

FIRST DIVISION

[G.R. No. 123146. June 17, 2003]

PEOPLE OF THE PHILIPPINES, *appellee*, vs. ALONA BULI-E and JOSEFINA (JOSIE) ALOLINO, *appellants*.

DECISION

AZCUNA, J.:

Appellants Alona Buli-e and Josefina Alolino assail the decision of the Regional Trial Court of Baguio City, Branch 15, finding them guilty beyond reasonable doubt of illegal recruitment committed in large scale and eight counts of estafa.

On March 16, 1993, the following information was filed against Jose Alolino and appellants, Alona Buli-e and Josefina Alolino:

The undersigned accuses ALONA BULI-E, JOSEFINA (JOSIE) ALOLINO and JOSE ALOLINO for VIOLATION OF ARTICLE 38 (b), PRESIDENTIAL DECREE NO. 442, AS AMENDED BY P.D. 1920 FURTHER AMENDED BY P.D. 2018, committed in large scale, which is an act of economic sabotage, and by a syndicate, committed as follows:

That during the period from March 1991 to July 1992, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused representing themselves to have the capacity to contract, enlist and hire and transport Filipino workers for employment abroad did then and there willfully and unlawfully, for a fee, recruit and promise employment / job placement to the following persons:

- 1. Constancio Macli-ing*
- 2. Jesssica Estay*
- 3. Sidolia Fias-eo*
- 4. John Mangili*
- 5. Nieva Lampoyas*

6. Sabado Agapito

7. Joseph Oratil and

8. Joel Oratil

in Taiwan without first obtaining or securing license or authority from the proper government agency

CONTRARY TO LAW.^[11]

On the same day, eight separate informations for estafa were also filed against Jose Alolino and appellants Alona Buli-e (Buli-e for brevity) and Josefina Alolino (Josefina, for brevity). Except as to the dates, amounts involved^[12] and the names of complainants, the following information in Criminal Case No. 11123-R typified the seven other informations for the crime of estafa:

That on or about the 12th day of July, 1992, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there willfully, unlawfully and feloniously defraud one Constancio Macli-ing by way of false pretenses, which are executed prior to or simultaneously with the commission of the fraud, as follows, to wit: the accused knowing fully well that they are not authorized job recruiters for persons intending to secure work abroad convinced said Constancio Macli-ing and pretended that they could secure a job for him/her abroad, for and in consideration of the sum of ₱15,000.00 when in truth and in fact they could not; the said Constancio Macli-ing, deceived and convinced by the false pretenses employed by the accused, parted away the total sum of ₱15,000.00 in favor of the accused, to the damage and prejudice of the said Constancio Macli-ing in the aforementioned amount of FIFTEEN THOUSAND PESOS(₱15,000.00), Philippine Currency.^[13]

Jose Alolino was never apprehended and remains at large. Upon arraignment, appellants pleaded not guilty to each of the nine informations filed against them. A joint trial ensued since the cases involved the same factual milieu.

Evidence for the prosecution showed that on various dates from June 1990 to July 1992, complainants went to the house of appellant Buli-e at No. 63 Sanitary Camp, Baguio City upon learning that she was recruiting workers for overseas employment. A cousin of complainant Lampoyas, whom Buli-e helped deploy abroad, introduced Lampoyas to Buli-e in 1990.^[14] The brothers Oratil went to see Buli-e about possible overseas employment in April 1992.^[15] Mangili inquired from Buli-e if she was recruiting workers for overseas employment also in April 1992.^[16] Sabado and Macli-ing approached Buli-e for possible overseas work in May 1992,^[17] while Estay, accompanied by her sister,

went to see Buli-e on June 17, 1992.^[8] Fias-eo approached Buli-e on July 13, 1992, accompanied by Lampoyas.^[9]

Buli-e confirmed to complainants that she was, in fact, recruiting contract workers for Taiwan and that, although she did not have a license of her own to recruit, her boss in Manila who was a licensed recruiter, was in the process of getting her one which would soon be issued.^[10] Buli-e identified her superiors in Manila to be the spouses Jose^[11] and Josefina Alolino. Josefina was connected with Rodolfo S. Ibuna Employment Agency (RSI for brevity), a private employment agency licensed to recruit overseas contract workers. Buli-e informed complainants that requirements for application of overseas work included submission of bio-data, passport, NBI clearance, and medical examination clearance to show that the applicant is physically and mentally fit. There was also a placement fee of ₱40,000 of which ₱15,000 must be paid in advance. Buli-e told complainants that if they were interested in applying, they may submit to her said requirements which she, in turn, will submit to her boss who was in charge of processing the necessary documents.

In the case of complainant Lampoyas who originally applied with Buli-e for employment in Kuwait, she was informed by Buli-e that the latter was working for a certain Jessie Agtarep.^[12] Lampoyas gave Buli-e ₱4,000 on March 14, 1991 as downpayment for the placement fee and ₱5,000 on August 24, 1991. Lampoyas application papers were processed by Jamal Enterprises in Makati, Metro Manila but in 1992, Buli-e transferred Lampoyas application to appellant Josefina, whom Buli-e referred to as her new boss.^[13] Lampoyas was enticed to work in Taiwan instead of Kuwait and was assured that her deployment papers would be processed more quickly.^[14]

From March to August 1992, Buli-e accompanied complainants, on separate occasions, to Manila where they had their medical check-up at Saints Peter and Paul Medical Clinic in Ermita. Lampoyas had her medical check-up in March 1992^[15] while Mangili and Joseph Oratil had their medical check-up in May 1992.^[16] On June 20, 1992, Estay had her medical check-up,^[17] while Agapito and Macli-ing had their medical examination on July 5, 1992.^[18] Fias-eo had her medical examination on July 20, 1992 while Joel Oratil had his medical examination in August 1992. Complainants paid for the medical examination, the results of which were given to Buli-e.

Immediately after complainants had undergone medical examination, Buli-e brought them to No. 11 Concorde Street, Airmans Village, Las Pias, Metro Manila purportedly to introduce them to her boss, the spouses Alolino. Complainants, except for Macli-ing and Agapito, were able to meet only Jose Alolino on the same day that they had undergone medical examination. Jose Alolino allegedly told complainants that his wife, Josefina, was in Taiwan following up applications but he assured them that they too would be deployed abroad in a matter of months.^[19] Mangili, Estay, and the brothers Oratil were able to meet Josefina personally when they returned to the residence of the Alolinos in Manila to follow up their applications.^[20] Fias-eo and Lampoyas, on the other hand, never met Josefina personally although they were able to talk to her over the telephone several times when they were following up the status of their applications.^[21] It was during these telephone conversations that Josefina instructed Fias-eo and Lampoyas to

have their medical examinations and secure their NBI clearance in Manila accompanied by Buli-e whom she identified as her agent.^[22]

Complainants were assured by one or both of the spouses that they were licensed to recruit overseas contract workers and that they can deploy workers within two to three months.^[23] Complainants were informed by Buli-e and Josefina that deployment for Taiwan is on a first-come, first-served basis and that those who can comply with the requirements, particularly the advance payment of ₱15,000, shall be deployed first.^[24]

On different dates from May 1992 to July 1992, complainants handed to Buli-e at Sanitary Camp, Baguio City their advance payments of ₱15,000 for which they were issued receipts.^[25] Mangili paid ₱11,000 on May 22, 1992 and ₱4,000 on June 18, 1992.^[26] The Oratil brothers paid ₱15,000 each in installments from May 1992 to July 15, 1992.^[27] Macli-ing paid ₱15,000 on July 12, 1992.^[28] Fias-eo gave Buli-e ₱15,000 on July 13, 1992.^[29] In addition to her previous payments amounting to ₱9,000, Lampoyas paid Buli-e ₱5,000 also on July 13, 1992.^[30] Estay gave ₱15,000 on July 21, 1992^[31] while Agapito paid Buli-e ₱15,000 on July 22, 1992.^[32] Buli-e assured complainants that she delivered the payments to Josefina. Aside from giving the downpayment of the placement fee, complainants complied with the rest of the requirements which included submission of pictures, bio-data, passports, NBI clearances and medical examination reports.

After months of waiting and despite compliance with all the requirements, complainants were not deployed abroad as promised by appellants. From August 1992 to February 1993, complainants trooped to Buli-es house but Buli-e merely kept on telling them to wait. When complainants called up Josefina by long distance telephone, they were also told just to wait.

Weary of the interminable waiting, complainants went to the POEA office in Baguio City on February 2, 1993, to check whether appellants were indeed licensed to recruit overseas contract workers. They were dismayed to find out that appellants had no license to recruit in Baguio City or any part of the Cordillera Administrative Region (CAR). On the same day, complainants filed their complaints with the POEA-CAR and the Prosecutors Office of Baguio City.

After appellants were apprehended and during their detention at the Baguio City Jail, Josefina, through counsel, refunded complainant Fias-eo ₱15,000 for his downpayment on the placement fee.^[33] Complainant Mangili also demanded a refund and he was paid by Josefina, again through her counsel, the sum of ₱25,000 for his advance payment of ₱15,000 and as reimbursement of the actual expenses he incurred for his application.^[34]

During trial, Buli-e testified that she worked for RSI and had been referring applicants to the agency before 1991. She met Josefina a year after she resigned from RSI.^[35] In 1990, Buli-e had an applicant for Singapore, a certain Prescilla Laoayan from Baguio City. Buli-e referred Prescilla to RSI which, through Mrs. Fe Go, handled the processing of her application. As part of the requirements of the agency, Prescilla had to undergo training at the house of Josefina, who was then the Marketing Director of RSI. In 1991, Josefina sent Buli-e a note, through Prescilla, telling her to go to the

house of Josefina at No.11 Concorde Street, Airmans Village, Las Pias, Metro Manila to discuss matters about recruitment of workers. Buli-e went to the house of Josefina as requested and it was then that she was appointed as an agent of Josefina.^[36] Buli-e was tasked to find job applicants for Taiwan, Korea or Singapore whom she can refer to RSI through Josefina. Buli-e would then be paid for each referral. When Buli-e asked Josefina if the latter was authorized or had any license to recruit for overseas placement, Josefina answered in the affirmative.^[37]

Thereafter, Buli-e started recruiting job applicants for Taiwan, Singapore and Korea at her house in No. 63 Sanitary Camp, Baguio City. Complainants sought her of their own accord and Buli-e informed them of the requirements for job application which consisted of submission of bio-data, passport, NBI clearance and placement fee of ₱40,000 of which ₱15,000 must be paid in advance upon instructions of Josefina. Josefina allegedly instructed Buli-e to accompany complainants to Sts. Peter and Paul Medical Clinic in Ermita, Manila for medical check-up.^[38] Buli-e was likewise instructed by Josefina to accompany some of the complainants in securing their NBI clearance and to receive whatever documents complainants will be submitting including the ₱15,000 advance payment, all of which should be submitted to Josefina. Buli-e said that she submitted the documents and the payments either to Jose Alolino or to Josefina.^[39] She clarified that she did not have a hand in securing the passports of complainants^[40] and received instructions from Josefina only when she communicated with Josefina through the telephone or went to Manila. She averred that she and several members of her family also tried to apply for overseas work with Josefina and paid the latter ₱100,000.^[41]

Buli-e presented Mrs. Nonette Legaspi-Villanueva, Unit Coordinator of POEA-CAR, to testify that RSI was a licensed employment agency and that Josefina was a licensed recruiter at the time that Buli-e had dealings with her co-appellant. Mrs. Villanueva testified that she has been with the POEA since 1985. Part of her functions included administrative and technical supervision of the staff regarding employment, facilitation, licensing, investigation and monitoring of the provincial recruitment authority as well as issuance of authorization to personnel to conduct inspection of licensed agencies in the City of Baguio.^[42] Mrs. Villanueva said that, as per the certification of the Chief of the Licensing Branch of the POEA, RSI was a private employment agency with a license which expired on July 14, 1992. Josefina Alolino was included in the list of the personnel submitted by the agency in July 1990 as Marketing Consultant.^[43] Mrs. Villanueva, however, clarified that licenses or permits to recruit workers are territorial in nature so that an agency licensed in Manila can only engage in recruitment activities within the place specified in the license although the applicants may be non-residents of Metro Manila. She further testified that she cannot remember if Buli-e was given any authority to recruit in Baguio City.^[44]

Josefina, on the other hand, testified that on September 16, 1987, she was appointed as one of the four Marketing Directors of RSI which was located in 408 Jovan Condominium, Shaw Boulevard, Mandaluyong, Metro Manila. RSI, represented by Rodolfo S. Ibuna as proprietor, was a private employment agency with a license which expired on July 14, 1992. As Overseas Marketing Director of RSI, Josefina was tasked to represent the agency in negotiating with employers in Taiwan, Malaysia, United

States and Singapore^[45] for said employers to avail of the services of RSI in recruiting, hiring, processing and deploying Filipino contract workers. She was also authorized to solicit applicants for overseas placement through advertisements, referrals, walk-ins, etc., and to undertake screening, evaluation and final selection of applicants. As per agreement with RSI, Josefina was entitled to a certain share for each successful negotiation with a foreign employer.^[46]

Josefina denied that Buli-e was her agent and insisted that she never gave Buli-e authority to recruit for RSI. On the contrary, Buli-e allegedly informed Josefina that she was an agent of Mrs. Fe Go, another marketing Director of RSI. Sometime in 1991, Mrs. Go referred to Josefina a certain Prescilla Laoayan, who wanted to apply as a domestic helper in Taiwan. Upon being told that she could not be deployed unless she would give a downpayment of ₱15,000 for the placement fee, Prescilla informed Josefina that she already gave ₱15,000 to an agent whom she identified to be Buli-e. Josefina then wrote a note for Buli-e informing her that there was a problem regarding the processing of Prescilla's application. Prescilla delivered the note to Buli-e who in turn went to see Josefina at her house in No. 11 Concorde Street, Airmans Village, Las Pias, Metro Manila. Josefina said that she and Buli-e merely talked about Prescilla's application and that was the first time that Josefina met and talked with Buli-e although she had already seen her before in the office of Mrs. Fe Go.^[47]

Josefina testified that herein complainants were originally referred by Buli-e to Mrs. Fe Go who, in turn, referred them to her. Josefina said that she accepted referrals from Buli-e even though the latter was not her agent nor connected with RSI because their agency accepts referrals from everyone. In 1992, Buli-e, claiming that complainants authorized and designated her to act as their spokesperson, went to the house of Josefina several times to follow up the progress of their applications.^[48]

Josefina denied having given Buli-e instructions to accompany complainants to Saints Peter and Paul Medical Clinic in Ermita, Manila. She also denied having an understanding with Buli-e to receive payments from each of complainants and to bring them to her house in Las Pias, Metro Manila.^[49] Josefina explained that the deployment of complainants was delayed because the Taiwanese government changed its previous policy of allowing foreign employment agencies like RSI to negotiate directly with prospective employers in Taiwan. Foreign employment agencies were instead allowed to negotiate only with local employment agencies in Taiwan, which, in turn, were responsible for negotiating with the Taiwanese employers. The change in the policy caused delay in the deployment of complainants since the local employment agencies in Taiwan demanded additional requirements such as additional fees. Josefina said she informed complainants of the delay and the reason for it but complainants could not wait to be deployed and, instead, demanded the refund of their payments.^[50]

On March 2, 1993, Josefina allegedly gave Buli-e ₱75,000 with the instruction that she was to give complainant Lampoyas ₱5,000 as refund, and ₱10,000 each to complainants Macli-ing, Estay, Fias-eo, Mangili, Agapito, and the Oratil brothers. Upon having been approached by complainants for the refund of their money, Josefina informed them that she already gave their refunds through Buli-e. Complainants, however, claimed that they did not receive their refunds from Buli-e. When complainants

could not wait for the refund of their payments and failed to see Josefina who was always out of the country due to her work, they filed the present cases.^[51]

Emelita Racelis testified that she was an employee of RSI from 1989 to 1992 and was one of the two persons assigned to Josefina.^[52] Ms. Racelis said that Buli-e frequently went to the RSI, bringing applicants with her three times a month. Among the applicants whom Buli-e referred to RSI through one of the marketing directors, Mrs. Fe Go, was a certain Prescilla Laoayan. Racelis said that Laoayan was endorsed by Mrs. Go to Josefina because it is the practice that when the applicant of one of the marketing directors cannot be deployed, the applicant will be endorsed to another marketing director with a job opening. Josefina, however, had trouble deploying Ms. Laoayan whose placement fee had not been forwarded by Buli-e to RSI.^[53]

On July 4, 1995, the trial court rendered a decision, the dispositive portion of which reads, as follows:

WHEREFORE, judgment is rendered as follows:

- 1. In Criminal Case No. 11122-R, the Court finds the accused Alona Buli-e and Josefina (Josie) Alolino guilty beyond reasonable doubt, by direct participation and in conspiracy with each other, of the crime of illegal recruitment in a large scale as defined and penalized under Article 38(b) in relation to Article 39 of PD 442 as amended by PD 2018 and sentences each of them to life imprisonment and to pay a fine of ₱100,000.00 each, and to pay the costs.*
- 2. In Criminal case No. 11123-R to 11130-R (8 counts), the court finds the accused Alona Buli-e and Josefina (Josie) Alolino guilty beyond reasonable doubt by direct participation and in conspiracy with each other of the crime of Estafa as charged in the Informations in the aforesaid 8 cases as defined and penalized under Article 315 first paragraph in relation to No. 2 (a) of the same article and sentences each of them, applying the indeterminate sentence law, to an imprisonment ranging from six (6) months and one (1) day of prision correccional as minimum to six (6) years, eight (8) months and twenty (20) days of prision mayor as maximum in each of the aforesaid 8 cases; to indemnify jointly and severally the offended parties Constancio Macliling, Jessica Estay, Sidolia Fias-eo, John Mangili, Sabado Agapito, Joseph Oratil and Joel Oratil the sum of ₱15,000.00 each and Nieva Lampoyas the sum of ₱14,000.00 as actual damages without subsidiary imprisonment in case of insolvency and to pay the costs.*

The accused Alona Buli-e and Josefina (Josie) Alolino being detention prisoners are entitled to be credited 4/5 of their preventive imprisonment

in the service of their sentence in accordance with Article 29 of the Revised Penal Code.

SO ORDERED. ^[54]

In rendering the decision, the trial court ruled that by their acts, Buli-e and Josefina, conspired and confederated with one another in the illegal recruitment of complainants for overseas employment. Buli-e performed the recruitment activities in Baguio and Josefina, in Manila. The trial court specifically noted Buli-es acts of accompanying the complainants to Manila for their medical examinations, securing complainants NBI clearances and passports as well as receiving complainants downpayments for the purported placement fee as an indication that she directly participated in the recruitment of all complainants. The trial court observed that Buli-e practically confessed her acts of recruitment in open court and justified the same by claiming that she was just acting as an agent of Josefina or was authorized to act in behalf of the latter.

As regards Josefina, the trial court held that she directly participated in the recruitment of complainants even if she did not personally go to Baguio City since she received the applications and other requirements such as NBI clearances, passports, bio-data as well as the advanced payments of complainants from Buli-e. Either she or her husband Jose, or both of them, entertained complainants who were brought by Buli-e to their home at No. 11 Concorde Street, Airmans Village, Las Pias, Metro Manila. The spouses repeatedly promised to work or make arrangements for complainants deployment abroad.

The trial court ruled that the authority given to Josefina as Overseas Marketing Director of RSI, a duly licensed employment agency, was confined to negotiating with foreign employers in Taiwan and she was not supposed to recruit overseas Filipino workers. The court stressed that assuming Josefina was authorized to recruit in Manila, she had no authority to do so in Baguio City. Citing Article 29 of the Labor Code which states that no license or authority shall be used directly or indirectly by any person other than the one in whose favor it was issued or at any place other than that stated in the license or authority, nor may such license or authority be transferred or conveyed to any other person or entity, the trial court ruled that appellants could not use the RSI license in Manila to recruit overseas contract workers in Baguio City.

The trial court further noted that the license of RSI employment office was already suspended on June 8, 1992 and expired on July 14, 1992. Consequently, the authority given by RSI to Josefina was likewise suspended on June 8, 1992 and expired on July 14, 1992.

Finally, the trial court said that Josefina's act of returning the advanced payments of some of complainants would not exculpate her and only proved that she had in fact received money from complainants who were made to believe that they would be deployed abroad at the soonest possible time.

With regard to the eight charges of estafa filed against appellants, the trial court convicted them on the ground that all the elements of estafa were present under each of the eight charges filed. The trial court held that appellants through false pretenses and fraudulent acts represented to complainants that they had the power, authority and capacity to deploy workers abroad for a fee of ₱40,000, of which ₱15,000 should be paid as advance payment. The false pretenses and fraudulent acts were executed prior to or simultaneous with appellants taking the sum of ₱15,000 as advance payment from each of private complainants^[59] which were received by Buli-e in Baguio City and turned over by her to Josefina in Manila. Complainants relied on the pretenses and misrepresentations of appellants and parted with substantial sums of money as advance payments of their placement fees. As a result of the false pretenses and misrepresentations, complainants were damaged and prejudiced to the extent of the sums they had given as downpayment since appellants failed to send them abroad as promised.

In her appeal before us, appellant Buli-e contends that the trial court erred:

- I. IN FAILING TO APPRECIATE THE DEFENSE OF THE CO-ACCUSED ALONA BULI-E THAT SHE MERELY REFERRED THE PRIVATE OFFENDED PARTIES TO CO-ACCUSED SPOUSES JOSE AND JOSEFINA ALOLINO, WHOM SHE HONESTLY BELIEVED TO BE BONA FIDE OVERSEAS JOB RECRUITERS;
- II. IN HOLDING THAT THERE WAS CONSPIRACY BETWEEN HEREIN APPELLANT BULI-E AND SPOUSES ALOLINO IN THE COMMISSION OF THE CRIMES OF LARGE SCALE ILLEGAL RECRUITMENT AND ESTAFA; AND
- III. HOLDING CO-ACCUSED ALONA BULI-E LIABLE FOR ESTAFA WHEN THERE WAS NO SHOWING THAT SAID ACCUSED BENEFITED FROM THE ALLEGED MISREPRESENTATION.

Appellant Josefina, on the other hand, presents the following assignments of error:

- I. THE COURT A QUO ERRED IN FINDING JOSEFINA ALOLINO GUILTY BEYOND REASONABLE DOUBT BY DIRECT PARTICIPATION AND IN CONSPIRACY WITH CO-ACCUSED ALONA BULI-E OF THE CRIME OF ILLEGAL RECRUITMENT IN LARGE SCALE AS DEFINED AND PENALIZED UNDER ARTICLE 38[b] IN RELATION TO ARTICLE 39 OF P.D. 442 AS AMENDED BY P.D. 2018 AND IN SENTENCING EACH OF THEM TO LIFE IMPRISONMENT AND TO PAY A FINE OF ₱100,000.

II. THE COURT A QUO ERRED IN FINDING THE ACCUSED JOSEFINA ALOLINO GUILTY BEYOND REASONABLE DOUBT BY DIRECT PARTICIPATION AND IN CONSPIRACY WITH CO-ACCUSED ALONA BULI-E OF THE CRIME OF ESTAFA AS CHARGED IN THE INFORMATION IN THE AFORESAID 8 CASES AS DEFINED AND PENALIZED UNDER ARTICLE 315 FIRST PARAGRAPH IN RELATION TO NO. 2[A] OF THE SAME ARTICLE.

We shall discuss the interrelated issues together.

Under Article 13(b) of the Labor Code, recruitment and placement refer to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and include 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 or placement.

The essential elements of the crime of illegal recruitment in large scale are (1) the accused engages in acts of recruitment and placement of workers defined under Article 13(b) or in any prohibited activities under Article 34 of the Labor Code; (2) the accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of a license or an authority to recruit and deploy workers, either locally or overseas; and (3) the accused commits the unlawful acts against three or more persons, individually or as a group.^[56] When illegal recruitment is committed in large scale or when it is committed by a syndicate, *i.e.*, if it is carried out by a group of three or more persons conspiring and/or confederating with one another, it is considered as an offense involving economic sabotage.

The factual backdrop shows that appellants engaged in recruitment activities involving eight persons. The recruitment activities were made by appellants without having the license or authority to do so as evidenced by the certification issued by Legal Officer of the POEA Regional Extension Unit, Cordillera Administrative Region, which stated that Alona Buli-e, Hilario Antonio,^[57] Josie Alolino and Jose Alolino were not licensed nor authorized to recruit workers for overseas employment in the City of Baguio or in any part of the region.^[58]

Appellant Buli-e herself does not deny that she had no license or authority to recruit workers for overseas employment. She, however, insists that she had never directly participated in recruiting complainants since it was in fact complainants who sought her help in applying for overseas employment. Buli-e explained that she merely referred complainants to the spouses Alolino whom she honestly believed to be *bona fide* overseas job recruiters and, since she, herself, had intentions of applying for overseas work, she tagged along with complainants to Manila to see the spouses Alolino. Inasmuch as she and complainants were all from Baguio City, complainants allegedly designated her to conduct all negotiations and follow up of their applications with the spouses.

Buli-es claim deserves scant consideration. It is true that Buli-e did not actively seek complainants to recruit them for overseas employment. It was complainants who sought her out. Nevertheless, when complainants approached her, Buli-e gave complainants the impression that she had the ability to send workers abroad by saying that although she did not have a license of her own to recruit, her boss, who was a licensed recruiter, was already in the process of securing her a license.^[60] She not only informed complainants of the requirements in applying for overseas employment and even accompanied them to Manila to procure the necessary documents such as passport, medical and NBI clearances.^[60] It was she who brought them to the house of the spouses Alolino and it was also she who received from complainants advanced payments for placement fee which she handed over to the spouses. Her claim that she and her relatives were also victims of illegal recruitment by the spouses Alolino is not substantiated.

We also find no reason to disturb the findings of the trial court that Josefina Alolino conspired and confederated with Buli-e in recruiting applicants for overseas employment from Baguio City although neither she nor Buli-e had license or authority to do so. Her claim that she did not have a direct participation in the recruitment in Baguio City and that she merely assisted the complainants by referring them to RSI to facilitate their papers does not merit credence. There is no showing that complainants ever set foot in the RSI office. They were always brought by Buli-e to the house of the spouses Alolino in Las Piñas after their medical check up. Complainants, who were with other applicants, were entertained and generously fed breakfast or dinner by one or both of the spouses who assured them that they would be able to fly to Taiwan in just a matter of months.^[61] Although Josefina alleged that the documents and payments were handed by Buli-e to the RSI office, Josefina could show no proof to substantiate her claim. It is significant to note that after the informations for illegal recruitment and eight counts of estafa were already filed in court, some of the complainants were given a refund of their advances for the placement fees by Josefina herself, through counsel, and not by RSI.

Josefinas acts clearly show that she and Buli-e acted in concert towards the accomplishment of a common felonious purpose which was to recruit workers for overseas employment even though they had no license to do so. Settled is the rule that if it is proved that two or more persons, aimed, by their acts, at the accomplishment of the same unlawful object, each doing a part so that their acts, although apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, a conspiracy may be inferred even though no actual meeting between or among them to coordinate ways and means is proved.^[62]

Josefina, however, maintains that as Overseas Marketing Director for RSI, she was authorized to solicit applicants for overseas placement through advertisements, referrals, walk-ins, etc. and to undertake screening, evaluation and final selection of applicants.

Apart from her bare testimony, there is nothing on record to corroborate Josefinas claim that as Marketing Director she was authorized to solicit applicants for overseas

placement through advertisements, referrals, walk-ins, etc. Josefina did not bother to formally offer as evidence the document allegedly supporting her claim that part of her duties as Marketing Director included recruitment of overseas contract workers. The document not having been formally offered in court cannot be considered, pursuant to Section 34, Rule 132 of the Rules of Court.

Moreover, the Licensing Branch of the POEA confirmed that the license of RSI had already been suspended on June 8, 1992 and expired on July 14, 1992.^[63] Consequently, even if Josefina was licensed to recruit workers for overseas employment, her authority to do so ceased when the license of her agency, RSI, was suspended and when it eventually expired. Josefina, however, despite the suspension and expiration of the RSI license, continued to engage in recruitment activities for overseas employment. Except for Lampoyas who met Jose Alolino at the latter's house in March 1992, and Mangili and Joseph Oratil who met Jose Alolino in May 1992, complainants were entertained at the house of the Alolinos after the license of RSI had already been suspended. Lampoyas, Macli-ing and Mangili completed the ₱15,000 downpayment of the placement fee after the license of RSI had already been suspended. The rest of complainants gave payments for the placement fee after the license of RSI had already expired.

Furthermore, Josefina's alleged authority to recruit applicants for overseas employment as Marketing Director of RSI was only confined to Metro Manila. Article 29 of the Labor Code provides:

Art. 29. Non-transferability of license or authority No license or authority shall be used directly or indirectly by any person other than the one in whose favor it was issued or at any place other than that stated in the license or authority, nor may such license or authority be transferred, conveyed or assigned to any other person or entity. Any transfer of business address, appointment or designation of any agent or representative including the establishment of additional offices anywhere shall be subject to the prior approval of the Secretary of Labor.

We are not persuaded by Josefina's claim that no recruitment activity was being done outside of the territorial permit of RSI and it was only incidental that complainants who were referred to her by Buli-e were residents of Baguio City. As earlier discussed, there is no indication that complainants ever set foot in the RSI office. They were always brought by Buli-e to Las Piñas, Metro Manila where they were entertained by one or both of the spouses Alolino who repeatedly assured them that they would be able to fly to Taiwan in a matter of months. Josefina, who claims to have authority to recruit applicants for overseas employment in behalf of RSI, should have known that licensed agencies are prohibited from conducting any provincial recruitment, job fairs or recruitment activities of any form outside of the address stated in the license, acknowledged branch or extension office, without securing prior authority from the POEA.^[64] Pursuant to the POEA rules and regulations, Josefina could recruit applicants for overseas employment and process their applications only at the RSI office in Mandaluyong, Metro Manila since there was no showing that RSI had an acknowledged branch or extension office in Baguio City or that the prior approval of the

POEA for provincial recruitment or recruitment activities outside the RSI office was obtained.

Finally, the trial court did not err in finding appellants guilty of eight (8) counts of estafa. It is settled that a person convicted of illegal recruitment under the Labor Code can also be convicted of violation of the Revised Penal Code provisions on estafa provided that the elements of the crime are present.^[65] 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.^[66]

Appellants deceived complainants into believing that they had the authority and capability to send them to Taiwan for employment. By reason or on the strength of such assurance, complainants parted with their money in payment of the placement fees. Since the representations of appellants proved to be false, paragraph 2(a), Article 315 of the Revised Penal Code is applicable. Buli-es claim that she did not benefit from the money collected from complainants since she gave the payments to Josefina is of no moment. It was clearly established that she acted in connivance with Josefina in defrauding complainants. As regards Josefina, the fact that she returned the payment of some of the complainants will not exculpate her from criminal liability. Criminal liability for estafa is not affected by compromise or novation, for it is a public offense which must be prosecuted and punished by the government on its own motion even though complete reparation has been made of the damage suffered by the offended party.^[67]

The actual damages in the sum of ₱15,000 awarded to each of complainants Fias-eo and Mangili, however, should be deleted inasmuch as said amounts have already been reimbursed by Josefina during her detention.

WHEREFORE, the decision of the Regional Trial Court of Baguio City, Branch 15, is **AFFIRMED** with the **MODIFICATION** that the actual damages awarded to Fias-eo and Mangili in Criminal Cases Nos. 11125-R and 11126-R are deleted. Costs *de officio*.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Carpio, JJ., concur.

^[1] Vol. I Records, p. 1.

^[2] All complainants, except for Lampoyas, gave Buli-e the total sum of ₱15,000 each as downpayment for the placement fee. Lampoyas gave Buli-e a total of ₱14,000 as downpayment.

^[3] Records, Criminal Case No. 1123-R, p. 1.

^[4] TSN, October 11, 1993, p. 3.

^[5] TSN, November 19, 1993, p 5; TSN, March 15, 1994, p. 3.

^[6] TSN, September 16, 1993, p. 4.

^[7] TSN, September 30, 1993, p. 5; October 15, 1993, p. 3.

- [8] TSN, September 3, 1993, p. 13.
- [9] TSN, August 26, 1993, pp. 4-5.
- [10] TSN, September 17, 1993, pp. 15-16; TSN, October 1, 1993, p. 19.
- [11] Identified by Buli-e to complainant Mangili as a retired general named Felipe Alolino; TSN, September 17, 1993, p. 13; TSN, October 15, 1993, pp. 40-41.
- [12] TSN, October 14, 1993, p. 5.
- [13] TSN, October 11, 1993, pp. 7-8; TSN, October 14, 1993, p. 6.
- [14] TSN, October 11, 1993, p. 11; TSN, October 14, 1993, p. 6.
- [15] TSN, October 11, 1993, p. 14.
- [16] TSN, September 16, 1993, p. 5; TSN, November 19, 1993, p. 12.
- [17] TSN, September 3, 1993, pp. 17-18.
- [18] TSN, September 30, 1993, pp. 10-11; TSN, October 15, 1993, pp. 9-11.
- [19] TSN, August 26, 1993, p. 15; TSN, September 3, 1993, pp. 38-39; TSN, September 16, 1993, p. 8.
- [20] TSN, September 16, 1993, pp. 14-15.
- [21] TSN, August 26, 1993, pp. 16-17; TSN, October 14, 1993, pp. 9-11.
- [22] TSN, September 3, 1993, pp. 3-4.
- [23] TSN, September 30, 1993, p. 12; TSN, October 15, 1993, pp. 15-16.
- [24] TSN, September 30, 1993, pp. 13-15.
- [25] Exhibits CC, D, HH, II, J, K, O, X, Y, Folder of Exhibits.
- [26] TSN, September 16, 1993, pp. 11-12.
- [27] TSN, November 19, 1993, pp. 9, 17.
- [28] TSN, October 15, 1993, p. 7.
- [29] TSN, August 26, 1993, p. 6. The receipt which was marked as Exhibit D, however, shows that Fias-eo gave Buli-e ₱15,000 on July 3, 1992.
- [30] TSN, October 11, 1993, pp. 6-7.
- [31] TSN, September 3, 1993, pp. 24-25.
- [32] TSN, September 30, 1993, p. 15.
- [33] TSN, August 26, 1993, pp. 42- 43.
- [34] TSN, September 17, 1993, pp. 9-10, 19.
- [35] TSN, August 19, 1994, pp. 21-22.
- [36] TSN, August 19, 1994, pp. 15, 17-18.
- [37] TSN, August 16, 1994, p. 9.
- [38] TSN, August 19, 1994, pp. 25-26.
- [39] TSN, October 24, 1994, p. 18.
- [40] TSN, August 17, 1994, p. 17

- [41] TSN, August 17, 1994, pp. 22-23.
- [42] TSN, October 25, 1994, pp. 2-3.
- [43] TSN, October 25, 1994, pp. 3-5.
- [44] TSN, October 25, 1994, pp. 6-7, 9.
- [45] TSN, November 11, 1994, p. 10.
- [46] TSN, December 7, 1994, p. 7.
- [47] TSN, November 11, 1994, pp. 11-17.
- [48] TSN, November 11, 1994 p. 19.
- [49] TSN, December 7, 1994, pp. 19-21.
- [50] TSN, November 24, 1994, pp. 20-22.
- [51] TSN, November 24, 1994, pp. 24-26.
- [52] TSN, January 11, 1995, pp. 10-11.
- [53] TSN, January 11, 1995, pp. 7-9.
- [54] Rollo, p. 100.
- [55] Complainant Lampoyas gave a total of ₱14,000 to Buli-e as downpayment.
- [56] *People v. Ladera*, 344 SCRA 647, 657 [2000]; *People v. Chowdury*, 325 SCRA 572, 581 [2000]
- [57] Hilario Antonio is the common-law spouse of appellant Buli-e. Although initially included as respondent, the prosecutor recommended the dismissal of charges against him during the preliminary investigation for want of probable cause. The prosecutor stated that there was no sufficient evidence to prove that Hilario had in any way participated in the transactions entered into between complainants and appellants including Jose Alolino. Vol. I, Records, p. 5.
- [58] Exhibit A, Folder of Exhibits.
- [59] TSN, October 1, 1993, p. 19.
- [60] TSN, October 15, 1993, pp. 33-34.
- [61] TSN, September 16, 1993, pp.7-8; TSN, March 15, 1994, pp. 10-11.
- [62] *People v. Mateo*, 179 SCRA 303, 320 [1989].
- [63] Exhibit C, Folder of Exhibits.
- [64] POEA Implementing Rules and Regulations, Book II, Rule II, Section 16.
- [65] *People v. Banzales*, 336 SCRA 64, 77 [2000]; *People v. Ong*, 322 SCRA 38, 56 [2000]
- [66] Article 315, par 2[a], Revised Penal Code.
- [67] *People v. Moreno*, 314 SCRA 556, 566 [1999], citing *People v. Benitez*, 108 Phil. 920, 922 [1960].