

SECOND DIVISION

[G.R. Nos. 149014-16. February 5, 2004]

**PEOPLE OF THE PHILIPPINES, *appellee*, vs. ROSE DUJUA (at large); EDITHA S. SING (at large); GUILLERMO WILLY SAMSON (at large); RAMON SAMSON DUJUA, *accused*,
RAMON SAMSON DUJUA, *appellant*.**

DECISION

TINGA, J.:

Ramon Dujua appeals from the decision of the Regional Trial Court (RTC of Manila, Branch 51), finding him guilty of Illegal Recruitment in Large Scale and of two counts of estafa.

Ramon, his mother Rose Dujua, his aunt Editha Singh, and his uncle Guillermo Willy Samson were charged in Criminal Case No. 92-108910, with Illegal Recruitment in Large Scale in an *Information* alleging

That in or about and during the period comprised between August, 1991 and March 14, 1992, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, being then private individuals and representing themselves 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/job placement to the following applicants, namely: Jaime Cabus y Co, Beldon S. Caluten, Fernando P. Cunanan, Paulino B. Correa, Martin D. Nacion, Romulo Partos y Tuangco, Jesus B. Briagas, Arturo Torres, Roberto A. Perlas, Ronald Alvarez and Vivencio L. Batiquin without first having secured the required license or authority from the Department of Labor as required by law.

CONTRARY TO LAW.^[1]

The four were also charged in Criminal Case Nos. 92-108912 and 92-108920 with separate counts of estafa committed against Roberto Perlas and Jaime Cabus. Except for the date of the commission, the name of the victim, and the amount involved, the two *Informations* in the estafa cases make similar allegations against the accused. The *Information* in Criminal Case No. 92-108912 states:

That on or about October 28, 1991, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously defraud Roberto A. Perlas in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which they made to said Roberto A. Perlas to the effect that they had the power and capacity to recruit and employ him abroad 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 Roberto A. Perlas to give and deliver, as in fact gave and delivered to said accused the amount of P17,000.00 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 they did obtain the amount of ₱17,000.00 which amount once in possession, with intent to defraud they, willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Roberto A. Perlas in the aforesaid amount of ₱17,000.00, Philippine currency.

CONTRARY TO LAW.^[2]

That in Criminal Case No. 92-108920 reads:

That in or about and during the comprised [period] between October 1991 and March 14, 1992, inclusive, in the City of Manila, Philippines, the said accused conspiring and confederating together and helping one another did then and there willfully, unlawfully and feloniously defraud Jaime Cabus y Co in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which they made to said Jaime Cabus y Co to the effect that they had the power and capacity to recruit and employ him abroad 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 Jaime Cabus y Co to give and deliver, as in fact he gave and delivered to said accused the amount of ₱47,000.00 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 they did obtain the amount of ₱47,000.00 which amount once in possession, with intent to defraud they, willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Jaime Cabus y Co in the aforesaid amount of ₱47,000.00, Philippine currency.

CONTRARY TO LAW.^[3]

Of the four accused, only Ramon Dujua was arrested and arraigned. His mother, aunt and uncle remain at large. Ramon entered a plea of not guilty to each of the charges, whereupon trial commenced. While the *Information* for illegal recruitment named several persons as having been promised jobs by the accused, only four of them testified.

In August 1991, private complainant Beldon Caluten, accompanied by his cousin, went to the accuseds office, the World Pack Travel and Tours located in Suite 28, Manila Midtown Arcade, Adriatico Street, Ermita, Manila.^[4] Upon Beldons inquiry, Ramon Dujua said that he sends applicants abroad and gave Beldon an application form. Beldon filled up the form and submitted it to Ramon, who told him that he must pay a processing fee and make an advance payment.^[5]

Beldon was promised work as a factory worker in Japan.^[6] On August 15, 1991, he paid Ramon the processing fee of ₱1,000.00 and, the next day, an advance payment of ₱10,000.00.^[7] Beldon paid Ramon an additional ₱15,000.00 on August 21, 1991 as placement fee.^[8] For these payments, Beldon was issued receipts^[9] signed by Ramons mother Rose Dujua.^[10] On the last week of August 1991, Beldon gave another ₱10,000.00 to Benita Valdes, another applicant in the accuseds office, but no receipt was issued for the amount.^[11] Finally, Beldon gave ₱41,000.00 to Rose Dujua but when Beldon asked for a receipt for the latter payment, Rose said she already gave him one.^[12]

When, despite such payments, the promise to send Beldon to work in Japan remained unfulfilled, Beldon asked Ramon to give him back his money.^[13] Beldon never recovered his payments, however, prompting him and his fellow applicants to file a complaint at the National Bureau of Investigation (NBI).^[14]

Private complainant Jaime Cabus was introduced to Ramon on the first week of October 1991 by Jaimes neighbor who worked in front of the accuseds office.^[15] Ramon said they were deploying workers to Taiwan and that if Jaime could afford the placement fee of ₱45,000.00, plus the passport and processing fee, he could leave for Taiwan in a few weeks.^[16]

The following day, Jaime gave Ramon ₱2,000.00 at the latters office, the World Pack Travel and Tours at Suite 28, Manila Midtown Arcade, Adriatico St., Ermita, Manila, for the processing of his passport.^[17] Jaime was not issued a receipt for his payment but was assured that the passports processing would take just two days.^[18] Indeed, Jaime was able to see his passport.^[19]

In the latter part of October 1991, Jaime paid ₱10,000.00 as down payment for the placement fee.^[20] Jaime gave Ramon the sum inside the accuseds office.^[21] On March 16, 1994, when they were about to leave for the airport Jaime handed Rose ₱47,000.00 representing the balance of the placement fee.^[22]

At the airport, Ramon told Jaime that the tickets were still being processed.^[23] Feeling that his and the other thirty applicants flight would not push through, Jaime asked for a refund. Ramon and his mother refused to pay him back^[24] because the money was supposedly going to be used in the processing of their tickets.^[25] Rose assured him, though, that they would be able to leave the following day.^[26]

The flight and the job never materialized, however, so after a week Jaime decided to file a complaint with the NBI.^[27]

Another complainant, Roberto Perlas, was introduced to Ramon Dujua by his *compadre*, complainant Jaime Cabus, in the first week of October 1991.^[28] Roberto went to the accuseds office at Midtown Plaza in Ermita to apply for a job abroad.^[29] Ramon told him that they were deploying factory workers to Taiwan.^[30]

Convinced, Roberto accomplished the bio-data form given by Ramon.^[31] Roberto also paid a total of ₱30,000.00 as placement fee.^[32] On separate occasions, Roberto gave Ramon ₱7,000.00 and ₱10,000.00, for which he was issued the corresponding receipts by Rose Dujua.^[33] The balance of the ₱30,000.00 he later gave to Rose, who did not issue a receipt therefor because at the time a lot of people were milling about.^[34]

Notwithstanding payment, Roberto was not able to leave for Taiwan.^[35] Rose and Ramon kept on telling him that he would leave the following day but Roberto waited in vain.^[36] The money he gave was never refunded.^[37] Finally, he decided to file a complaint against the accused.^[38]

In August 1991, private complainant Romulo Partos was introduced to Ramon Dujua at the latters office at the World Pack Travel and Tours in the Manila Midtown Arcade, Adriatico St., Manila, by one Baby Ramos.^[39] Baby, like Romulo, was an applicant for deployment to Taiwan.^[40] Ramon told Romulo about the work in Taiwan and in Japan. Ramon said that Romulo would get the job he was applying for and leave within a week if he paid ₱45,000.00.

Romulo and his wife Melodea Villanueva then decided that Romulo would withdraw his application and that Melodea would be the one to leave for abroad.^[41] The amount of ₱45,000.00 that Romulo was supposed to pay was changed to ₱25,000.00, payable upon application.^[42] Romulo also had to pay ₱50,000.00 upon the release of the visa and another ₱75,000.00 upon departure.^[43]

Romulo paid Ramon ₱18,000.00 for his wifes application, and Rose Dujua issued the corresponding receipt.^[44] Subsequently, Romulo gave another ₱7,000.00 to complete the required ₱25,000.00.^[45] No receipt was issued for the latter payment.^[46]

Romulos wife raised another ₱50,000.00, which was given to Rose, for her Japanese visa.^[47] As nothing came about of the employment promised, Romulo decided to file a complaint with the NBI.^[48]

The prosecution also presented a Certification^[49] dated March 27, 1998, issued by Hermogenes C. Mateo, Director II, Licensing Branch of the POEA, stating that Ramon Dujua is not licensed or authorized by the POEA to recruit workers abroad. Another Certification,^[50] of even date shows that neither is the World Pack Travel and Tours authorized to recruit workers abroad.

The accused Ramon Dujua admitted having met private complainants^[51] but denied that he was a recruiter.^[52] He claimed that he was a mere janitor, messenger and errand boy of the World Pack Travel and Tours, where he worked from October 28, 1991 up to June 20, 1992.^[53] The company is owned by his aunt, Editha Singh, and managed by his mother Rose Dujua.^[54]

While admitting that he did not have a license to recruit,^[55] Ramon acknowledged receiving the money given by complainants but denied knowing what it was for.^[56] He said, however, that his mother only asked him to count the money.^[57] He further maintained that he did not sign any receipt relative to the payments made by private complainants.^[58] The accused claimed that he was being charged only because complainants were angry with his mother.^[59]

Zenaida Perez, who used to work for World Pack Travel and Tours, corroborated Ramons claim that he was a janitor/messenger in said office.^[60]

On February 28, 2001, the RTC rendered its *Decision* convicting Ramon Dujua of illegal recruitment in large scale, committed against Jaime Cabus, Beldon Caluten and Roberto Perlas, and of two counts of estafa, committed against Cabus and Perlas. The dispositive portion of the RTC *Decision* reads:

WHEREFORE, the Court, finding the accused Ramon Dujua guilty beyond reasonable doubt of the offense in Criminal Case 92-108910 which is for Illegal Recruitment for Violation of Art. 38 (a and b) in relation to Art. 39 of PD 442, as amended by PD 1412 and further amended by PD 1920 and PD 2018, hereby sentences him to suffer the penalty of life imprisonment and to pay fine in the amount of ₱100,000.00. He is further ordered to pay the private complainants a) Jaime Cabus the amount of ₱47,000.00; b) Benton [*sic*] C. Caluten the amount of ₱26,000.00; and c) Roberto Perlas the amount of ₱17,000.00. In so far as Romulo Partos is concerned, his case is dismissed. With costs.

With respect to Criminal Case No. 92-108912 and Criminal Case No. 92-108920 involving private complainants Roberto Perlas and Jaime Cabus, respectively, the Court, finding the accused Ramon Dujua guilty beyond reasonable doubt of the crime charged which is for Estafa, hereby sentences him to suffer the indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of prision correccional as minimum to four (4) years and two (2) months of prision correccional as maximum for each of the cases. Considering that the accused had been ordered to pay private complainant Roberto Perlas the amount of ₱17,000.00 and private complainant Jaime Cabus the amount of ₱47,000.00 in Criminal Case No. 92-108910 for Illegal Recruitment they should not be awarded again the said amounts in these Estafa cases. With costs.

Considering that the accused Ramon Dujua is a detention prisoner, he shall be credited in the service of his sentence with the full time during which he has undergone preventive imprisonment.

As against accused Rose Dujua, Editha S. Sing [*sic*] and Guillermo Willy Samson who remained at-large, their cases were archived [*sic*] (Order dated November 23, 1992).

SO ORDERED.^[61]

Seeking the reversal of his conviction, Ramon Dujua contends that the prosecution failed to prove beyond reasonable doubt that he committed the crimes of illegal recruitment in large scale and estafa.

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 Art. 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.^[62]

All three elements have been established beyond reasonable doubt.

First, the testimonies of the complaining witnesses satisfactorily prove that appellant promised them employment and assured them placement overseas. Complainants were firm and categorical. All of them positively identified appellant as the person who recruited them for employment abroad. Their testimonies dovetail each other on material points. There is no adequate showing that any of them was impelled by any ill motive to testify against appellant. Their testimonies were straightforward, credible and convincing. As against the positive and categorical testimonies of the three complainants, appellants mere denials cannot prevail.^[63]

It is irrelevant whether or not complainants claims are supported by receipts. The absence of receipts in a case for illegal recruitment does not warrant the acquittal of the appellant and is not fatal to the prosecutions case. As long as the prosecution is able to establish through credible testimonial evidence that the appellant has engaged in Illegal Recruitment, a conviction for the offense can very well be justified.^[64]

Second, appellant did not have any license or authority to recruit persons for overseas work, as shown by the Certification issued by the POEA. Neither did his employer, the World Pack Travel and Tours, possess such license or authority.

Third, it bears clarifying that although Romulo Portos was named as among those recruited by appellant the evidence reveals that Romulo withdrew his application in lieu of which his wife Melodea Villanueva applied for placement with appellant. Villanueva, however, is not named as one of appellants victims.

Nevertheless, it has been alleged and proven that appellant undertook the recruitment of not less than three persons, namely, Cabus, Caluten and Perlas.

The RTC, therefore, aptly meted upon appellant the penalty of life imprisonment and to pay a fine of ₱100,000.00, in accordance with Article 39(a) of the Labor Code.

The following elements of estafa, as defined by Article 315 (2) (a) are also present in this case, to wit: (1) the accused has defrauded the offended party by means of abuse of confidence or by deceit; and (2) as a result, damage or prejudice, which is capable of pecuniary estimation, is caused to the offended party or third person. Appellant misrepresented himself to Jaime Cabus and Roberto Perlas as one who can make arrangements for job placements in Taiwan and Japan and, by reason of such misrepresentations, the two complainants were induced to part with their money, causing them damage.

The RTC, however, erred in imposing upon appellant, for each count of estafa, the penalty of two (2) years, eleven (11) months and eleven (11) days of *prision correccional*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum. Article 315 of the Revised Penal Code provides that:

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 but does not exceed 22,000 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such 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*, as the case may be.

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions; or by means of other similar deceits.

In Criminal Case No. 92-108920, the prosecution alleged and proved that appellant defrauded complainant Jaime Cabus in the amount of ₱47,000.00, which exceeds the sum of ₱22,000.00. Thus, the penalty prescribed, i.e., *prision correccional* in its maximum period (4 years, 2 months and 1 day to 6 years) to *prision mayor* in its minimum period (6 years and 1 day to 8 years), shall be imposed in its maximum period.

The penalty prescribed by Article 315, however, is composed of only two, not three, periods, in which case Article 65 of the Revised Penal Code requires the division into three equal portions the time included in the penalty, forming one period of each of the three portions. Applying this provision, the minimum, medium and maximum periods of the penalty prescribed are:

Maximum - 6 years, 8 months, 21 days to 8 years

Medium - 5 years, 5 months, 11 days to 6 years, 8 months, 20 days

Minimum - 4 years, 2 months, 1 day to 5 years, 5 months, 10 days

Thus, the maximum period is 6 years, 8 months and 21 days to 8 years.

Article 315 further states that one year shall be added for each additional ₱10,000.00 defrauded in excess of ₱22,000.00. The amount defrauded, ₱47,000.00, less ₱22,000.00 is ₱25,000.00, or two additional amounts of ₱10,000.00. These two years shall be added to the maximum period of 6 years, 8 months and 21 days to 8 years of *prision mayor* for a total of 8 years, 8 months and 21 days to 10 years of *prision mayor*.

In imposing a prison sentence for an offense punished by the Revised Penal Code, the Indeterminate Sentence Law requires courts to impose upon the accused an indeterminate sentence.^[65] The maximum term thereof shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code.^[66] In this case, such maximum term is within the period of 8 years, 8 months and 21 days to 10 years of *prision mayor*.

On the other hand, the minimum term shall be within the range of the penalty next lower to that prescribed by the Code for the offense.^[67] The penalty next lower to that prescribed by Article 315 is *prision correccional* in its minimum period (6 months, 1 day to 2 years and 4 months) to *prision correccional* in its medium period (2 years, 4 months and 1 day to 4 years and 2 months).

Thus, the Court sentences appellant, for the crime of estafa committed against private complainant Cabus, to a minimum period of four (4) years of *prision correccional* to a maximum period of nine (9) years of *prision mayor*.

In Criminal Case No. 92-108912, appellant was charged and proven to have defrauded private complainant Perlas in the amount of ₱17,000.00. Thus, the penalty prescribed shall be imposed in its medium period, or 5 years, 5 months, 11 days to 6 years, 8 months, 20 days, as the amount defrauded does not exceed ₱22,000.00 and as no aggravating or mitigating circumstances are present. From this period shall be taken the maximum term for purposes of the Indeterminate Sentence Law.

As in the case of the estafa committed against Cabus, the minimum shall be within the range of *prision correccional* in its minimum period to *prision correccional* in its medium period.

Accordingly, the Court sentences appellant, for the estafa committed against private complainant Perlas, to a minimum period of four (4) years of *prision correccional* to a maximum period of seven (7) years of *prision mayor*.

WHEREFORE, the decision of the court *a quo* finding appellant Ramon Samson Dujua guilty beyond reasonable doubt of Illegal Recruitment in Large Scale and Estafa is AFFIRMED with the following modifications:

In Criminal Case No. 92-108912 for estafa involving private complainant Roberto Perlas, the Court sentences appellant Ramon Samson Dujua to suffer a minimum period of four (4) years of *prision correccional* to a maximum period of seven (7) years of *prision mayor*.

In Criminal Case No. 92-108920, for estafa, involving private complainant Jaime Cabus, the Court sentences appellant Ramon Samson Dujua to suffer a minimum period of four (4) years of *prision correccional* to a maximum period of nine (9) years of *prision mayor*.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

^[1] Records, p. 2.

^[2] *Id.*, at 44.

^[3] *Id.*, at 100.

^[4] TSN, February 17, 1998, pp. 3-5.

^[6] *Id.*, at 5-6.

^[6] *Id.*, at 12.

^[7] *Id.*, at 6-9.

^[8] *Id.*, at 10.

^[9] Exhibits A to C.

^[10] Records, pp. 7-11.

^[11] *Id.*, at 11.

^[12] *Id.*, at 12.

^[13] *Id.*, at 12-13.

^[14] *Id.*, at 13.

^[15] TSN, March 5, 1998, p. 3.

^[16] *Id.*, at 3-4.

^[17] *Id.*, at 4-5.

^[18] *Id.*, at 5.

^[19] *Id.*, at 5-6.

^[20] *Id.*, at 6.

^[21] *Ibid.*

^[22] *Id.*, at 7.

^[23] TSN, March 5, 1998, p. 8.

^[24] *Ibid.*

^[25] TSN, March 5, 1998, p. 18.

^[26] *Id.*, at 19.

^[27] *Ibid.*

^[28] TSN, March 5, 1998, p. 23.

^[29] *Id.*, at 24.

^[30] *Id.*, at 24, 29.

^[31] *Id.*, at 24-25.

^[32] *Id.*, at 25.

^[33] *Id.*, at 25-28.

^[34] *Id.*, at 28.

^[35] *Id.*, at 29.

^[36] *Id.*, at 29-30.

^[37] *Id.*, at 30.

^[38] *Ibid.*

^[39] TSN, March 5, 1998, p. 35.

^[40] *Ibid.*

^[41] TSN, March 5, 1998, p. 36, 41.

^[42] *Id.*, at 37.

^[43] *Ibid.*

^[44] TSN, March 5, 1998, pp. 37-38. Exhibit G.

^[45] *Id.*, at 39.

^[46] *Id.*, at 43.

^[47] *Id.*, at 39.

^[48] *Id.*, at 40.

^[49] Exhibit H.

^[50] Exhibit I.

^[51] TSN, August 31, 1999, p. 5; TSN, February 3, 2000, p. 4.

^[52] *Id.*, at 7.

^[53] TSN, August 31, 1999, p. 4; TSN, February 3, 2000, p. 6.

^[54] *Id.*, at 4-5; *id.*, at 3.

^[55] *Id.*, at 7.

^[56] TSN, February 3, 2000, pp. 4-5.

^[57] *Id.*, at 5.

^[58] TSN, August 31, 1999, p. 6.

^[59] TSN, February 3, 2000, p. 7.

^[60] TSN, April 6, 2000, p.4.

^[61] Records, pp. 435-436.

^[62] *People v. Sanchez*, 353 Phil. 536 (1998).

^[63] *People v. Mercado*, 364 Phil. 148 (1999); *People v. Ong*, 379 Phil. 47 (2000).

^[64] *People v. Saley*, 353 Phil. 897 (1998).

^[65] ACT 4103, as amended, sec. 1.

^[66] *Ibid.*

^[67] *Ibid.*