THIRD DIVISION

[G.R. No. 132289. July 18, 2000]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* BETH N. BANZALES, *accused-appellant*.

D E C I S I O N

GONZAGA-REYES, *J.*:

This is an appeal from the decision[1] of the Regional Trial Court of Quezon City, Branch 215, finding accused-appellant Beth N. Banzales guilty of (1) illegal recruitment committed in large scale and sentencing her to suffer life imprisonment, pay a fine of P100,000.00, with subsidiary imprisonment in case of insolvency; and (2) five (5) counts of estafa for which she was sentenced to suffer an indeterminate prison term of six (6) months and one (1) day of *prision correccional* as minimum to seven (7) years of *prision mayor* as maximum for each count. In another count of estafa, she was sentenced to suffer an indeterminate prison term of six (6) months and one (1) day of *prision correccional* as minimum to eight (8) years of *prision mayor* as maximum inasmuch as the amount involved exceeded Twenty-Two Thousand Pesos (P22,000.00). She was further ordered to indemnify the complainants the following amounts by way of actual damages: 1) P15,000.00 to Elizabeth Bernal; 2) P15,000.00 to Apolinario Baldoza; 3) P15,000.00 to Eva Amada; 4) P25,000.00 to Domingo Mariano; and 5) P15,000.00 to Rizza Oliva.

The Information for Illegal Recruitment in Large Scale docketed as Crim. Case No. Q-94-58106 alleged that Beth N. Banzales, without the requisite license or authority from the POEA, recruited nine (9) individuals, namely, Domingo Mariano, Rizza Oliva, Elizabeth Bernal, Eva Amada, Rodolfo Tolentino, Apolinario Baldoza, Noel V. Manangguil, Angelo Ballester and Dennis M. Guirre for employment abroad and charged them fees in the total amount of P135,000.00. It reads:

The undersigned accuses BETH N. BANZALES of ILLEGAL RECRUITMENT in Large Scale under Article 38 (a) and 39 (b) of the Labor Code of the Philippines as amended by P.D. 2018, committed as follows:

That in or about and during the period comprised from September 1993 to November 1993, in Quezon City, Philippines, the above-named accused, falsely representing herself to have the capacity to contract, enlist and recruit workers for employment abroad, did then and there willfully, unlawfully and feloniously, for a fee, recruit and promise employment/job place abroad to the following persons:

DOMINGO MARIANO
RIZZA OLIVA
ELIZABETH BERNAL
EVA AMADA
RODOLFO TOLENTINO
APOLINARIO BALDOZA
NOEL V. MANANGGUIL
ANGELO BALLESTER
DENNIS M. GUIRRE

After requiring them to submit certain documentary requirements and exacting from them the total amount of P135,000.00, Philippine Currency, as requirement fee, such activities being done without the required license or authority from the Department of Labor and Employment.

That the crime described above was committed in large scale as the same was perpetrated against more than two (2) persons individually or as a group penalized under Article 38 (a) and 39 (b) as amended by P.D. 2018 of the Labor Law.

CONTRARY TO LAW.[2]

Seven other informations for estafa were also filed before the same court each charging Beth N. Banzales with estafa under par. 2, subpar. (a), of Art. 315, of the Revised Penal Code. Of the nine (9) complainants in the case for Illegal Recruitment in Large Scale, only two did not file estafa charges, namely, Angelo Ballester and Noel Manangguil.

The estafa cases (naming the complainants and stating the amounts therein involved) include: (1) Criminal Case No. Q-94-58107 (Elizabeth M. Bernal -P15,000.00); (2) Criminal Case No. Q- 94-58108 (Apolinario Baldoza P15,000.00); (3) Criminal Case No. Q-94- 58109 (Rodolfo Tolentino - P15,000.00); (4) Criminal Case No. Q-94-58110 (Dennis M. Guirre P15,000.00); (5) Criminal Case No. Q-94- 58111 (Eva G. Amada P15,000.00); (6) Criminal Case No. Q-94-58112 (Domingo M. Mariano P25,000.00); and (7) Criminal Case No. Q-94-58113 (Rizza G. Oliva P15,000.00).

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. Q-94-58107 typified the other informations for the crime of estafa:

The undersigned accuses BETH N. BANZALES of the crime of Estafa, committed as follows:

That in or about the 16th day of November, 1993 in Quezon City, Philippines, the said accused BETH N. BANZALES did then and there willfully, unlawfully and feloniously defraud ELIZABETH M. BERNAL in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said ELIZABETH M. BERNAL to the effect that she had the power and capacity to recruit and employ Factory Workers in Taiwan 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 ELIZABETH M. BERNAL to give and deliver, as in fact gave and deliver to said accused the amount of ₱15,00.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact she did obtain the amount of ₱15,000.00 which amount once in possession, with intent to defraud ELIZABETH M. BERNAL willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of said ELIZABETH M. BERNAL in the aforesaid amount of ₱15,000.00 Philippine Currency.

CONTRARY TO LAW.[3]

As said indictments are founded on the same facts, the cases were tried jointly. On January 9, 1995, accused-appellant Beth N. Banzales entered a plea of not guilty to each of the charges, whereupon trial commenced.

As can be gleaned from the Informations, accused-appellant Beth N. Banzales promised employment in Taiwan to at least nine (9) people, six of whom, namely, Elizabeth Bernal, Domingo Mariano, Apolinario Baldoza, Angelo Ballester, Eva Amada and Rizza Oliva, appeared in court to testify against her. Complainants Rodolfo Tolentino, Noel Manangguil and Dennis Guirre did not appear in court.

We adopt the following summary of the evidence for the prosecution by the Office of the Solicitor General[4] as it is fully supported by the transcripts of stenographic notes of the testimonies of the complainants:

Sometime in the middle of September 1993, appellant visited Estrella Casis, the Manager of Adidas, Novaliches, Metro Manila. At such visit, Elizabeth

Bernal and her co-employees were then conversing with Casis when appellant arrived. It was then that appellant overheard Bernal and her co-employees desire to work abroad. Appellant then inquired if Bernal and her co-employees were interested in securing jobs overseas. She informed them that as a recruiter, she sends applicants overseas (pp. 4-5, TSN, May 22, 1995). Casis then questioned her subordinates if they were interested. Appellant also delved from Bernal and her co-employees namely Paul Villanueva and Noel Manangguil if they desire to work abroad. The three apprised her of their interest. Appellant then invited and convinced them to apply for overseas employment by boasting her connections with the POEA. To sweeten her proposal, she left a calling card indicating that she was working with Mariners Consultant with postal address at Lot 2, Block 2, C. Burgos, Herrera Subdivision, Project 6, Quezon City with Pocketbell No. 7221162 and 817221 Pager No. 122586 (pp. 6-8, TSN, Ibid).

In the last week of September, 1993 appellant went back to Adidas, Novaliches. On that occasion, appellant invited and convinced Bernal and others of her ability to send them abroad as factory workers in Taiwan. Appellant divulged to them that her husband is an employee of ABS-CBN and a compare of Noli de Castro and Ted Failon (pp. 8-10, TSN, Ibid). She also detailed them about the requirements such as passport, NBI, Police Clearance, Birth Certificate, 12 (2x2) ID pictures and the placement fee (p. 11, TSN, Ibid). On November 16, 1993, Bernal, relying upon the representation of the appellant that she can leave for Taiwan as a factory worker paid her fifteen thousand pesos (P15,000.0) andsubmitted the needed requirements at appellants residence located at Lot 2, Block 2, Project 6, Quezon City. Appellant affixed her signature in a corresponding receipt in Bernals presence written as Mrs. E.N. Banzalez. Likewise, appellant also promised Bernal that she would be able to leave for Taiwan in December, 1993. However, Bernal was not able to leave in December 1993 and was informed by appellant that there was no job opening in Taiwan at that time (pp. 12-13, TSN, Ibid). Appellant promised Bernal to wait until January 1994. On January 1994, Bernal and the other applicants were not able to leave the country for the same reasons aforementioned.

Due to appellants failure to send Bernal and her other co-employees abroad, the latter started getting suspicious and decided to call PRC to check if the appellant was really employed in that government agency. They were shocked to find out that no employee by the name of appellant Elizabeth Banzales works there (p. 14, TSN, Ibid). Bernal and friends also called ABS-CBN to verify the veracity of appellants assertion that her husband was an employee of that company. It turned out that appellants husband was only employed as a cameraman but not as a Technical Director. Bernal and her co-applicants asked appellant for the refund of their money. Appellant promised to return their money but failed to comply therewith. Bernal also inquired from the Philippine Overseas Employment Administration (POEA) whether appellant had a license to recruit overseas workers. In response, POEA issued a Certification (Exhibit C) declaring Beth Banzales had no license to operate as a recruiter (pp. 15-17, TSN, Ibid). As a result, the recruits, including Bernal filed a complaint against the appellant (pp. 18-19, TSN, Ibid).

APPELLANT RECRUITED DOMINGO MARIANO

Domingo Mariano was then working at Adidas, Rubberworld Philippines and a co-brother of Elizabeth Bernal in the Charismatic Movement.The Charismatic Movement known as the Lords Flock was located at the compound of Rubberworld. Due to their sharing of religious beliefs, Bernal and Mariano met often. It was during one of those meetings that Bernal apprised Mariano about the appellant who was recruiting applicants for abroad (p. 10, TSN, July 25, 1995). Bernal then introduced appellant to Mariano who assured him that she was able to send workers before. Based on that promise, appellant was also able to recruit Mariano (p. 6, TSN, Ibid).

On October 12, 1993 at Project 6, Quezon City, and also at Lourdes Herrera Subdivision, Project 6, Quezon City, Mariano gave the amount of twenty five thousand pesos (P25,000.00) to the appellant as evidenced by the receipt issued (Exhibit F) as payment for placement fee abroad.Appellant assured Mariano that he will leave for Taiwan after a month. When Mariano was unable to leave the country, he inquired from POEA and discovered that appellant had no license to recruit as evidenced by a POEA Certification (Exhibit C) (pp. 7-8, TSN, Ibid).

Mariano tried to recover the placement fee from appellant but despite the latters assurances, the money never materialized. Marianos hard-earned money paid to appellant was for the subsistence of his family (p. 9, TSN, Ibid).

APPELLANT RECRUITED APOLINARIO BALDOZA

Apolinario Baldoza, an employee of Rubberworld Adidas, Novaliches, Quezon City was introduced to appellant during the latters visit to Estrella Casis, the formers Section Head in the same office sometime in September 1993. Appellant convinced Baldoza, Noel Manangguil, Elizabeth Bernal and

Rodolfo Tolentino to avail of her offer to send them abroad (p. 3, TSN, September 19, 1995).

On that same month of September 1993, Casis, Bernal, Tolentino and Manangguil went to the house of appellant located at Lot 2, Block 2, C. Lourdes Herrera, Project 6, Quezon City (pp. 6-7, TSN, Ibid). Appellant gave them assurance that she could send them as workers abroad. A calling card (Exhibit A) was given to Baldoza by appellant with the information that he had to pay ₱30,000.00 as placement fee and to comply with the requirements such as securing Police Clearance, NBI and a Passport. Appellant also instructed Baldoza to partially pay the amount of₱15,000.00 as a recruitment fee. Due to the representation of appellant, Baldoza paid ₱15,000.00 on October 28, 1993. A corresponding receipt was issued by the appellant (Exhibit G, G-1) and the receipt issued to Baldoza was signed by the appellant in the presence of Rodolfo Tolentino. On December 1993, Baldoza was not able to leave for Taiwan together with his co-employees, Bernal, Manangguil and Tolentino.Baldoza then decided to inquire from POEA and learned that the appellant is an illegal recruiter based on a certification dated April 27, 1994 (Exhibit C) (pp. 8-14, TSN, Ibid).

<u>APPELLANT RECRUITED ANGELO BALLESTER</u>

On October 1993, Angelo Ballester was introduced to the appellant at her residence by Maria Concepcion Dionisio, the formers fellow charismatic member. Before appellants introduction, Dionisio known as Macon learned that Angelo Ballester was applying abroad as a seaman. Macon then informed Ballester that the appellant, who is an employee of Mariners Consultant might be able to send him abroad (pp. 2-4, TSN, October 25, 1995). On October 10, 1993, receipts were issued by appellant to Ballester totalling ₱10,000.00 for the processing of his papers (p. 8, TSN, Ibid).

<u>APPELLANT RECRUITED EVA AMADA PERALTA</u>

Eva Amada Peralta is the sister of Maria Concepcion Dionisio known as Macon. Macon who was then working at Adidas, Novaliches, Quezon City met appellant sometime in September 1993. On November 16, 1993, Peralta, accompanied by her sister Macon went to appellants house in Quezon City. Peralta came to know there that appellant can send factory workers abroad, especially Taiwan. Further, appellant namedropped Noli de Castro as her kumpare and that her husband is working as a technical director of ABS-CBN. On this basis, Peralta paid appellant ₱15,000.00 on November 16, 1993 as initial downpayment for the placement fee. The appellant required ₱45,000.00 for the entire fee but accepted the ₱15,000.00 initial payment. A receipt was issued but misplaced by Peralta. On April 8, 1994, Peralta filed a complaint affidavit against appellant due to her failure to send her to Taiwan (pp. 1-8, TSN, January 15, 1996).

APPELLANT RECRUITED RIZZA OLIVA

Appellant was also able to recruit Rizza Oliva by making the same promise of sending factory workers to Taiwan and issued a receipt in the amount of ₱15,000.00 on November 16, 1993 at her residence (Exhibit M) (pp. 2-7, TSN, March 11, 1996).[5]

Upon the other hand, accused-appellant denied having recruited the complainants. She claims that she received the amounts given to her to buy plane tickets for the complainants amounting to ₱135,000.00. She gave the whole amount to Danilo de Guia, the General Manager of Blue Sky Travel Agency, who also gave her a receipt. She contends that she could no longer produce said receipt as she returned it to Danilo de Guia when the latter reimbursed the amount paid for the plane tickets. Accused-appellant claims further that she only received from De Guia a total of ₱90,000.00 out of the ₱135,000.00 that she paid him. According to accused-appellant, she tried to reimburse the amount of₱90,000.00 to the complainants but the latter refused to accept the same and demanded double the amount.

Assessing the evidence, the trial court gave full credit to the version of the prosecution and found unmeritorious accused-appellants defense. The trial court found accused-appellant guilty beyond reasonable doubt of illegal recruitment in large scale and of five counts of estafa.It adjudged:

WHEREFORE, premises considered, the court finds the accused guilty beyond reasonable doubt of Illegal Recruitment and five (5) counts of Estafa. For the offense of Illegal Recruitment, the accused is sentenced to suffer the penalty of life imprisonment and a fine of P100,000.00, with subsidiary imprisonment in case of insolvency.

For the crime of Estafa under par. 2(a) Art. 315 of the Revised Penal Code, the penalty provided for by law is *prision correccional* in its maximum period to *prision mayor* in its minimum period. Applying the Indeterminate Sentence Law, one degree lower would be six (6) months, one (1) day to four (4) years and two (2) months. Taking all these into consideration, the accused, Beth Banzales is sentenced to suffer the indeterminate penalty of six (6) months and on (1) day of *prision correccional* as minimum to seven (7) years of *prision mayor* as maximum for each in Criminal Cases Nos. Q-94-58107; Q-94-58108; Q-94-58111; Q-94-58113. In Criminal Case No. Q-94-58112, inasmuch as the amount of the fraud is P25,000.00 which exceeds

P22,000.00, the penalty provided is to be imposed in its maximum period or six (6) years, eight (8) months and twenty-one (21) days to eight (8) years. Applying the Indeterminate Sentence Law, the accused Beth Banzales is sentenced to suffer the indeterminate penalty of six (6) months and one (1) day of prision correccional as minimum to eight (8) years of prision mayor as maximum. Accused is further ordered to indemnify the aforesaid complainants the following:

1) P15,000.00 to Elizabeth Bernal;

2) P15,000.00 to Apolinario Baldoza;

3) P15,000.00 to Eva Amada;

4) P25,000.00 to Domingo Mariano;

5) P15,000.00 to Rizza Oliva.

With costs against the accused.

SO ORDERED.[6]

Accused-appellant seasonably filed her appeal. In her Appellants Brief,[7] she imputes to the trial court the following errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF LARGE SCALE ILLEGAL RECRUITMENT.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME OF ESTAFA HAS BEEN PROVEN BEYOND REASONABLE DOUBT.[8]

Simply put, accused-appellant is challenging the sufficiency of the prosecutions evidence.

The appeal is devoid of merit.

Large-scale illegal recruitment has the following essential elements:

(1) The accused undertook [a] recruitment activity defined under Article 13(b) or any prohibited practice under Art. 34 of the Labor Code.

(2) He did not have the license or the authority to lawfully engage in the recruitment and placement of workers.

(3) He committed the same against three or more persons, individually or as a group.[9]

Article 13 (b) of the Labor Code defines recruitment and placement as follows:

xxx [A]ny act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers [which] includes referrals, contact services, promis[es] 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.

Accused-appellant argues that the prosecution failed to establish the second element considering that no representative from the POEA was presented in court to testify as to the authenticity of the Certificate issued by the POEA that accused-appellant was an unlicensed illegal recruiter. The challenge against the POEA certification that the accused-appellant was neither licensed nor authorized to recruit workers for overseas employment must fail. A POEA certification is a public document issued by a public officer in the performance of an official duty; hence, it is *prima facie* evidence of the facts therein stated pursuant to Section 23 of Rule 132 of the Rules of Court.[10] Public documents are entitled to a presumption of regularity, consequently, the burden of proof rests upon him who alleges the contrary.[11] Accused-appellant did not even bother to allege the contrary as she admitted in open court that she was not licensed or authorized to recruit workers.[12]

Accused-appellant also argues that a close scrutiny of the testimonies of private complainants reveals that accused-appellant did not recruit all of the complainants for overseas employment. According to accused-appellant, the testimony of Domingo Mariano reveals that it was Elizabeth Bernal who recruited him for overseas employment; while the testimonies of Eva Amada, Rizza Oliva and Angelo Ballester disclose that it is Ma. Concepcion Dionisio (sister of Eva Amada) who recruited them for overseas employment.

This argument of the defense unduly strains the credulity of this Court. The fact that Elizabeth Bernal, herself a victim of accused-appellant, and Macon Dionisio introduced some of the victims to accused-appellant and encouraged in some way or another said complainants to apply for overseas employment with the accused-appellant do not in any way shift the blame towards them or blot out accused-appellants culpability.The actuations of Elizabeth Bernal and Macon Dionisio only show that they were totally duped into believing accused-appellants ruse.

The totality of the evidence shows that it was accused-appellant who purported to have the ability to send a worker abroad for employment although without the authority or license to do so. She was the one who told them about the job prospects in Taiwan and the requirements for their deployment. She was also the one who received the placement fees paid by the complainants. All of the witnesses testified to having personally met the accused-appellant; they testified that she asked from them a sum of money in exchange for the promised employment overseas; and that they gave her the money. Exhibits were presented in the form of receipts signed by accused-appellant. For appellant to say now that it was Elizabeth Bernal who actually recruited Domingo Mariano and that it was Macon Dionisio who recruited Eva Peralta, Rizza Oliva and Angelo Ballester is simply preposterous.

Moreover, there is no showing that any of the complainants had ill-motives against accused other than to bring her to the bar of justice for the crime of large scale illegal recruitment and their testimonies were straightforward, credible and convincing.[13]

It is also of no moment that, as pointed out by accused-appellant, the amounts tendered by the complainants were insufficient to cover the costs of overseas employment and that the complainants did not testify as to the specifics of their alleged employment (exact amount of salary and place of work) inasmuch as these are immaterial in the prosecution and conviction for the crime of large scale illegal recruitment.

In fine, there is no doubt as to accused-appellants guilt for all the essential elements of the crime of Illegal Recruitment in Large Scale have been established beyond reasonable doubt. Accused-appellant recruited at least five persons, giving them the impression that she had the capability of sending them to Taiwan to be employed as factory workers. She collected various amounts allegedly for recruitment and placement fees without license or authority to do so. Large scale illegal recruitment is punishable by life imprisonment and a fine of P100,000.00 under Article 39(a) of the Labor Code,[14] hence, the trial court imposed the proper penalty.

As regards the conviction of accused-appellant for estafa on five (5) counts in Criminal Cases Nos. Q-94-58107, Q-94-58108, Q-94-58111, Q-94-58112 and Q-94-58113, we have ruled in a number of cases[15] that a person convicted of illegal recruitment under the Labor Code can be convicted of violation of the Revised Penal Code provisions on estafa, provided the elements of the crime are present. In *People vs. Romero*,[16] the Court said that the elements for estafa are: (a) that the accused defrauded another by abuse of confidence or by means of deceit, and (b) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. In relation thereto, Art. 315 of the Revised Penal Code provides for the penalty thus

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 P12,000 but does not exceed P22,000, 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 P10,000; but the total penalty which may be imposed shall not exceed twenty years. In such a case, and in connection with the accessory penalties which may be imposed and for the purpose of the other provision of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

In the case before us, we are convinced that accused-appellant defrauded complainants through deceit. They were obviously misled into believing that she could provide them employment as factory workers in Taiwan. As a result, the five (5) complainants who desperately wanted to seek greener pastures for a higher income to improve their lot parted with what little money they had. In Crim. Cases Nos. Q-94-58107, Q-94-58108, Q-94-58111 and Q-94-58113, the amount defrauded of each complainant was P15,000.00. The Revised Penal Code imposes 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. The amount involved in each of the four cases for estafa is within the above range. 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.[17] The trial court erred in imposing an indeterminate prison term of six (6) months and one (1) day of *prision correccional* as minimum to seven (7) years of *prision mayor* as maximum for each count. In accordance with this Courts ruling in *People vs. Saley,*[18] where the amount defrauded is P15,000.00, and in the absence of mitigating and aggravating circumstances, accused-appellant shall 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 for each of the four counts of estafa.

As regards Crim. Case No. Q-94-58112 where the amount defrauded was P25,000.00, also in accordance with the *Saley* case, 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 P22,000.00 provided for by Article 315 of the Revised Penal Code is less than P10,000.00). Applying the Indeterminate Sentence Law, and there being no attending circumstances, accused-appellant shall suffer 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.[19]

We also sustain the award of actual damages by the trial court as all the complainants were able to produce receipts, except Eva Amada who testified that she had lost her receipt. But even lacking that, she is still entitled to actual damages as she was able to prove by her testimony that accused-appellant was involved in the entire recruitment process and that she got her money.[20] Finally, we note that the trial court failed to award actual damages to Angelo Ballester who also testified in court that he paid accused-appellant P10,000.00 as placement fee which was supported by a receipt signed by accused-appellant. Considering that an appeal in a criminal case opens the whole case for review[21], we likewise award P10,000.00 to Angelo Ballester by way of actual damages.

WHEREFORE, the judgment of the court a quo finding accused-appellant BETH N. BANZALES guilty of Illegal Recruitment in Large Scale in Crim. Case No. Q-94-58106 and of Estafa in Crim. Cases Nos. Q-94-58107, Q-94-58108, Q-94-58111, Q-94-58113 and Q-94-58112 is hereby AFFIRMED subject to the following modifications:

1) In Criminal Cases Nos. Q-94-58107, Q-94-58108, Q-94-58111 and Q-94-58113, 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.

2) In Criminal Case No. Q-94-58112, 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.

3) In Criminal Case No. Q-94-58106, accused-appellant is further ordered to indemnify Angelo Ballester P10,000.00 by way of actual damages.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and *Purisima, JJ.,* concur.

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[1] Per Judge Marcelino F. Bautista, Jr.

[2] Original Records, p. 2.

[3] Original Records, p, 8.

[4] *Rollo*; Appellees Brief, pp. 125-157.

[5] *Ibid*., pp. 132-140.

[6] *Rollo*, pp. 393-394.

[7] *Rollo*, pp. 71-103.

[8] *Rollo*, p. 73.

[9] People *v*. Castillon, G.R. No. 130940, April 21, 1999.

[10] People *vs*. Benedictus, 288 SCRA 319 (1998).

[11] Cacho *vs*. Court of Appeals, 269 SCRA 159 (1997).

[12] TSN dated April 21, 1997, p. 14.

[13] People *vs*. Gharbia, et al., G.R. No. 123010 (July 20, 1999).

[14] People *vs*. De Leon, 267 SCRA 644 (1997); People *vs*. Hernandez, G.R. No. 108027, March 4, 1999.

[15] People *vs*. Turda, 233 SCRA 713 (1994); People *vs*. Calonzo, 262 SCRA 534 (1996); People *vs*. Mercado, G.R. Nos. 108440-42, March 11, 1999.

[16] 224 SCRA 755 (1993).

[17] Sec. 1, Act No. 4103, as amended.

[18] 291 SCRA 715 (1998).

[19] *Ibid*.

[20] People *vs*. Comia, 236 SCRA 185 (1994); People *vs*. Mercado, G.R. Nos. 108440-42, March 11, 1999.

[21] Obosa *vs*. Court of Appeals, 266 SCRA 281 (1997).