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THIRD DIVISION**[G.R. No. 200884, June 04, 2014]****THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MILDRED
SALVATIERRA Y MATUCO, APPELLANT.****D E C I S I O N****PERALTA, J.:**

On appeal is the Court of Appeals (CA) Decision dated June 3, 2011 in CA-G.R. CR-HC No. 03687 affirming with modification the Regional Trial Court (RTC)^[1] Joint Decision^[2] in Criminal Case Nos. MC04-8838 and MC05-9048 to 9055.

Appellant Mildred M. Salvatierra was charged in an Information for Illegal Recruitment in Large Scale in violation of Section 6 of Republic Act No. (RA) 8042, allegedly committed as follows:

That on or about the period covering March 2004 to October 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, representing herself to have the capacity of contracting, enlisting and transporting Filipino workers for employment abroad, did then and there willfully, unlawfully and feloniously, recruit and promise employment/job placement abroad, specifically in Korea as factory workers to Reynaldo Andremesin, Otelio J. Florentino, Ruzzel C. Crisostomo, Ma. Reinaluz De Guzman, Arvin M. Ariguin, Lester Duyao, Rosalyn A. Fernandez and Renante B. Quirao, Jr. for a fee in the amount of P75,000.00, P75,000.00, P83,000.00, P83,000.00, P97,000.00, P57,000.00, P64,000.00 and P49,500.00 respectively, which is beyond the amount provided under the law, without first securing the required license and authority from the Department of Labor and Employment, and despite the receipt of the payment of the fees, accused failed to deploy said complainants for job placement abroad, which act is deemed committed in large scale, in violation of the aforementioned law.

CONTRARY TO LAW.^[3]

The case was docketed as Criminal Case No. MCO4-8838.

Appellant was likewise charged in eight (8) separate Informations for *Estafa* under Article 315 (a) of the Revised Penal Code (RPC). The informations were similarly

worded, except for the name of the person and the amount defrauded, as follows:

That on or about the period covering April 2004 to October 2004, in the City of Mandaluyong, Philippines, a place within the jurisdiction of the Honorable Court, the above-named accused, with intent to defraud RUZZEL S. CRISOSTOMO, by means of deceit and false pretenses executed prior to or simultaneous with the commission of fraud, did then and there willfully, unlawfully and feloniously pretend and falsely represent to complainant that she has the capacity to recruit, enlist and facilitate his deployment abroad for the amount of P83,500.00, complainant relying on said representation was induced to give and deliver to the accused, as in fact he gave and delivered the said amount to her and which amount accused appropriated for her personal use and despite repeated demands, accused failed and continue to fail to return to complainant said amount, to the damage and prejudice of the complainant.

CONTRARY TO LAW.^[4]

The same acts were committed against Renante B. Quirao, Jr. for P49,500.00;^[5] Rosalyn A. Fernandez for P64,000.00;^[6] Lester C. Duyao for P57,500.00;^[7] Ma. Reinaluz De Guzman for P83,500.00;^[8] Reynaldo B. Adremesin for P75,000.00;^[9] Arvin M. Ariguin for P97,500.00;^[10] and Otelio J. Florentino, Jr. for P75,000.00.^[11] The cases were docketed as Criminal Case Nos. MC05-9048-9055. ^[12] The estafa and illegal recruitment cases were raffled to the RTC, Branch 211, Mandaluyong City.

Upon arraignment, appellant pleaded "not guilty" to all the charges. Trial on the merits ensued.

The prosecution established that on different occasions, appellant represented herself to be capable of deploying workers for a fee to South Korea. Believing on such representation, the victims parted with their money and waited for appellant's instructions. Upon receipt of the initial payments made by the victims, appellant issued either receipts or petty cash vouchers. Afterwhich, appellant stopped seeing them and failed to deploy them. Appellant yet demanded additional placement fee and made instructions to meet them at Greenwich Restaurant in Shaw Blvd. in Mandaluyong City. Prior to said meeting, the victims went to the National Bureau of Investigation (NBI) to complain about appellant's activities. They likewise informed the NBI of their scheduled meeting with appellant, hence, the plan for entrapment operation where appellant was arrested. Upon her arrest, the NBI agents took from her the marked money. She was, likewise, found positive for yellow fluorescent smudges.^[13]

Appellant, for her part, raised the defense of denial and claimed that she herself was an applicant and a victim of Llanesa Consultancy. She denied having transacted with the victims and explained that she was shocked when NBI agents invited her while she was attending mass in Mandaluyong City. As to the receipts and petty cash vouchers, she

admitted having signed them but only upon instructions of a certain Susan Carillo.^[14]

On October 10, 2008, the RTC rendered a Decision^[15] against appellant, the dispositive portion of which reads:

WHEREFORE, the court finds the accused **MILDRED SALVATIERRA y MATUCO GUILTY** beyond reasonable doubt of the above-entitled cases and hereby sentences her accordingly, thus:

1. In Criminal Case No. MC05-8838, for Violation of R.A. 8042, otherwise known as The Migrant Workers and Overseas Filipinos Act of 1995, sentences her to life imprisonment and to pay a fine of P200,000.00;
2. In Criminal Case No. MC05-9048, for Estafa involving Ruzzel S. Crisostomo, to suffer a minimum period of four (4) years of prision correccional to a maximum period of ten (10) years of prision mayor and to indemnify the complainant the amount of Php83,500.00 and to pay the costs;
3. In Criminal Case No. MC05-9049, for Estafa involving Renante B. Quirao, Jr., to suffer a minimum period of four (4) years of prision correccional to a maximum period of six (6) years of prision mayor and to indemnify the complainant the amount of Php49,500.00 and to pay the costs;
4. In Criminal Case No. MC05-9050, for Estafa involving Rosalyn A. Fernandez, to suffer a minimum period of four (4) years of prision correccional to a maximum period of eight (8) years of prision mayor and to indemnify the complainant the amount of Php64,000.00 and to pay the costs;
5. In Criminal Case No. MC05-9051, for Estafa involving Lester C. Duyao, to suffer a minimum period of four (4) years of prision correccional to a maximum period of seven (7) years of prision mayor and to indemnify the complainant the amount of Php57,500.00 and to pay the costs;
6. In Criminal Case No. MC05-9052 for Estafa involving Ma. Reinaluz De Guzman, to suffer a minimum period of four (4) years of prision correccional to a maximum period of ten (10) years of prision mayor and to indemnify the complainant the amount of Php83,500.00 and to pay the costs;
7. In Criminal Case Nos. MC05-9053, MC05-9054 and MC05-9055, for Estafa involving Reynaldo B. Adremesin, Arvin M. Ariguin and Otelio J. Florentino, Jr., for failure of the prosecution to prove her guilt beyond reasonable doubt, the cases against the accused are hereby DISMISSED.

It appearing that accused is detained, the period of her detention shall be credited in the service of her sentence.

SO ORDERED.^[16]

On appeal, the CA affirmed the RTC decision with modification by increasing the fine imposed on the illegal recruitment case to P500,000.00. The appellate court likewise modified the penalties on the *estafa* cases. The dispositive portion of the appealed decision is hereafter quoted for easy reference:

WHEREFORE, in view of the foregoing, the assailed Joint Decision of the Regional Trial Court of Mandaluyong City (Branch 211) in Criminal Case No. MC04-8838 is **AFFIRMED** in so far as it adjudged accused-appellant guilty beyond reasonable doubt of large-scale illegal recruitment in violation of R.A. No. 8042 or "The Migrant Workers and Overseas Filipinos Act of 1995." The fine imposed upon accused-appellant is increased to P500,000.00.

The assailed Joint Decision in Criminal Cases Nos. MC05-9048-MC05-9049, MC05-9050, MC05-9051 and MC05-9052 is **AFFIRMED** in so far as it adjudged accused-appellant guilty beyond reasonable doubt of five (5) counts of estafa under Article 315, paragraph (2) of the Revised Penal Code. The Joint Decision is **MODIFIED**, in so far as the penalty imposed. Accused-appellant is hereby imposed the following indeterminate sentences:

1. 6 years, 8 months and 21 days of prision mayor, as minimum, to 12 years, 8 months and 21 days of reclusion temporal, as maximum in Criminal Case No. MC05-9048;
2. 6 years, 8 months and 21 days of prision mayor, as minimum, 8 years, 8 months and 21 days of prision mayor, as maximum, in Criminal Case No. MC05-9049;
3. 6 years, 8 months and 21 days of prision mayor, as minimum, 10 years, 8 months and 21 days of prision mayor, as maximum, in Criminal Case No. MC05-9050;
4. 6 years, 8 months and 21 days of prision mayor, as minimum, 9 years, 8 months and 21 days of prision mayor, as maximum, in Criminal Case No. MC05-9051; and
5. 6 years, 8 months and 21 days of prision mayor, as minimum, 12 years, 8 months and 21 days of reclusion temporal, as maximum, in Criminal Case No. MC05-9052.

SO ORDERED.^[17]

Hence, the present appeal.

In a Resolution^[18] dated June 18, 2012, the Court notified the parties that they may file their respective supplemental briefs if they so desire; and required the Superintendent of the Correctional Institution for Women to confirm the confinement of appellant. Said confinement was confirmed in a letter^[19] dated July 26, 2012. Appellant filed a Manifestation in Lieu of Supplemental Brief^[20] since her defenses and relevant issues have been exhaustively and substantially discussed in her appellant's brief; while appellee, through the Office of the Solicitor General (OSG), filed its Supplemental Brief^[21] on September 20, 2012.

We affirm appellant's conviction with modification, however, on the penalties imposed.

The crime of illegal recruitment is defined and penalized under Sections 6 and 7 of RA 8042, or the Migrant Workers and Overseas Filipinos Act of 1995, to wit:^[22]

SEC. 6. *Definition.* – For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13 (f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: *Provided,* That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, x x x:

x x x x

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

SEC. 7. *Penalties.* –

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

It is necessary that the prosecution prove the concurrence of the following elements: (1) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13 (b) of the labor Code, or any of the prohibited practices enumerated under Article 34 of the Labor Code (now Section 6 of RA 8042) and (2) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers. In the case of illegal recruitment in large scale, a third element is added: that the offender commits any of the acts of recruitment and placement against three or more persons, individually or as a group.^[23]

In this case, appellant engaged in recruitment when she represented herself to be capable of deploying workers to South Korea upon submission of the pertinent documents and payment of the required fees. As appellant claimed to be the liaison officer of Llanesa Consultancy Services, the victims believed that she indeed had the capability to deploy them abroad. All the witnesses and the supposed victims identified appellant as the one who made such representation and received the payments they made evidenced by the petty cash vouchers and receipts she signed. Moreover, appellant was caught in an entrapment operation when she received the amount demanded allegedly as additional requirement before they can be deployed abroad. It was, likewise, certified to by the Philippine Overseas Employment Administration Licensing Division that neither appellant nor Llanesa Consultancy Services were licensed to recruit workers for overseas employment. It is also clear from the evidence presented that the crime of illegal recruitment was committed by appellant against five persons.

Clearly, we find no reason to disturb the RTC's findings as affirmed by the CA, that appellant committed the crime of illegal recruitment in large scale.

We likewise agree with the appellate court that appellant may also be held liable for *estafa*. The very same evidence proving appellant's criminal liability for illegal recruitment also established her criminal liability for *estafa*.^[24] The elements of *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.^[25]

In this case, as testified to by the victims/witnesses, appellant defrauded the victims by making them believe that she has the capacity to deploy them to South Korea as workers, even as she did not have the authority or license for the purpose. Because of

this enticement, the victims parted with their money in varying amounts as placement fees to appellant. Consequently, the victims suffered damages as the promised employment abroad never materialized and the money they parted were never recovered.^[26]

Now on the appropriate penalties.

As the crime was committed in large scale, it is an offense involving economic sabotage and is punishable by life imprisonment and a fine of not less than P500,000.00 nor more than P1,000,000.00. The CA thus aptly imposed the penalty of life imprisonment and a fine of P500,000.00.

The prescribed penalty for *estafa* under Article 315^[27] of the RPC, is *prision correccional* maximum to *prision mayor* minimum, if the amount of the fraud is over P12,000.00 but does not exceed P22,000.00. If the amount exceeds P22,000.00, the penalty shall be imposed in its maximum period, adding one year for each additional P10,000.00, provided that the total penalty shall not exceed 20 years.^[28]

In this case, the amounts defrauded are the following:

Case Number	Person Defrauded	Amount Defrauded
Criminal Case No. MC05-9048	Ruzzel Crisostomo	P83,500.00
Criminal Case No. MC05-9049	Renante B. Quirao, Jr.	P49,500.00
Criminal Case No. MC05-9050	Rosalyn A. Fernandez	P64,000.00
Criminal Case No. MC05-9051	Lester C. Duyao	P57,500.00
Criminal Case No. MC05-9052	Reinaluz De Guzman	P83,500.00

As the amounts defrauded exceeded P22,000.00, the penalty shall be imposed in its maximum period which is 6 years, 8 months and 21 days to 8 years.

Applying the Indeterminate Sentence Law, the minimum term shall be within the range of the penalty next lower to that prescribed by the RPC, or anywhere within *prision correccional* in its minimum and medium periods or 6 months and 1 day to 4 years and 2 months. Clearly, the modification made by the CA on the RTC computation of the minimum term is improper. The minimum term imposed which is 6 years, 8 months and 21 days of *prision mayor* is way above the range of the penalty next lower to that prescribed by the RPC. Although the minimum term imposed by the RTC which is 4 years is within the range, we further modify the same and make it 4 years and 2 months in all the cases.

The maximum term, on the other hand, shall be that which could be properly imposed under the rules of the RPC, which in this case shall be 6 years, 8 months and 21 days to 8 years. The incremental penalty, therefore, shall be added to the maximum period of the prescribed penalty, which is anywhere between 6 years, 8 months and 21 days to 8 years.^[29] Thus, in Criminal Case No. MC05-9048, the amount defrauded is P83,500.00 which is P61,500.00 more than P22,000.00. Six years shall be added to 6 years, 8 months and 21 days making the maximum term of the indeterminate sentence to 12 years, 8 months and 21 days. Applying the same computation to the other cases, the following shall be the maximum terms of the indeterminate penalties:

Case Number	Amount Defrauded in excess of P22,000.00	Maximum Term of the Indeterminate Penalty
Criminal Case No. MC05-9048	P61,500.00	12 years, 8 months, 21 days
Criminal Case No. MC05-9049	P27,500.00	8 years, 8 months, 21 days
Criminal Case No. MC05-9050	P42,000.00	10 years, 8 months, 21 days
Criminal Case No. MC05-9051	P35,500.00	9 years, 8 months, 21 days
Criminal Case No. MC05-9052	P61,500.00	12 years, 8 months, 21 days

The CA, thus, imposed the correct maximum term of the indeterminate penalties.

WHEREFORE, premises considered, the appeal is hereby **DISMISSED**. The Court of Appeals Decision dated June 3, 2011 in CA-G.R. CR-HC No. 03687 is **AFFIRMED** with **MODIFICATION** to read as follows:

1. In Criminal Case No. MC04-8838, the Court finds appellant Mildred M. Salvatierra **GUILTY** beyond reasonable doubt of the crime of Illegal Recruitment committed in large scale. She is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.
2. In Criminal Case No. MC05-9048, the Court finds appellant Mildred M. Salvatierra **GUILTY** beyond reasonable doubt of the crime of *estafa* and sentences her to an indeterminate penalty of 4 years and 2 months of *prision correccional*, as minimum, to 12 years, 8 months, 21 days of *reclusion temporal*, as maximum, and to indemnify Ruzzel Crisostomo the amount of P83,500.00.
3. In Criminal Case No. MC05-9049, the Court finds appellant Mildred M. Salvatierra **GUILTY** beyond reasonable doubt of the crime of *estafa* and sentences her to an indeterminate penalty of 4 years and 2 months of *prision correccional*, as minimum, to 8 years, 8 months, 21 days of *prision mayor*, as maximum, and to

indemnify Renante B. Quirao, Jr. the amount of P49,500.00.

4. In Criminal Case No. MC05-9050, the Court finds appellant Mildred M. Salvatierr **GUILTY** beyond reasonable doubt of the crime of *estafa* and sentences her to an indeterminate penalty of 4 years and 2 months of *prision correccional*, as minimum, to 10 years, 8 months, 21 days of *prision mayor*, as maximum, and to indemnify Rosalyn A. Fernandez the amount of P64,000.00.
5. In Criminal Case No. MC05-9051, the Court finds appellant Mildred M. Salvatierra **GUILTY** beyond reasonable doubt of the crime of *estafa* and sentences her to an indeterminate penalty of 4 years and 2 months of *prision correccional*, as minimum, to 9 years, 8 months, 21 days of *prision mayor*, as maximum, and to indemnify Lester C. Duyao the amount of P57,500.00.
6. In Criminal Case No. MC05-9052, the Court finds appellant Mildred M. Salvatierra **GUILTY** beyond reasonable doubt of the crime of *estafa* and sentences her to an indeterminate penalty of 4 years and 2 months of *prision correccional*, as minimum, to 12 years, 8 months, 21 days of *reclusion temporal*, as maximum, and to indemnify Reinaluz De Guzman the amount of P83,500.00.

SO ORDERED.

*Velasco, Jr., (Chairperson), Villarama, Jr., * Perlas-Bernabe, ** and Leonen, JJ., concur.*

June 27, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on June 4, 2014 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on June 27, 2014 at 1:20 p.m.

Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

* Designated Acting Member, per Special Order No. 1691 dated May 22, 2014.

** Designated additional member in lieu of Associate Justice Catral Mendoza, per Raffle dated October 15, 2012.

[1] Branch 211, Mandaluyong City.

[2] Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Noel G. Tijam and Leoncia R. Dimagiba, concurring; rollo, pp. 2-24.

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

[4] Id. at 65.

[5] Id. at 102-103.

[6] Id. at 104-105.

[7] Id. at 106-107.

[8] Id. at 108-109.

[9] Id. at 110-111.

[10] Id. at 112-113.

[11] Id. at 114-115.

[12] Id. at 65, 102-115.

[13] Rollo, pp. 9-12.

[14] Id. at 9-14.

[15] Penned by Acting Presiding Judge Edwin D. Sorongon.

[16] Records, Vol. II, pp. 673-674.

[17] *Rollo*, pp. 22-23.

[18] Id. at 32-33.

[19] Id. at 34.

[20] Id. at 35-37.

[21] Id. at 43-50.

[22] *People v. Chua*, G.R. No. 187052, September 13, 2012, 680 SCRA 575, 587.

[23] Id. at 588-589.

[24] *People v. Ochoa*, G.R. No. 173792, August 31, 2011, 656 SCRA 382, 410.

[25] Id. at 411; *People v. Tuguinay*, G.R. No. 186132, February 27, 2012, 667 SCRA 74, 78; *People v. Ocdan*, G.R. No. 173198, June 1, 2011, 650 SCRA 124, 149.

[26] *People v. Chua*, *supra* note 22, at 592.

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

1st. The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, 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.

[28] *People v. Ocdan*, *supra* note 25, at 150.

[29] *People v. Temporada*, 594 Phil. 680, 734 (2008).



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