

FIRST DIVISION

[G.R Nos. 117145-50 & 117447. March 28, 2000]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, vs. LEONIDA MERIS y PADILLA, *accused-appellant*.

DECISION

KAPUNAN, J.:

This is an appeal from the Joint Decision of the Regional Trial Court of Manila, Branch 1, convicting accused-appellant Leonida Meris y Padilla of illegal recruitment in large-scale and six counts of estafa. The dispositive portion of the decision^{1[1]} reads as follows:

WHEREFORE, this court finds the accused, Leonida Meris y Padilla, GUILTY, beyond reasonable doubt of six (6) counts of estafa in Criminal Cases Nos. 91-94192 to 91-94197, and of illegal recruitment in large scale in Criminal Case No. 91-94198 and, as a consequence thereof, sentences her as follows:

1. In Criminal Case No. 91-94192, to suffer the indeterminate penalty of 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) months (sic) of *prision correccional* as maximum;
2. In Criminal Case No. 91-94193, to suffer the indeterminate penalty of 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;
3. In Criminal Case No. 91-94194, to suffer an indeterminate penalty of 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;
4. In Criminal Case No. 91-94195, to suffer an indeterminate penalty of 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;

^{1[1]} Records, Criminal Case 91-94192-97, pp. 192-193.

5. In Criminal Case No. 91-94196, to suffer an indeterminate penalty of 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;

6. In Criminal Case No. 91-94197, to suffer an indeterminate penalty of 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;

7. In Criminal Case No. 91-94198, to suffer the penalty of life imprisonment and to pay a fine of P100,000.00.

Further, the accused shall indemnify the private complainants, Napoleon Ramos, Cristina Nava, Margarita Nadal, Purita Conseja and Leo delos Santos, the sum of P30,000.00 each and complainant Merlita Bombarda the amount of P20,000.00 with interest thereon at the legal rate from the date of institution of these cases, i.e., April 29, 1991, until fully paid.

Costs against the accused in all the above-captioned cases.

SO ORDERED.

The above conviction stemmed from seven informations. The information in Criminal Case No. 91-94192 reads:

That on or about and during the period comprised between January 12, 1991 and February 17, 1991, both dates inclusive, prior or subsequent thereto in the City of Manila, Philippines, the said accused conspiring and confederating with three others whose true names, identities and present whereabouts are still unknown, helping one another, did then and there willfully, unlawfully and feloniously defraud NAPOLEON RAMOS y ESPEJO in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which they made to said NAPOLEON E. RAMOS to the effect that they had the power and capacity to recruit and employ him as Factory Worker in Hongkong 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 NAPOLEON E. RAMOS to give and deliver, as in fact (he) gave and delivered to said accused the amount of P30,000.00 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 did obtain the amount of P30,000.00 which amount once in possession, with intent to defraud he (sic) willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own

personal use and benefit, to the damage and prejudice of said NAPOLEON E. RAMOS, in the aforesaid amount of P30,000.00, Philippine Currency.

CONTRARY TO LAW.^{2[2]}

The information in Criminal Cases Nos. 91-94193, 91-94194, 91-94195, 91-94196 and 91-94197 likewise charged accused-appellant with Estafa and contain substantially the same allegations as the above-quoted information, except as to the name of the complainants and the amounts involved.^{3[3]}

The seventh information in Criminal Case No. 91-94198 charged accused-appellant with illegal recruitment in large-scale, to wit:

That on or about and during the period comprised between December 21, 1990 and February 17, 1991, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating together with others still unknown and helping one another, and representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment abroad to Leo D. delos Santos, Merlita L. Bombarda, Margarita R. madae (sic), Purita A. Conceja, Cristina I. Nava and Napoleon E. Ramos, without first securing the required license or authority from the Dept. of Labor.

Contrary to law.^{4[4]}

Criminal Case No. 91-94198 was originally filed before Branch 45 of the Regional Trial Court of Manila where, upon arraignment, accused-appellant pleaded not guilty.^{5[5]} The six other cases were filed before Branch I of the Regional Trial Court of Manila, where accused-appellant, likewise, entered a plea of "not guilty" to all the indictments. The cases were eventually consolidated and tried jointly before Branch I.^{6[6]}

^{2[2]} *Id.*, at 2.

^{3[3]} The informations with complainants Cristina Nava, Margarita Nadal, Purita Conceja and Leo de los Santos, respectively, involve the amount of P30,000.00 each, and Merlita Bombarda involves the sum of P20,000.00.

^{4[4]} Records, Criminal Case 91-94198-SCC, p. 1.

^{5[5]} Records, Criminal Case 91-94192-97, p. 21.

^{6[6]} Records, Criminal Case 91-94198-SCC, p. 37.

The evidence for the prosecution, as summarized by the trial court, is reproduced herein:

Napoleon Ramos, complainant in Criminal Cases Nos. 91-94192 and 91-94198, testified that he was at the house of the accused on Estrada Street, Urdaneta, Pangasinan, in the evening of January 9, 1991, between the hours of 7:00 and 8:00 oclock. Also in the house were Nadal, Conseja and Bombarda. The accused told the private complainants that she knew someone in Manila who could help them secure employment in Hongkong; that if they are interested she would take them to Manila on January 12, 1991, and that they should be prepared to make an initial payment of P15,000.00 each, for their placement fees.

On the early morning of January 12, 1991, Ramos, Nadal, Conseja and Bombarda together with the accused proceeded to Manila by bus. They went directly to a house on Lardizabal Street, Sampaloc, Manila, where they were served breakfast. After a while, a woman arrived and was introduced by the accused to the private complainants as Julie Micua. The complainants were assured by Micua that she could get them overseas employment and upon payment of their placement fees of P35,000.00 each, they would leave for Hongkong within one month. Ramos, Nadal, Conseja and Bombarda made a downpayment of P5,000.00 each to the accused and her husband. The corresponding receipts, however, which were prepared by the accused, were in the name of and signed by Micua, Exhibits "E-1," "L," "H," "D," and "C."

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On January 14, 1991, Ramos went back to the House in Sampaloc, Manila, and handed to the accused the sum of P15,000.00. As in the first payment, the accused prepared a receipt in the name of Micua, who signed the same, Exhibit "E." On January 17, 1991, Ramos paid the accused an additional sum of P10,000.00 and the latter prepared a receipt in the name of Micua, who signed it, Exhibit "E-2." After Ramos failed to leave for Hongkong or secure overseas employment for more than two months since January 1991, he became suspicious and later realized that he and the other complainants had been hoodwinked.

On April 26, 1991, Ramos and the other five complainants went to Manila and lodged with the Western Police District Command, Manila, criminal complaints for estafa and illegal recruitment against the accused, which led to her immediate arrest, Exhibit "A" and "B."

On the other hand, Merlita Bombarda, complainant in Criminal Cases Nos. 91-94196 and 91-94198, declared that in 1987, the accused offered to recruit her for overseas employment in Japan, but she declined the offer,

due to her singing engagement in Dagupan. Later, she worked in Singapore. Upon her return to the Philippine in 1990, she again met the accused in Urdaneta, Pangasinan. The accused told Bombarda that she knew of an agency that was recruiting people for overseas employment as factory workers in Hongkong, in consideration of a placement fee of P45,000.00.

In the evening of January 9, 1991, she was at the accuseds house where she met the other complainants, Nadal, Ramos, Delos Santos and Conseja. The accused discussed with them the requirements for their overseas employment such as documentation, payment of placement fees and their trip to Manila.

On the early morning of January 12, 1991, the complainants and the accused left by bus for Manila. They were taken by the accused to a house on Lardizabal Street, Sampaloc, Manila. Bombarda was assured by Micua that she would be employed in Hongkong as a factory worker with a monthly salary of H\$4,000.00. She and the other complainants were asked by Micua to sign blank contracts of employment. After signing the blank contracts, complainants paid P5,000.00 each to the accused, who prepared the receipts that Micua signed. The receipt issued to Bombarda was marked as Exhibit "D-2."

On January 17, she paid another P5,000.00 to the accused at the same house in Sampaloc, Manila, Exhibit "D-1."

On February 17, she again paid P10,000.00 to the accused at the latters house in Urdaneta, Pangasinan, Exhibit "D," in the presence of Micua. She was told by the accused that she (Bombarda) would leave for Hongkong within two months, but she waited in vain. Neither was her money returned by the accused.

Leo delos Santos, complainant in Criminal Case Nos. 91-94197 and 91-94198, asserted that he met the accused in Urdaneta, Pangasinan in October 1990. The accused persuaded him to apply for overseas employment, by telling him that she knew a recruiter who could deploy workers abroad. He was further advised by the accused to prepare P15,000.00 as initial payment of his placement fee. On December 21, 1990, January 21 and February 17, 1991, De los Santos gave to the accused the respective sums of P8,000.00, P10,000.00 and P12,000.00, Exhibits "F," "F-2," "F-3," and "F-4." The accused assured De los Santos that he would leave for Hongkong and work thereat as a factory worker within two months, but his projected trip never materialized. Neither was his money returned.

When recalled to the witness stand by the prosecution as a witness for Margarita Nadal, complainant in Criminal Cases Nos. 91-94194 and 91-94198, Napoleon Ramos declared that Nadal was his neighbor in Urdaneta, Pangasinan; that on January 9, 1991, he was with Nadal when she applied with the accused at the latter's house in Urdaneta, Pampanga, for employment abroad; that he was present when Nadal handed to the accused the sum of P5,000.00 in Sampaloc, Manila, and he saw the accused prepare a receipt therefor that was signed by Micua, Exhibit "J;" that he was also present when Nadal gave an additional sum of P10,000.00 to the accused at her residence on Estrada Street, Urdaneta, Pangasinan, for which a receipt was issued by the accused, Exhibit "J-3" that Nadal had gave (sic) to him other receipts of payments she had made to the accused on January 21 and 22, 1991 in the respective sums of P5,000 and P10,000.00, Exhibits "J-1" and "J-2," but he was not present when these two payments were made, and that Nadal was unable to testify, because she is now abroad.

The prosecution next presented Cristina Nava, complainant in Criminal Cases Nos. 91-94193 and 91-94198, who testified that sometime in 1991, the accused went to her (Navas) house in San Nicholas, Villasis, Pangasinan, and offered to recruit her for overseas employment in Hongkong. Nava told the accused that she would consult her husband about the matter. A few weeks later, the accused again visited Nava and she (accused) succeeded in convincing the reluctant Nava to accept the offer. The accused told Nava that her placement fee would be P40,000.00 of which P30,000.00 was to be paid in advance and the balance of P10,000.00 would be deducted from her salary. On different occasions, Nava delivered to the accused various amounts totalling P30,000.00 as placement fee, Exhibit "G," "G-1," and "G-2." The accused assured Nava that she would leave for and work in Hongkong within two months, but the promised employment turned out to be a dud. Despite repeated demands from Nava, the accused has failed and refused to return the latter's money.

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Testifying in her own defense, accused-appellant denied the charges of engaging in recruitment activities and of receiving money from complainants. She described herself as a public school teacher living in Pangasinan with her four children and unemployed husband. Like the other complainants, she claimed she was a victim of Julie Micua. She first met Micua on December 17, 1990, at the house of Lina Salcedo in Sampaloc, Manila. Micua was introduced to her as a recruiter of overseas workers. Interested, she applied for a job abroad. Micua informed her that she would be a factory worker and showed her a contract. Accused-appellant was required to submit her medical certificate

^{7[7]} Records, Criminal Case Nos. 91-94192-97, pp. 188-190.

and passport and to make an advance payment of P5,000.00 as part of the P40,000.00 placement.^{8[8]}

When complainants learned that she had applied for overseas employment, they sought her help in going to the agency where she applied. Hence, on January 12, 1991, accused-appellant accompanied the complainants to see Julie Micua who assured them that they would be leaving for Hongkong within two or three months. They were also informed that their placement fee would be P45,000.00. On that day, accused-appellant and complainants gave Julie Micua the amount of P5,000.00. On February 17, 1991, accused-appellant gave Micua an additional P5,000.00. According to her, complainants were all given corresponding receipts for their payments. The receipts were issued and signed by Micua.

Accused-appellant got to know complainant Ramos when she was invited by his wife Marita to a birthday party at the couples residence. In that party, they talked about applying for a job abroad and Marita convinced her husband to apply. It was Ramos who introduced accused-appellant to complainant Nadal. Ramos convinced Nadal to apply for overseas employment. On the other hand, accused-appellants co-teacher, Isabel Valdez, brought complainant Delos Santos to accused-appellants classroom and sought her assistance in applying for an overseas job through the agency she was using. With respect to Merlita Bombarda, accused-appellant met her through her cousin Nadal who also accompanied Merlita to accused-appellants house to apply. Purita Conceja, who was also introduced to accused-appellant, sought her help in applying for a job abroad through the agency she was using. As regards complainant Cristina Nava, accused-appellant met her through Cristinas husband who was a regular customer of her store. Accused-appellant claims she never represented herself as having the capacity to deploy workers abroad. She only told them that she could accompany them to the agency where she also applied.

According to accused-appellant, two months after they were unable to leave for abroad, she and the complainants had a meeting. They discussed how they could recover their money. On April 26, 1991, upon Nadals invitation, she voluntarily joined the complainants in going to Manila. Their main purpose was to look for Julie Micua. In Manila, they went to Blumentritt where they met Blas Santos, a police officer whom Ramos knew. Accused-appellant saw Ramos collecting money from his companions. Afterwards, they proceeded to the United Nations Police Headquarters. Santos endorsed them to investigator Val Torres, who, in turn, typed the consolidated affidavits of complainants. The money collected by Ramos was given to the investigator. The complaint filed by the complainants included accused-appellant as one of the defendants.^{9[9]}

^{8[8]} TSN, September 11, 1992, pp. 2-10.

^{9[9]} TSN, December 2, 1992. p. 8.

Lina Salcedo corroborated accused-appellants testimony. Salcedo testified that she owns the house on 1333 Lardizabal St., Sampaloc, Manila. Also living there was a house boarder named Paz Alonzo who had a friend named Julie Micua. Sometime in December 1990, Micua visited Paz at Salcedos boarding house when accused-appellant arrived. It was on this occasion that Julie Micua and accused-appellant met for the first time and they discussed how to get employment in HongKong. After Christmas, accused-appellant returned to Salcedos house with some companions. Salcedo saw the members of the group giving money to Julie Micua for which the latter issued corresponding receipts. It was Julie Micua who did all the explaining. Accused-appellant and her companions returned to Salcedos house on two other occasions. According to Salcedo, she was present when all the transactions took place and she observed that Julie Micua never gave money or any consideration to accused-appellant.^{10[10]} Lina Salcedos testimony was corroborated on the witness stand by her sister Violy Constantino.^{11[11]}

On March 1, 1994, the Regional Trial Court of Manila, Branch I, rendered the decision now on appeal before this Court. In justifying accused-appellants conviction, the trial court gave full credence to the testimonies of the complainants as they were "clear and straightforward" and "reflect spontaneity and are replete with details, which conform to what appears from the other evidence on record." It found that the complainants "positively identified the accused as the one who had persuaded them to apply for overseas employment, accompanied them all the way from Pangasinan to Manila, [and] personally received from them various sums as placement fees." Further, the trial court found no improper motive on the part of the complainants, thus:

xxx it is hard to believe that the private complainants, who all reside in Urdaneta, Pangasinan, would undergo the expense, rigor and inconvenience of a public trial if their motive is not to bring to justice the person/s who had defrauded them. xxx^{12[12]}

Accordingly, the trial court held that all the elements of Article 315, Paragraph 2 of the Revised Penal Code were proven in the cases for estafa. In likewise finding accused-appellant guilty of illegal recruitment in large scale, the trial court stated:

x x x this court is convinced beyond moral certainty that there was unity of action, purpose and design between the accused and Julie Micua to recruit the private complainants for overseas employment in Hongkong without first securing a license or an authority therefor from the Philippine Overseas and Employment Agency. The accused took a direct and active

^{10[10]} TSN, March 5, 1993. pp. 2-8.

^{11[11]} TSN, June 9, 1993. pp. 2-4.

^{12[12]} Records, SCA Gr. 117145-50, p. 191.

participation in the recruitment of the private complainants by referring and persuading them to apply for deployment abroad, accompanying them all the way from Urdaneta, Pangasinan, to Manila to refer them to Micua, who presented herself as a recruiter of worker(s) for overseas employment, personally collecting and receiving from them various amounts for their placement fees, and preparing the receipts therefor.^{13[13]}

Hence, this appeal. Accused-appellant raises the following assignment of errors:

I

THE LOWER COURT ERRED IN NOT DISMISSING THIS CASE ON THE GROUND OF LACK OF JURISDICTION ON ITS PART OVER THE PERSON OF THE ACCUSED-APPELLANT BY REASON OF THE FACT THAT THE WARRANTLESS ARREST OF THE ACCUSED-APPELLANT WAS ILLEGAL.

II

THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED-APPELLANT RECRUITED THE PRIVATE COMPLAINANTS FOR DEPLOYMENT AS LAND WORKERS IN HONGKONG.

III

THE LOWER COURT ERRED IN FIND (SIC) THAT ALL THE ESSENTIAL REQUISITES OF ESTABA AS DEFINED IN ARTICLE 315, REVISED PENAL CODE, ARE CONCURRENTLY SATISFIED IN THIS CASE.

We find no valid grounds to reverse accused-appellants conviction.

Accused-appellants first assignment of error challenges the trial courts judgment on a jurisdictional ground. She argues that her arrest without warrant was illegal and, therefore, following the settled rule that the trial court does not acquire jurisdiction over the person of one who is illegally arrested, the case should have been dismissed.^{14[14]} This contention is untenable.

Jurisdiction over the person of the accused is acquired either by arrest or voluntary appearance in court. The record amply demonstrates that accused-appellant voluntarily appeared in court at her arraignments, entered a plea of "not guilty" to all the charges against her, and later actively participated in the trial. Hence, granting *arguendo* that

^{13[13]} *Id.*, at 56, *Rollo*, p. 34.

^{14[14]} *Id.*, at 67-69.

accused-appellants arrest was defective, such is deemed cured upon her voluntary submission to the jurisdiction of the court.^{15[15]} It should be stressed that the question of legality of an arrest affects only the jurisdiction of the court over the person of the accused. Consequently, if objections based on this ground are waived, the fact that the arrest was illegal is not sufficient cause for setting aside an otherwise valid judgment. The technicality cannot render the subsequent proceedings void and deprive the State of its right to convict the guilty when all the facts on record point to the culpability of the accused.^{16[16]}

The second and third assigned errors regarding accused-appellants culpability for the crimes of estafa and illegal recruitment in large scale are closely interrelated, hence, shall be discussed jointly. These alleged errors boil down to the issue of credibility.

All the complainants are one in saying that accused-appellant made representations that she knew someone who could help them secure employment in Hongkong. Relying on these representations, they applied for placement for employment abroad and paid various sums of money therefor. Unfortunately, accused-appellant failed to comply with her promise of employment or retribute the amounts she received from them.

For her part, accused-appellant claims that she merely helped complainants find an agency that could secure for them employment overseas. She acted as a "good samaritan" by facilitating their quest for a better economic status. She denies receiving the fees paid by complainants and asserts that it was Julie Micua who recruited complainants and collected the placement fees for overseas employment. An examination of the records, however, reveals that accused-appellant is as culpable as Julie Micua.

As to which of the contending claims should be believed is fundamentally an issue of credibility. Well settled is the rule that the issue of credibility is the domain of the trial court that had observed the deportment and manner of the witnesses as they testified. The findings of facts of a trial court, arrived at only after a hearing and evaluation of what can usually be expected to be conflicting testimonies of witnesses certainly deserve respect by an appellate court.^{17[17]} We find no cogent reason to depart from this time-honored doctrine.

Accused-appellant failed to show that complainants, who were mostly her townmates and some even her relatives, were ill-motivated in filing the cases against her; hence, their testimonies merit full faith and credit.

^{15[15]} People v. Macam, 238 SCRA 306 (1994)

^{16[16]} People v. Briones, 202 SCRA 708 (1991)

^{17[17]} People v. Jumao-as, 230 SCRA 70, 77 (1994)

The Court finds unacceptable accused-appellants claim that the complainants are "barking at the wrong tree" and that they only turned their ire on her because the alleged real culprit, Julie Micua, was nowhere to be found.^{18[18]} Complainants would not run after her if she, too, were really a victim. The lame defense consisting of accused-appellants bare denial cannot overcome the prosecutions positive evidence proving her guilt beyond reasonable doubt. Moreover, compared to accused-appellants evidence, which is mainly one of denial, the prosecution presented evidence showing her positive acts of complicity with Julie Micua in recruiting complainants. The accordance of greater probative value to evidence that is positive in nature than that which is negative in character is a time-honored principle. Hence, the negative assertions of accused-appellant cannot prevail over the positive testimony of the complainants.^{19[19]}

The prosecution undoubtedly proved that accused-appellant, without license or authority, engaged in recruitment and placement activities. This was done in collaboration with Julie Micua, when they promised complainants employment in Hongkong. Art. 13, par. (b) of the Labor Code defines recruitment and placement as "any act of canvassing enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not; Provided that any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement."

In *People v. Agustin*,^{20[20]} therein appellant argued that she could not be convicted of illegal recruitment because in introducing the complainants to the alleged recruiters, she merely acted "out of the goodness of her heart."

In resolving said case, the Court ruled:

Hence, the inevitable query is whether or not appellant Agustin merely introduced complainants to the Goce couple or her actions went beyond that. The testimonial evidence hereon show that she indeed further committed acts constitutive of illegal recruitment. All four prosecution witnesses testified that it was Agustin whom they initially approached regarding their plans of working overseas. It was from her that they learned about the fees they had to pay, as well as the papers that they had to submit. It was after they had talked to her that they met the accused spouses who owned the placement agency.

^{18[18]} TSN, November 18, 1992, p. 5.

^{19[19]} *People vs. Padre-e*, 319 Phil 545, 550 (1995)

^{20[20]} 317 Phil. 897 (1995)

As such, the Court concluded that appellant was an employee of the Goce spouses, as she was actually making referrals to the agency. She was, therefore, engaged in recruitment activities.

The same factual circumstance obtains in this case. Although accused-appellant was not an employee of the alleged illegal recruiter Julie Micua, the evidence show that she was the one who approached complainants and prodded them to seek employment abroad. It was through her that they met Julia Micua. This is clearly an act of referral. Worse, accused-appellant declared that she was capable of placing them in jobs overseas. Suffice it to say that complainants recruitment would not have been consummated were it not for the direct participation of accused-appellant in the recruitment process.

Article 38, paragraph (a) of the Labor Code provides that:

Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code.

Illegal recruitment is conducted in a large scale if perpetrated against three (3) or more persons individually or as a group. This crime requires proof that the accused: (1) engaged in the recruitment and placement of workers defined under Article 13 or in any of the prohibited activities under Article 34 of the Labor Code; (2) does not have a license or authority to lawfully engage in the recruitment and placement of workers; and (3) committed the infraction against three or more persons, individually or as a group.^{21[21]}

All these three essential elements are present in the case at bar. As earlier discussed, accused-appellant recruited the six complainants. Further, the Philippine Overseas Employment Administration certified that neither accused-appellant nor Julie Micua is licensed to recruit workers for overseas employment.^{22[22]}

Accused-appellants contention that she was a mere applicant and eventually a victim like complainants holds no water. Note should be made of the fact that throughout the trial of the case, no mention was made that accused-appellant exerted any effort to seek a refund for her money nor did she file a case against Julie Micua, her alleged victimizer. Her only excuse was that at the time of the filing of the complaint in Manila, she was confused and the investigating officer would not listen to her side of the controversy.

^{21[21]} People vs. Ganaden, 299 SCRA 433, 438 (1998)

^{22[22]} Exhibit "C," Records, p. 162.

Moreover, accused-appellant and her husbands acts of receiving almost all the payments of the complainants and issuing receipts signed by Julie Micua contradict her claim of being a mere applicant. There were even times that accused-appellant herself signed the receipts for the placement fees.^{23[23]} Taken as a whole, the evidence shows that accused-appellant conspired and actively participated in the deceitful plan adopted by her co-accused Julie Micua, Rico Cordova and her own husband, Renato Meris, to hire without license or authority, gullible and nave applicants for non-existent overseas jobs.

Likewise, we find that accused-appellant committed the crime of *estafa* under Article 315, paragraph 2 of the Revised Penal Code. This is committed by any person who defrauds another by using a fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of similar deceits executed prior to or simultaneously with the commission of the fraud. The offended party must have relied on the false pretense, fraudulent act or fraudulent means of the accused-appellant and as a result thereof, the offended party suffered damages.^{24[24]}

Complainants parted with their money upon accused-appellants prodding and enticement, and on the false belief that she had the capacity to deploy them abroad. In the end, complainants were neither able to leave nor get their money back.

A close scrutiny of the appealed decision warrants correction of the penalty imposed in each of the *estafa* cases.

The pertinent provision of the Revised Penal Code is as follows:

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

1st. The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which maybe imposed shall not exceed twenty years. In such case, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, a the case may be;

^{23[23]} Exhibit "F," Records, p. 170.

^{24[24]} People vs. Juego, 298 SCRA 27, 33 (1998)

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In *People v. Gabres*,^{25[25]} where the amounts swindled ranged from P40,000 to P50,000, the Court said:

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 P22,000.00 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 be *prision correccional* minimum to medium. Thus, the minimum term of the indeterminate sentence should be anywhere within six (6) months and one (1) day to four (4) years and two (2) months while the maximum term of the indeterminate sentence should at least be six (6) years and one (1) day because the amounts involved exceeded P22,000.00 plus an additional one (1) year for each additional P10,000.00.

Here, the amounts involved are P20,000.00 in Criminal Case No. 91-94196 and P30,000.00 each in Criminal Cases Nos. 91-94192, 91-94193, 91-94194, 91-94195 and 91-94197. The amounts in excess of the P22,000.00 as provided for in the first paragraph of Article 315 of the Revised Penal Code are less than P10,000.00, hence, do not warrant the imposition of an additional one-year imprisonment. There being no proven modifying circumstances, the correct penalty in each of the six (6) estafa cases should be the indeterminate penalty ranging from two (2) years and four (4) months of *prision correccional* as minimum to six (6) years and one (1) day of *prision mayor* as maximum. With respect to Criminal Case No. 91-94198, the trial court correctly imposed the penalty of life imprisonment and fine of P100,000.00.

^{25[25]} 267 SCRA 581, 595-596. (1997)

WHEREFORE, the decision in question is hereby AFFIRMED subject to the modification that in each of the six (6) estafa cases, the indeterminate sentence that appellant Leonida Meris y Padilla must serve is two (2) years and four (4) months of *prision correccional* as minimum to six (6) years and one (1) day of *prision mayor* maximum. Costs against appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.
