

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. Nos. 114967-68 January 26, 2004

PEOPLE OF THE PHILIPPINES, Appellee,
vs.
CRISPIN BILLABER y MATBANUA, Appellant.

D E C I S I O N

TINGA, J.:

Convicted of illegal recruitment in large scale and estafa, Crispin Billaber y Matbanua appeals the decision of Branch 18 of the Regional Trial Court of Manila.

The Information in Criminal Case No. 92-108577, charging the accused with illegal recruitment in large scale reads, as follows:

That on or about and during the period comprised between May 3, 1992 and June 16, 1992, inclusive, in the City of Manila, Philippines, the said accused, representing himself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully, unlawfully, for a fee, recruit, and promise employment/job placement to the following persons, namely: Raul Durano y Juabal, Elizabeth Genteroy y Evangelista and Tesita Onza y Paala without first having secured the required license or authority from the Department of Labor.

CONTRARY TO LAW.¹

That in Criminal Case No. 92-108578 for the crime of estafa reads:

That on or about May 3, 1992, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously defraud Raul Durano y Juabal in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which he made to said Raul Durano y Juabal to the effect that he had the power and capacity to recruit and employ said Raul Durano y Juabal and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of similar deceits, induced and succeeded in inducing said Raul Durano y Juabal to give and deliver, as in fact he gave and delivered to said accused the amount of P18,000.00 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 he did obtain the amount of P18,000.00 which amount once in his possession, with intent to defraud, he willfully, unlawfully and feloniously misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of said Raul Durano y Juabal in the aforesaid amount of P18,000.00 Philippine Currency.

CONTRARY TO LAW.²

Upon arraignment on 6 October 1992, the accused pleaded "not guilty" to the crimes charged.³ Joint trial ensued thereafter.

The prosecution presented as witnesses, private complainants Elizabeth Genteroy, Raul Durano and Tersina⁴Onza, as well as police investigator PO2 Venerando R. Miñas. The evidence offered by the prosecution established the following facts.

Sometime in April 1992, private complainant Elizabeth Genteroy, a public school teacher, was introduced to accused Crispin Billaber by her friends, Laarni Nova and Olivia Montemayor, at the office of Kingly Commodities in Makati.⁵ The accused told Genteroy that he could help her acquire the necessary papers and find her a job as a seamstress in the United States for a fee of P40,000.00.⁶ The accused also informed Genteroy that he was in need of someone who was willing to work as a driver in the US.⁷

Sometime in the same month, Genteroy introduced the accused to private complainant Raul Durano somewhere in Makati.⁸ The accused offered Durano a job as his (the accused's) personal driver in the US. The accused charged Durano a fee of P18,000.00 for the processing of his papers.⁹ The accused further assured Durano that he would be able to leave for the US within one month.¹⁰

On 3 May 1992, at about 7:00 p.m., Durano paid the accused P18,000.00 at Minims Restaurant at the corner of Taft Avenue and U.N. Avenue, Manila.¹¹ Durano asked for a receipt, but the accused said it was not necessary since they will leave together within a month.¹²

On 4 May 1992, at about 7:00 p.m., private complainant Genteroy also paid the accused P10,000.00 in Jollibee, Tayuman Branch at the corner of Rizal Avenue, Sta. Cruz, Manila.¹³ The accused said that the amount would be used to secure the pertinent papers, like a passport, visa and the ticket.¹⁴ The accused likewise told Genteroy that she may give the balance of P30,000.00 at the airport, or she could settle the amount in the US.¹⁵ Like Durano, Genteroy requested a receipt, but the accused declined and assured her that she, together with the group and the accused, will be leaving together¹⁶ on the 3rd week of June 1992.¹⁷ The departure date was subsequently re-set to 23 July 1992¹⁸ because there were others who wanted to join them.¹⁹

Meanwhile, sometime in the first week of June 1992, Genteroy introduced the accused to private complainant Tersina Onza, a seamstress, at the office of Kingly Commodities.²⁰ The accused asked Onza if she was interested in managing a dress shop that the accused was to put up in California.²¹ For a fee of P10,000.00, the accused would process Onza's passport and other papers.²² Onza accepted the accused's offer.²³

On 16 June 1992, Onza received a phone call from the accused telling her that he needed the P10,000.00 because he "will catch up the time" so she could leave with them for the US on the 23rd of July.²⁴ That evening, at about 8:30, Onza gave P10,000.00 to the accused in front of Jollibee, at the corner of Avenida and Tayuman Streets, Manila.²⁵ Just like with the other private complainants, the accused, despite demand, did not issue Onza a receipt.²⁶ He assured her that it was not necessary since they would be leaving together with him on 23 July 1992.²⁷

Thereafter, the accused instructed the three private complainants, Genteroy, Durano and Onza, to meet him on 23 July 1992 at the airport, where he would bring them their travel papers.²⁸ The three private complainants, including others also allegedly recruited by the accused, did as they were told and waited at the airport on the date specified.²⁹ The accused, however, failed to show up at the airport.³⁰

On 25 July 1992, Durano chanced upon the accused at the canteen of Emilio Aguinaldo College in Manila.³¹ A commotion ensued when Durano tried to stop the accused from leaving the canteen.³² A police officer who happened to be taking a snack at the canteen brought both Durano and the accused to the United Nations Station of the Western Police District (WPD) for investigation.³³

The prosecution also offered in evidence a Certification,³⁴ dated 28 July 1992, from the Philippine Overseas Employment Administration (POEA) stating that the accused was not licensed or authorized to recruit workers for overseas employment.

The accused, the sole witness for the defense, is a resident of Honolulu, Hawaii.³⁵ He described himself as a part-time travel agent³⁶ who came to the Philippines to put up a travel agency.³⁷ He failed in that venture, however, because he did not have any money.³⁸

The accused denied receiving any money from private complainants,³⁹ who were merely his acquaintances.⁴⁰ He said that he did not receive any money from private complainant Tersina Onza, who purportedly handed her payment to private complainant Raul Durano.⁴¹ Durano allegedly misled Onza into believing that he (Durano) turned over the money to the accused.⁴² The accused further claimed that Durano asked his (Durano's) common law-wife, private complainant Genteroy, to talk to Onza so the latter would file a case against him (the accused).⁴³

Many times before, Durano allegedly had tried to extort money from the accused without success.⁴⁴ Durano even offered to drop the case against him in exchange for money.⁴⁵

The claims of frame-up and extortion notwithstanding, the trial court gave credence to the testimonies of private complainants, which it found "highly credible." On 24 February 1994, the trial court rendered a decision convicting the accused of the crimes charged, as follows:

WHEREFORE, in Criminal Case No. 92-108577, this Court finds the accused, Crispin Billaber y Matbanua, guilty beyond reasonable doubt of the crime of illegal recruitment in large scale and sentences him to suffer the penalty of life imprisonment and to pay a fine of P100,000.00, plus the costs. The accused is further ordered to pay actual damages to the complainants, Raul Durano, Elizabeth Genteroy and Tersina Onza the sums of P18,000.00, P10,000.00 and P10,000.00, respectively, with interest thereon at the legal rate of 6% per annum from the date of filing these criminal cases, July 27, 1992, until the amount shall have been fully paid.

In Criminal Case No. 92-108578, this Court also finds the accused guilty beyond reasonable doubt of the crime of estafa under Article 315, subdivision Nos. 2 and 3, of the Penal Code (as regards Complainant Raul Durano), and sentences him to suffer the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of prision correccional as minimum to five (5) years, five (5) months and eleven (11) days of prision correccional as maximum and to pay the costs.

SO ORDERED.⁴⁶

The accused, now appellant, assigns the following errors:

1. In not taking into consideration that Accused-appellant was picked-up on July 25, 1992, "invited" by police operatives without any warrant at the instance of complainant Tersina Onza, 45 years old, who did not even state the amount allegedly taken or paid by her to Accused-appellant left blank in her statement made before the WPD operatives who stole his watch and wallet containing \$350.00 in cash and P5,250.00 in Philippine currency.
2. Failure to take into consideration the various pleas made by Accused-appellant in asking for WPD police officers that he be afforded the assistance of counsel which was turned down and detained for seventy (70) days when arraigned on October 6, 1992, before the Metropolitan Trial Court, Br. 24, City of Manila, by City Court Judge Aida Rangel Roque.
3. Failure to take into consideration the unnecessary delays in scheduling the pre-trial of a detained American tourist when Judge Aida Roque scheduled the pre-trial on November 12, 1992, exactly 106 days of detention, when the scheduled pre-trial was again moved to December 15, 1992, when all was again reset for December 22, 1992 over the vehement objection of defense counsels for dismissal of the cases for failure to prosecute when the trial was again reset for the fourth time on January 19, 1993, "for lack of material time" over the objection of defense de-oficio counsel as Accused was scheduled to fly back to Hawaii since December 22, 1992, on time for Christmas season.
4. Failure to take into consideration the plight of Accused who had already served sentence and was ordered discharged by RTC Judge David G. Nitafan of Branch 52, Manila, in appealed Crim. Case Nos. 93-125980 and 125981 with complaining witnesses Elizabeth Genteroy and Teresiana Onza, respectively, when the same Judge Nitafan directed the Prison Officer thru the City Jail Warden to discharge from custody Accused Billaber on March 20, 1994, after taking note in his seven-page Order that —

"With the above conclusion, it is clear that the accused had overstayed in jail."

5. The Court further failed to take into consideration that "double jeopardy" exists when Judge P. Laguio, Jr. convicted accused Billaber to life sentence in Criminal Case nos. 92-108577-78 when on April 5, 1994, Judge Laguio, Jr. promulgated the decision convicting accused Billaber without taking into consideration that the other two (2) appealed cases before Judge David G. Nitafan were already dismissed since March 20, 1995. Judge Laguio failed to take "judicial notice" of the March 20, 1994, dismissal order leaving the uncorroborated testimony of complainant Raul Durano.

6. Judge Perfecto AS. Laguio, Jr. committed "falsification" by antedating his decision to February 24, 1994, upon realizing that the accused Billaber was ordered released from the City Jail when he promulgated his "alleged decision" on April 5, 1994, or forty (40) days late — if ever he had the decision prepared as early as February 24, 1994, when he had no valid or plausible reason to delay the promulgation of his very late decision when the case was terminated on November 24, 1993, and submitted for decision when the erring judge took him five (5) months (November 24, 1993 to April 5, 1994) to decide after he had taken "judicial notice" that Judge David G. Nitafan had already dismissed accused Billaber for having "overstayed in jail" in the application of the mandatory provision of article 70 of the Revised Penal Code on simultaneous service of one year in Criminal Case Nos. 286919-20 as promulgated by Judge Aida Rangel Roque of Branch 24, Metropolitan Trial Court, City of Manila, when accused has already served THREE YEARS AND FOUR MOS. from his illegal arrest on July 25, 1992, up to the present – November 15, 1995, deprived of his liberty.

7. The Court a quo erred in holding accused guilty of "illegal recruitment" as charged when only one (1) case of "Estafa" with Raul Durano as complaining witness was well within the competent jurisdiction of Judge Perfecto AS. Laguio, Jr. as the other two "estafa" cases filed by Elizabeth Genteroy and Teresina Onza were already DISMISSED on March 24, 1994, two weeks ahead of the delayed promulgation of the questioned decision of Judge Laguio on April 5, 1994, antedating the same decision to February 24, 1994, and after five (5) months from the time the case was submitted for decision on November 24, 1993.⁴⁷

Appellant contends that the trial court erred in not considering that he was accosted without a warrant on 25 July 1992.

The details of the alleged arrest are sketchy at best. It appears that appellant was brought to the police station, together with private complainant Durano, not because of the present charges but because of the commotion that ensued between the two at the canteen of the Emilio Aguinaldo College.⁴⁸ At the police station, Durano and the two other private complainants then executed statements charging appellant with illegal recruitment and estafa.⁴⁹

Any question, if at all, as to whether there was an actual arrest⁵⁰ or whether, in the commotion, appellant committed, was actually committing, or was attempting to commit an offense,⁵¹ have been rendered moot. Appellant did not allege any irregularity in a motion to quash before entering his plea,⁵² and is therefore deemed to have waived any question of the trial court's jurisdiction over his person.⁵³

Appellant also maintains that he was denied his right to counsel while he was at the police station. Any person under investigation for the commission of an offense has, among other rights, the right to competent and independent counsel preferably of his own choice.⁵⁴ Any confession or admission obtained in violation of this right shall be inadmissible in evidence against the accused.⁵⁵ The allegation that appellant was deprived his right to counsel, even if true, would not alter the outcome of this case for it does not appear that the prosecution offered in court any confession or admission obtained as a consequence of an un-counseled custodial investigation.

The claim that the pre-trial conference and the trial were repeatedly postponed in violation of appellant's right to speedy trial is not supported by the record.

After appellant's arraignment and plea on 6 October 1992, the trial court scheduled the pre-trial conference for 12 November 1992.⁵⁶ On the latter date, the trial court, upon appellant's own instance, issued an Order dispensing with the pre-trial conference.⁵⁷

In the same Order, the trial court set the date for trial on 15 December 1992.⁵⁸ Private complainants, however, failed to appear on said date, prompting the defense to move for the dismissal of the case.⁵⁹ The trial court denied the motion since it was only the first time that the private complainants failed to appear.⁶⁰ The trial court then reset the trial to 22 December 1992, warning that "should the prosecution witnesses fail to appear, [the court] will be constrained to dismiss [the] case... for failure to prosecute."⁶¹

The records further reveal that on 22 December 1992, the court again reset the trial to 19 January 1993, this time with the "agreement of both the prosecution and the defense."⁶²

The prosecution conducted the direct examination of private complainant Raul Durano in the trial of 19 January 1993, but his cross-examination was postponed to 28 January and 2 February 1993 for lack of time.⁶³ Evidently, the trial court had to hear two other cases awaiting trial on the same day.⁶⁴

Over the defense's objection, the hearing of 28 January 1993 was again postponed when private complainants Genteroy and Durano, who were present in court, left because they thought that trial would not push through that morning.⁶⁵

Trial proceeded until 24 November 1993, when the defense rested.⁶⁶ Other than the 30 September 1993 hearing, when the accused asked for postponement because of his counsel's absence,⁶⁷ trial was continuous.

The Constitution mandates that in all criminal prosecutions, the accused shall have a speedy trial.⁶⁸ The right to speedy trial is deemed violated only when the proceedings is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried.⁶⁹

None of these circumstances attended the proceedings below. Only twice did the prosecution fail to present a witness, resulting in the resetting of the trial, once on the private complainants' erroneous belief that the hearing was not going to push through. That the cross-examination of private

complainant Durano on 19 January 1993 had to be postponed because of two other cases pending hearing does not constitute a violation of the accused's right to speedy trial. The parties in said two cases likewise deserve a speedy disposition of their cases⁷⁰ and, understandably, the trial judge had to budget the court's time to accommodate them. All in all, there was actually only one unjustified postponement in the proceedings below, which cannot be described as vexatious, capricious or oppressive.

Appellant next claims that his conviction constituted double jeopardy since these cases were allegedly already dismissed by Branch 52 of the Manila RTC, presided by Judge David Nitafan. Apparently, private complainants Genteroy and Onza filed separate complaints for estafa (MeTC Crim. Case Nos. 286919-20) against appellant prior to the filing of the complaints for estafa by private complainant Durano and for illegal recruitment in large scale by all three. Convicted by the Metropolitan Trial Court (MeTC) of Manila of two counts of estafa and sentenced in each case to one year of prison correccional, the accused appealed to the Manila RTC, Branch 52 (Crim. Case Nos. 93-125980-81). Judge Nitafan ordered the release of the accused on the ground that service of the accused's sentence should be simultaneous and that the accused had served such sentence.

For double jeopardy to exist, three requisites must be present: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as that in the first.⁷¹

The cases before Branch 52 consisted of two counts of estafa committed against Genteroy and Onza. On the other hand, the present cases, which sprang from Branch 18, are for one count of estafa committed against Durano and for illegal recruitment in large scale, filed at the instance of Durano, Genteroy and Onza. Plainly, there is no identity between the estafa cases in Branch 52 and the estafa case in Branch 18 because each case arose from different sets of facts and committed against different persons. Neither do any of the estafa cases bar a prosecution for illegal recruitment, since they are entirely different offenses and neither one necessarily includes or is necessarily included in the other. A person who is convicted of illegal recruitment may, in addition be convicted of estafa under Article 315 2(a) of the Revised Penal Code. There is no problem of jeopardy because illegal recruitment is *malum prohibitum*, in which the criminal intent is not necessary, whereas estafa is *malum in se* in which the criminal intent of the accused is necessary.⁷² The claim of double jeopardy, therefore, is patently without merit.

Appellant accuses Judge Laguio, Jr., who rendered the appealed decision, of falsifying the rendition of the judgment of conviction. The Judge allegedly antedated the judgment to make it appear that the decision was rendered on 24 February 1994. In a notice from the clerk of court, however, defense counsel was informed that promulgation of judgment was to be made on 5 April 1994. The motive for such falsification was to prevent double jeopardy from attaching because defense counsel had informed Judge Laguio, Jr. that Judge Nitafan had already ordered appellant's release in the latter's Decision dated 24 March 1994.

Appellant makes equally serious allegations against the police, whom he accuses of taking his valuables, of arbitrary detention or delay in his delivery to the judicial authorities, and of violating his right to counsel.

The accusations against the trial judge, as well as against the police, have no bearing in the disposition of this appeal. They are not relevant in the adjudication of his guilt and have no place in these proceedings. The veracity of appellant's accusations will have to await the filing of the appropriate charges and the conduct of an investigation before the proper forum.

The crime of illegal recruitment in large scale is committed when the following elements concur, to wit: (1) the offender has no valid license or authority required by law to enable one to engage lawfully in recruitment and placement of workers; (2) he or she undertakes either any activity within the meaning of "recruitment and placement" defined under Article 13, paragraph (b), or any prohibited practices enumerated under Article 34 of the Labor Code; and (3) that the accused commits the acts against three or more persons, individually or as a group.⁷³ All three elements were established during the trial. The first element is substantiated by the POEA certification.⁷⁴ The second is supported by the testimonies of the private complainants Durano, Genteroy and Onza. The third element is evident from the number of complainants against whom the accused committed illegal recruitment.

The absence of receipts to evidence payment to the recruiter would not warrant an acquittal, a receipt not being fatal to the prosecution's cause.⁷⁵ The trial court found the testimonies of private complainants to be credible.⁷⁶ The assessment of the testimonial evidence by the trial judge is accorded the highest respect for it was he who had the distinct opportunity to directly perceive the demeanor of witnesses and personally ascertain their reliability.

The penalty prescribed for illegal recruitment in large scale is life imprisonment and a fine of ₱100,000.00. Thus, the trial court imposed the correct penalty for illegal recruitment in large scale upon appellant.

Appellant is also guilty of estafa, defined and punished by Article 315 of the Revised Penal Code:

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 *prison correccional* in its maximum period to *prison 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 *prison 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 deceptions.

....

There are three ways of committing estafa under Article 315 2(a) of the Revised Penal Code: (1) by using a fictitious name; (2) by falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions; and (3) by means of other similar deceptions. Under this class of estafa, the element of deceit is indispensable.⁷⁷

In this case, private complainant Raul Durano was led by appellant to believe that he possessed the power and qualifications to provide Durano with work abroad, when in fact he was not licensed or authorized to do so. Deceived, private complainant parted with his money and delivered the same to appellant. Plainly, appellant is guilty of estafa.

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

Appellant was proved to have defrauded private complainant Durano in the amount of P18, 000.00. Thus, the penalty prescribed shall be imposed in its medium period, or 5 years, 5 months and 11 days of prison correccional to 6 years, 8 months and 20 days of prison mayor, as the amount defrauded does not exceed P22,000.00⁷⁸ and as no aggravating or mitigating circumstance is present.⁷⁹

In imposing a prison sentence for an offense punished by the Revised Penal Code, the Court is required to impose upon the accused an indeterminate sentence. 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. Here, the maximum term is 5 years, 5 months and 11 days of prison correccional to 6 years, 8 months and 20 days of prison 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." The penalty next lower to that prescribed by Article 315 is prison correccional in its minimum period (6 months, 1 day to 2 years and 4 months) to prison correccional in its medium period (2 years, 4 months and 1 day to 4 years and 2 months). From this, the minimum term of the indeterminate sentence shall be taken.

The trial court sentenced appellant to suffer imprisonment of 1 year, 8 months and 21 days of prison correccional as minimum to 5 years, 5 months and 11 days of prison correccional as maximum. This indeterminate sentence is within the maximum and minimum terms as determined above. The penalty imposed for estafa is correct.

The trial court, however, erred in awarding private complainants Genteroy and Onza the amount of P10,000.00 each as actual damages in the illegal recruitment case (Crim. Case No. 92-108577). Previously, the MeTC in the estafa cases Genteroy and Onza filed (Case Nos. 286919-20) ordered appellant to pay private complainants the same amounts. Section 1, Rule 111 of the Rules of Court provides that, "In no case may the offended party recover damages twice for the same act or omission of the accused."

The rate of six percent (6%) per annum as interest imposed on the actual damages of P18,000.00 awarded to private complainant Durano is also erroneous. As the amount of P18,000.00 given by Durano in consideration of his placement constitutes a loan or forbearance of money, the rate of interest should be twelve percent (12%) per annum in line with this Court's pronouncement in *Eastern Shipping Lines, Inc. v. Court of Appeals*.⁸⁰

II. With regard particularly to an award of interest in the concept of actual or compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.⁸¹

WHEREFORE, in Criminal Case No. 92-108577, appellant Crispin Billaber y Matbanua is found guilty beyond reasonable doubt of the crime of illegal recruitment in large scale under Article 38 of the Labor Code, as amended, and sentences him to suffer the penalty of life imprisonment and to pay a fine of P100,000.00, plus the costs. Accused-appellant is further ordered to pay to private complainant Raul Durano the sum of P18,000.00 as actual damages, with interest thereon at the rate of 12% per annum from July 27, 1992, the date of filing of this criminal case, until the amount shall have been fully paid.

In Criminal Case No. 92-108578, appellant is found guilty beyond reasonable doubt of the crime of estafa under Article 315 2(a) of the Revised Penal Code and sentences him to suffer the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of prison correccional as minimum to five (5) years, five (5) months and eleven (11) days of prison correccional as maximum and to pay the costs.

SO ORDERED.

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

Footnotes

¹ Records, p. 2.

² Id., at 8.

³ Id., at 12.

⁴ Also appears as "Tresina" in the Records.

⁵ TSN, February 16, 1993, pp. 1-2.

⁶ Id., at 3.

⁷ Id., at 9.

⁸ TSN, January 19, 1993, p. 4.

⁹ Id., at 4-5, 7.

¹⁰ Id., at 5, 7.

¹¹ Id., at 6.

¹² Id., at 5.

¹³ TSN, February 16, 1993, p. 3.

¹⁴ Id., at 4.

¹⁵ Ibid.

¹⁶ TSN, February 16, 1993, p. 10.

¹⁷ Id., at 5, 14.

¹⁸ Id., at 4-5.

¹⁹ Id., at 15.

²⁰ TSN, February 23, 1993, p. 3.

²¹ Ibid.

²² TSN, February 23, 1993, p. 4.

²³ Ibid.

²⁴ TSN, February 23, 1993, pp. 4-5.

²⁵ Id., at 5.

²⁶ Id., at 5-6.

²⁷ Id., at 5.

²⁸ Id., at 6.

²⁹ Ibid.

³⁰ TSN, February 23, 1993, p. 7.

³¹ TSN, January 19, 1993, p. 9.

³² Ibid.

³³ Ibid.

³⁴ Exhibit A.

³⁵ TSN dated November 24, 1993, pp. 1, 5.

³⁶ Id., at 1.

³⁷ Id., at 3.

³⁸ Id., at 4.

³⁹ Id., at 3.

⁴⁰ Id., at 5.

⁴¹ Id., at 3.

⁴² Id., at 6.

⁴³ Id., at 3.

⁴⁴ Id., at 6.

⁴⁵ Ibid.

⁴⁶ Records, p. 79.

⁴⁷ Rollo, pp. 66-67.

⁴⁸ TSN, 19 January 1993, p. 9.

⁴⁹ TSN, 10 June 1993, pp. 2-3.

⁵⁰ SECTION 1. Definition of arrest. – Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense. (Rule 113, Rules of Court.)

⁵¹ See Section 5 (a), Rule 113, Rules of Court.

⁵² See Section 3 (b) in relation to Section 1, Rule 117, Rules of Court.

⁵³ See Section 8, Rule 117, Rules of Court.

⁵⁴ Const., art. III, sec. 12 (1).

⁵⁵ Id., art. III, sec. 12 (3).

⁵⁶ Records, p. 12.

⁵⁷ *Id.*, at 13.

⁵⁸ *Ibid.*

⁵⁹ Records, p. 17.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Records, p. 22.

⁶³ *Id.*, at 24-25.

⁶⁴ *Ibid.*

⁶⁵ Records, p. 29.

⁶⁶ Records, p. 66.

⁶⁷ *Id.*, at 60.

⁶⁸ Const., art. III, sec. 14 (2).

⁶⁹ *Binay v. Sandiganbayan*, G.R. Nos. 120681-83, *Magsaysay v. Sandiganbayan*, G.R. No. 128136, October 1, 1999, 316 SCRA 65.

⁷⁰ Const., art. III, sec. 16.

⁷¹ *People v. Tac-An*, G.R. No. 148000, 27 February 2003.

⁷² *People v. Ong*, G.R. No. 119594, 18 January 2000, 322 SCRA 38.

⁷³ *People v. Baytic*, G.R. No. 150530, 20 February 2003.

⁷⁴ Exhibit C.

⁷⁵ *People v. Fortuna*, G.R. No. 148137, January 2003.

⁷⁶ Records, p. 79.

⁷⁷ *People v. Olermo*, G.R. No. 127848, 17 July 2003.

⁷⁸ Revised Penal Code, art. 315.

⁷⁹ *Id.*, art. 65 in relation to art. 64.1.

⁸⁰ G.R. No. 97412, July 12, 1994, 234 SCRA 78.

⁸¹ *Id.*, at 95.