) months and twenty-one (21) days of *prision mayor* medium period as MAXIMUM and to pay Francisco T. Labadchan the amount of ₱45,000.00 by way of actual damages.
- 2) In **Criminal Case No. 92-CR-1414**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to five (5) years, five (5) months and eleven (11) days of *prision correccional* maximum period as MAXIMUM and to pay Victoria Asil the amount of ₱15,000.00 by way of actual damages.
- 3) In **Criminal Case No. 92-CR-1415**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to five (5) years, five (5) months and eleven (11) days of *prision correccional* maximum period as MAXIMUM.
- 4) In **Criminal Case No. 92-CR-1426**, accused-appellant is sentenced to an indeterminate penalty of imprisonment of from two (2) years, four (4) months and one (1) day of *prision correccional* medium period as MINIMUM, to seven (7) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum period as MAXIMUM.
- 5) In **Criminal Case No. 92-CR-1428**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum period as MAXIMUM.
- 6) In **Criminal Case No. 93-CR-1644**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum period as MAXIMUM and to pay Alfredo Arcega the amount of ₱25,000.00 by way of actual damages.
- 7) In **Criminal Case No. 93-CR-1646**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum period as MAXIMUM and to pay Brando Salbino the amount of ₱25,000.00 by way of actual damages.
- 8) In **Criminal Case No. 93-CR-1647**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to six (6) years, eight (8) months and twenty-one (21) days of

*prision mayor* minimum period as MAXIMUM and to pay Mariano Damolog the amount of ₱25,000.00 by way of actual damages.

9) In **Criminal Case No. 93-CR-1649**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum period as MAXIMUM and to pay Lorenzo Belino the amount of ₱25,000.00 by way of actual damages.

10) In **Criminal Case No. 93-CR-1651**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* minimum period as MAXIMUM and to pay Peter Arcega the amount of ₱25,000.00 by way of actual damages.

11) In **Criminal Case No. 92-CR-1652**, accused-appellant is sentenced to an indeterminate penalty of from one (1) year, eight (8) months and twenty-one (21) days of *prision correccional* minimum period as MINIMUM, to five (5) years, five (5) months and eleven (11) days of *prision correccional* maximum period as MAXIMUM and to pay Adeline Tiangge the amount of ₱17,000.00 by way of actual damages.

The awards of damages in Criminal Cases No. 92-CR-1396, No. 92-CR-1413, No. 92-CR-1416, No. 92-CR-1425, and No. 92-CR-1427, all for illegal recruitment, as well as No. 93-CR-1645 for illegal recruitment in large scale, except for the award of ₱25,000.00 by way of actual damages to Dember Leon (no *estafa* case having been instituted), are DELETED, either because similar awards have already been provided for by the trial court, or for insufficiency of proof, in the *estafa* cases aforementioned.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., Bellosillo, Panganiban, and Quisumbing, JJ., concur.

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i[1] *People vs. De Leon*, 267 SCRA 644, 652.

ii[2] Presided by Judge Romeo A. Brawner.

iii[3] In Criminal Case No. 92-CR-1397, appellant was charged together with Conchita Tagle who remained at large.

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iv[4] Records of Crim. Case No. 93-CR-1652, p. 4.

v[5] Records of Crim. Case No. 92-CR-1427, p. 1.

vi[6] Records of Crim. Case No. 93-CR-1645, p. 5.

vii[7] TSN, April 13, 1993, pp. 3-13.

viii[8] TSN, May 4, 1993, pp. 3-9.

ix[9] TSN, June 21, 1993, pp. 12-20.

x[10] TSN, August 19, 1993, pp. 3-10.

xi[11] TSN, May 4, 1993, pp. 17-24.

xii[12] TSN, August 16, 1993, pp. 5-10.

xiii[13] TSN, August 17, 1993, pp. 2-7.

xiv[14] TSN, February 22, 1994, pp. 3-8.

xv[15] TSN, February 7, 1994, pp. 3-11.

xvi[16] TSN, January 21, 1994, pp. 2-12.

xvii[17] TSN, February 8, 1994, pp. 14-23.

xviii[18] TSN, January 19, 1994, pp. 2-13.

xix[19] TSN, February 8, 1994, pp. 27-28.

xx[20] TSN, February 8, 1994, pp. 28-36.

xxi[21] TSN, July 20, 1994, p. 4.

xxii[22] *Ibid.*, at pp. 3-5.

xxiii[23] *Ibid.*, pp. 6-8.

xxiv[24] *Ibid.*, pp. 9-14.

xxv[25] TSN, July 26, 1994, pp. 2-9.

xxvi[26] *Ibid.*, pp. 9-11.

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xxvii[27] TSN, September 13, 1994, pp. 6-9.

xxviii[28] *Ibid.*, pp. 9-11.

xxix[29] *Ibid.*, pp. 11-16.

xxx[30] *Ibid.*, pp. 3-6.

xxxi[31] TSN, September 26, 1994, pp. 3-4.

xxxii[32] *Ibid.*, p. 8.

xxxiii[33] TSN, September 23, 1994, pp. 3-5.

xxxiv[34] Records of Criminal Case No. 92-CR-1396, p. 363.

xxxv[35] *Ibid.*, p. 376.

xxxvi[36] *Rollo*, p. 224.

xxxvii[37] *Rollo*, pp. 227-229.

xxxviii[38] Records of Crim. Case No. 92-CR-1396, p. 418.

xxxix[39] *Ibid.*, p. 422.

xl[40] *Ibid.*, p. 424.

xli[41] *Ibid.*, p. 425.

xlii[42] *Rollo*, p. 65.

xliii[43] *Rollo*, pp. 69-70.

xliv[44] Art. VIII, Sec. 5 (2) (d), 1987 Constitution. If the penalty imposed is lower than *reclusion perpetua* or life imprisonment, an appeal to this Court may still be possible by way of a petition for review on *certiorari*. (Sec. 3 (d), Rule 122, Revised Rules on Criminal Procedure.)

xlv[45] *Rollo*, p. 54.

xlvi[46] *People vs. Diaz*, 259 SCRA 441, citing *People vs. Cabacang*, 316 Phil. 640; *People vs. De Leon*, *supra*.

xlvii[47] See *People vs. Diaz*, *supra*., citing *People vs. Panis*, 142 SCRA 664.

xlviii[48] *People vs. Panis*, *supra*, at p. 667.



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lxvii[67] ART. 65. *Rule in cases in which the penalty is not composed of three periods.* - In cases in which the penalty prescribed by law is not composed of three periods, the courts shall apply the rules contained in the foregoing articles, dividing into three equal portions of time included in the penalty prescribed, and forming one period of each of the three portions.

lxviii[68] ART. 64. *Rules for the application of penalties which contain three periods.* - In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of articles 76 and 77, the courts shall observe for the application of the penalty the following rules, according to whether there are or are no mitigating or aggravating circumstances:

1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.
2. When only a mitigating circumstance is present in the commission of the act, they shall impose the penalty in its minimum period.
3. When only an aggravating circumstance is present in the commission of the act, they shall impose the penalty in its maximum period.
4. When both mitigating and aggravating circumstances are present, the court shall reasonably offset those of one class against the other according to their relative weight.
5. When there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable, according to the number and nature of such circumstances.
6. Whatever may be the number and nature of the aggravating circumstances, the courts shall not impose a greater penalty than that prescribed by law, in its maximum period.
7. Within the limits of each period, the courts shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater or lesser extent of the evil produced by the crime.

lix[69] Fidel Opdas did not even testify while Dembert Leon testified but only as a corroborative witness in Criminal Case No. 93-CR-1645.

lxx[70] People vs. Benemerito, *supra*, at p. 694.