

FIRST DIVISION

[G.R. No. 173792, August 31, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSARIO
"ROSE" OCHOA, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For Our consideration is an appeal from the Decision^[1] dated March 2, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00888, which affirmed with modification the Decision^[2] dated April 17, 2000 of the Regional Trial Court (RTC), Quezon City, Branch 104, in Criminal Case Nos. 98-77300 to 98-77303. The RTC found accused-appellant Rosario "Rose" Ochoa (Ochoa) guilty of illegal recruitment in large scale, as defined and penalized under Article II, Section 6 in relation to Section 7(b) of Republic Act No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995," in Criminal Case No. 98-77300; and of the crime of estafa, as defined and penalized in Article 315, paragraph 2(a) of the Revised Penal Code, in Criminal Case Nos. 98-77301, 98-77302, and 98-77303.

The Information filed before the RTC and docketed as Criminal Case No. 98-77300, charged Ochoa with illegal recruitment in large scale, allegedly committed as follows:

That on or about the period covering the months of February 1997 up to April 1998 or immediately before or subsequent thereto in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above name accused, did then and there willfully, unlawfully and feloniously recruit **Robert Gubat, Junior Agustin, Cesar Aquino, Richard Luciano, Fernando Rivera, Mariano R. Mislang, Helen B. Palogo, Joebert Decolongon, Corazon S. Austria, Cristopher A. Bermejo, Letecia D. Londonio, Alma Borrromeo, Francisco Pascual, Raymundo A. Bermejo and Rosemarie A. Bermejo** for a consideration ranging from **P2,000.00** to **P32,000.00** or a total amount of **P124,000.00** as placement fee which the complainants paid to herein accused without the accused having secured the necessary license from the Department of Labor and Employment.^[3] (Emphases supplied.)

Three other Informations were filed before the RTC and docketed as Criminal Case Nos. 98-77301, 98-77302, and 98-77303, this time charging Ochoa with three counts of estafa, committed separately upon three private complainants Robert Gubat (Gubat), Cesar Aquino (Cesar), and Junior Agustin (Agustin), respectively. The Information in

Criminal Case No. 98-77301 accuses Ochoa of the following acts constituting estafa:

That on or about March 3, 1998 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above name accused did then and there willfully, unlawfully and feloniously recruit and promise employment in Taiwan to one **ROBERT GUBAT** for a consideration of **P18,800.00** as placement fee, knowing that she has no power, capacity or lawful authority whatsoever and with no intention to fulfill her said promise, but merely as pretext, scheme or excuse to get and exact money from said complainant, as she did in fact collect and received the amount of P18,800.00 from said Robert Gubat, to his damage and prejudice.^[4] (Emphases supplied.)

The two other Informations for estafa were similarly worded as the aforequoted Information, except as to the name of the private complainants and the amount purportedly collected by Ochoa from them, particularly:

Docket No.	Private Complainant	Amount Collected
Criminal Case No. 98-77302 ^[5]	Cesar Aquino	P19,000.00
Criminal Case No. 98-77303 ^[6]	Junior Agustin	P32,000.00

As prayed for by the State Prosecutor, all four criminal cases against Ochoa before the RTC were consolidated. When arraigned, Ochoa pleaded not guilty. Thereafter, joint trial of the four criminal cases ensued.

The prosecution presented as witnesses Cory Aquino (Cory) of the Philippine Overseas Employment Agency (POEA) and private complainants Gubat, Agustin, Francisco Pascual (Pascual), Rosemarie Bermejo (Rosemarie), Cesar, Christopher Bermejo (Christopher), Joebert Decolongon (Decolongon), and Fernando Rivera (Rivera).

According to private complainants, they were recruited by Ochoa from January to March 1998 for various jobs in either Taiwan or Saudi Arabia, under the following circumstances:

1. In the second week of February 1998, Ochoa was introduced to Robert Gubat, a licensed electrical engineer and a resident of Pulang Lupa, Las Piñas, through a certain Nila, Gubat's neighbor, who had a pending application for work abroad with Ochoa. Ochoa talked to Gubat on the telephone, and during their conversation, Ochoa told Gubat that one of her applicants was already leaving for Taiwan. Per Ochoa's instruction, Gubat met with Francisco Pascual, who accompanied him to Ochoa's house in San Bartolome, Novaliches, Quezon City, and personally introduced Gubat to Ochoa. Gubat submitted his résumé to Ochoa, which Ochoa would bring to Axil International

Agency where Ochoa was working as a recruiter. Right after browsing through Gubat's résumé, Ochoa informed Gubat that as an engineer, Gubat was qualified to work as a factory supervisor and could leave for Taiwan in two weeks or in March 1998. Ochoa also told Gubat that the total application expenses would amount to ₱100,000.00, and the downpayment was ₱50,000.00. Gubat was able to actually pay Ochoa ₱18,800.00 as reservation fee at the agency; processing fee for Gubat's papers at the Department of Foreign Affairs (DFA), Malacañang, and Embassy of Taiwan; and medical examination fee. Ochoa, however, only issued to Gubat three receipts, dated March 3, March 31, and April 6, all in the year 1998, in the amount of P5,000.00 each or a total of P15,000.00. Gubat started to worry when he was not able to leave for abroad as Ochoa promised and when she failed to show up at their arranged meetings. When Gubat was finally able to talk to Ochoa, Ochoa again promised him that he would be leaving for abroad soon. Despite Ochoa's renewed promise, Gubat was still not able to leave the country. Gubat then demanded that Ochoa return his documents and money. When Ochoa failed to comply with his demand, Gubat filed a report against Ochoa at Barangay (Brgy.) San Bartolome, Novaliches, Quezon City. On May 21, 1998, he met the other private complainants^[7] who had similar complaints against Ochoa. When nothing came out of the confrontation with Ochoa at Brgy. San Bartolome, Gubat and the other private complainants filed a joint complaint against Ochoa before the National Bureau of Investigation (NBI).^[8]

2. The paths of Junior Agustin and Ochoa crossed on February 2, 1998. Agustin, a farmer, was staying at the home of Pascual, his cousin, at No. 4 Gulod, Novaliches, Quezon City. When Ochoa arrived at Pascual's home, Pascual introduced Ochoa to Agustin as a recruiter for overseas workers in Taiwan. Interested in working abroad, Agustin submitted his bio-data to Ochoa at the latter's residence at Phase 1, Lot 3, San Bartolome, Novaliches, Quezon City. Ochoa promised Agustin that he would be fielded as a factory worker in Taiwan for three years, earning a monthly salary of P18,000.00. Ochoa then informed Agustin that the total placement fee for Taiwan is P80,000.00. Agustin initially paid Ochoa the sum of P28,000.00 as processing fee. Ochoa then promised that Agustin could leave for Taiwan in two months. However, the two months passed, but there was still no overseas employment for Agustin. Agustin was compelled to file a complaint against Ochoa at Brgy. San Bartolome, Novaliches, Quezon City. Agustin met the other private complainants during the *barangay* hearing on May 21, 1998. Ochoa was also present at said hearing. Given the unsuccessful *barangay* hearing, Agustin and the other private complainants lodged a complaint against Ochoa before the NBI.^[9]

3. Francisco Pascual, presently jobless and a resident of Gulod, Novaliches, Quezon City, learned from a neighbor of one Mrs. Bermejo that her son was being helped by Ochoa, a recruiter, to find a job abroad. Pascual went to Mrs. Bermejo's house in January 1998, and met Ochoa for the first time. Ochoa invited Pascual to apply for a job abroad, saying that the latter could leave within two weeks. During Pascual's visit at Ochoa's house at Blk. 1, Lot 1, San Bartolome, Novaliches, Quezon City, Ochoa promised Pascual employment as a driver salesman in Saudi Arabia, with a monthly salary of P18,000.00. Ochoa told Pascual that the placement fee would be P7,000.00 and that Pascual should already have his medical examination so that the position in Saudi Arabia could be reserved for him. Since his visa had not yet arrived, Pascual did

not pay any placement fee to Ochoa. Pascual did undergo medical examination at St. Peter Medical Clinic in Ermita, Manila, for which he paid P2,600.00 to Ochoa. Pascual though did not receive the results of his medical examination because according to Ochoa, the same was withheld by the clinic. Despite Ochoa's promises, Pascual was not able to leave for Saudi Arabia. At that time, Pascual was still employed as a Field Coordinator with Selecta, but because of his frequent absences, spent following-up on his application for work abroad, he was fired. Pascual filed a complaint against Ochoa at Brgy. San Bartolome, Novaliches, Quezon City. As nothing happened during the confrontation with Ochoa at the *barangay* hearing on May 21, 1998, Pascual and the other private complainants filed a complaint before the NBI.^[10]

4. Rosemarie Bermejo came to know of Ochoa through Rivera, a friend of Rosemarie's mother. Rosemarie first met Ochoa at the latter's home in Quezon City sometime in January 1998. Rosemarie was promised by Ochoa employment for three years in Saudi Arabia as clerk/typist, earning US\$400.00. Rosemarie was also instructed by Ochoa to have a medical examination and secure a passport and NBI clearance. Rosemarie and her brothers, who also applied for jobs abroad, were accompanied by Ochoa to the St. Peter Medical Clinic in Malate, Manila for their medical examination on February 27, 1998. Rosemarie and her brother each handed over to Ochoa P2,600.00 for their medical examinations, and it was Ochoa who gave the payment to the clinic. Rosemarie and her brothers then spent P55.00 each to secure NBI clearances for travel abroad. In addition, Rosemarie gave Ochoa P5,500.00 on April 17, 1998; and although not secured by a receipt, said payment was witnessed by Rosemarie's mother and Imelda Panuga, the landlord of Rosemarie's mother, who lent Rosemarie the P5,500.00. During their initial meeting in January 1998, Ochoa said that Rosemarie could already leave for abroad in two weeks. Since Rosemarie was not able to complete the requirements, her departure for Saudi Arabia was moved to April 19, 1998. On April 19, 1998, Ochoa requested Rosemarie to go to the office of Al Arab Agency located at Jalandoni Building, Ermita, Manila, to which Ochoa was purportedly connected. Rosemarie waited at the Al Arab Agency until noon, but no one came to pick her up. Later, at the same day, Ochoa invited Rosemarie to her house for the birthday celebration of her father. There, Ochoa explained that Rosemarie was unable to leave for Saudi Arabia because the Al Arab Agency has yet to secure Rosemarie's Overseas Employment Certificate (OEC). Ochoa advised Rosemarie to stay at the rented apartment of Rosemarie's mother because it was close to Ochoa's house and would be more convenient as Rosemarie could leave for abroad any day soon. When none of Ochoa's promises came to fruition, Rosemarie, together with the other private complainants, first sought redress from Brgy. San Bartolome, Novaliches, Quezon City, and then from the NBI.^[11]

5. It was Pascual who introduced Cesar Aquino, a resident of Cubao, to Ochoa at the latter's residence in San Bartolome, Novaliches, Quezon City, sometime in February 1998. When Cesar directly asked Ochoa if she was a recruiter, the latter answered in the affirmative. Cesar applied to work as a factory worker in Taiwan. Ochoa told Cesar that as a factory worker, he could earn at least P15,000.00 a month. On March 13, 1998, Cesar handed over P17,000.00 to Ochoa to cover his processing fee and medical examination. On the same day, Cesar had his medical examination at St. Peter Medical Clinic. Ochoa then promised that Cesar could leave two weeks thereafter. When two

weeks had passed and he was not able to leave for Taiwan, Cesar demanded that Ochoa return his money. Ochoa failed to comply with Cesar's demand, and Cesar instituted a complaint against Ochoa at Brgy. San Bartolome, Novaliches, Quezon City. At the hearing attended by Ochoa, Cesar, and the other private complainants before the *Barangay Lupon*, Ochoa signed a *Kasunduan*, agreeing to return the money to private complainants. Again, Ochoa failed to fulfill her promise to return the money paid by Cesar, thus, the latter, together with the other complainants, filed a complaint with the NBI.^[12]

6. Christopher Bermejo met Ochoa at the house of his mother in Novaliches, Quezon City in January 1998. Also present at the house were Fernando Bermejo, Christopher's brother, and Richard Luciano. Ochoa promised that after a week, Christopher would already be deployed to Saudi Arabia as an accountant, earning 250-350 Saudi Riyals. As a result, Christopher immediately resigned from his job at the Development Bank of the Philippines (DBP). Christopher's mother paid Ochoa P5,000.00 as processing fee for Christopher's application. A week passed and Ochoa failed to send Christopher to Saudi Arabia for work. When Rosemarie and Raymundo Bermejo (Raymundo), Christopher's sister and brother, respectively, also failed to leave for work abroad as promised by Ochoa, Christopher, Rosemarie, and their mother went to see Ochoa at an office at the Jalandoni Building, Ermita, Manila. Ochoa explained that Christopher and his siblings could not leave yet because there are other documents that still need to be accomplished. Ochoa said that she would just notify Christopher and his siblings of their scheduled departure. When they still did not receive any notification from Ochoa, Rosemarie, Raymundo, and their mother returned to the office at the Jalandoni Building and found out that their placement fees were not given to said office. Christopher joined the other private complainants in filing a complaint against Ochoa before the NBI.^[13]

7. Joebert Decolongon is a resident of Sta. Maxima, Gulod, Novaliches, Quezon City, and works as a bus conductor. Decolongon was introduced to Ochoa by Rivera, Decolongon's friend, at Rivera's house on Villareal Street, Gulod, Novaliches. Ochoa informed Decolongon that there was a vacancy for the position of janitor in Saudi Arabia, with a monthly salary of 800 Saudi Riyals. Decolongon submitted his application, birth certificate, and passport to Ochoa. Ochoa also went to Decolongon's house and collected from Decolongon's wife the initial amount of P2,000.00 as placement fee. The rest of Decolongon's placement fees would be paid by one-month salary deduction. Trusting Ochoa, neither Decolongon nor his wife demanded a receipt. When Ochoa failed to deploy Decolongon for employment abroad, Decolongon too filed a complaint against Ochoa before Brgy. San Bartolome, Novaliches, Quezon City. Without a successful resolution at the *barangay* level, Decolongon joined the private complainants in filing a complaint against Ochoa before the NBI.^[14]

8. Sometime in January 1998, Ochoa was accompanied by a certain Amy to Fernando Rivera's residence at 27 Villareal Street, Novaliches, Quezon City. Ochoa first talked to Rivera's mother who had previously worked abroad. Ochoa then also offered work to Rivera, either as tea boy or janitor in the army in Riyadh, Saudi Arabia. Rivera chose to work as a tea boy, with a salary of 800 to 1,000 Saudi Riyals. Ochoa said that Rivera would be deployed in the first week of February 1998. Ochoa required Rivera to submit

NBI clearance, passport, and pictures, but Rivera submitted only his NBI clearance. In January 1998, Rivera paid Ochoa P2,000.00 as she would be the one to secure Rivera's passport. In March 1998, Rivera handed over his ring and necklace, worth of P10,000.00, to Ochoa to cover his processing and medical examination fees. Rivera did not require a receipt from Ochoa because he trusted Ochoa, who was his mother's friend. When Rivera failed to leave in February 1998, Ochoa explained that Rivera's departure was postponed until March 1998 due to *Ramadan*. After the period of *Ramadan*, Rivera was still not able to leave for Saudi Arabia. Rivera then filed a complaint against Ochoa before Brgy. San Bartolome, Novaliches, Quezon City. Ochoa promised to return to Rivera his jewelries and P2,000.00, but Ochoa did not appear at the *barangay* hearing set on April 30, 1998. Thus, Rivera and the other private complainants proceeded to file a complaint against Ochoa before the NBI.^[15]

Cory C. Aquino of the POEA authenticated the Certification dated June 3, 1998, issued by Hermogenes C. Mateo (Mateo), Director, Licensing Branch of the POEA, that Ochoa, in her personal capacity, is neither licensed nor authorized by the POEA to recruit workers for overseas employment. Cory identified Director Mateo's signature on the Certification, being familiar with the same. The Certification was issued after a check of the POEA records pursuant to a request for certification from the NBI. Cory, however, admitted that she did not participate in the preparation of the Certification, as the NBI's request for certification was through a counter transaction, and another person was in charge of verification of counter transactions.^[16]

Ochoa testified on her own behalf.

Ochoa stated under oath that she was employed by AXIL International Services and Consultant (AXIL) as recruiter on December 20, 1997. AXIL had a temporary license to recruit Filipino workers for overseas employment. Ochoa worked at AXIL from 8:00 a.m. to 5:00 p.m. and was paid on a commission basis. She admitted recruiting private complainants and receiving from them the following amounts as placement and medical fees:

Private Complainant	Amounts Collected
Robert Gubat	P18,000.00 for placement and medical fees ^[17]
Junior Agustin	P22,000.00 for placement and medical fees ^[18]
Francisco Pascual	P 2,000.00 for medical fee ^[19]
Rosemarie Bermejo	P 2,600.00 for medical fee ^[20]
Cesar Aquino	P 19,000.00 for placement and medical fees ^[21]
Christopher Bermejo	P 2,600.00 for medical fee ^[22]
Joebert Decolongon	P 6,000.00 for medical fee ^[23]
Fernando Rivera	P 2,000.00 for medical fee ^[24]

Ochoa claimed though that she remitted private complainants' money to a person named Mercy, the manager of AXIL, but AXIL failed to issue receipts because the private complainants did not pay in full.^[25]

On April 17, 2000, the RTC rendered a Decision finding Ochoa guilty beyond reasonable doubt of the crimes of illegal recruitment in large scale (Criminal Case No. 98-77300) and three counts of estafa (Criminal Case Nos. 98-77301, 98-77302, 98-77303). The dispositive portion of said Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. In Criminal Case No. 98-77300, the Court finds the accused, ROSARIO "ROSE" OCHOA, guilty beyond reasonable doubt as principal of ILLEGAL RECRUITMENT IN LARGE SCALE, defined and penalized in Section 6 in relation to Section 7 (b) of Republic Act No. 8042, and sentences her to life imprisonment and a fine of One Million Pesos.
2. In Criminal Case No. 98-77301, the Court finds the accused, ROSARIO "ROSE" OCHOA, guilty beyond reasonable doubt as principal of the crime of ESTAFA, defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code, and sentences her to an indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of *prision correccional* as minimum to six (6) years, eight (8) months and twenty (20) days of *prision mayor*, as maximum, and to indemnify complainant Robert Gubat in the amount of Eighteen Thousand Eight Hundred (P18,800.00) Pesos.
3. In Criminal Case No. 98-77302, the Court finds the accused, ROSARIO "ROSE" OCHOA, guilty beyond reasonable doubt as principal of the crime of ESTAFA, defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code, and sentences her to an indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of *prision correccional* as minimum to six (6) years, eight (8) months and twenty (20) days of *prision mayor* as maximum, and to indemnify the complainant Cesar Aquino in the amount of Seventeen Thousand (P17,000.00) Pesos.
4. In Criminal Case No. 98-77303, the Court finds the accused, ROSARIO "ROSE" OCHOA, guilty beyond reasonable doubt as principal of the crime of ESTAFA, defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code, and sentences her to an indeterminate penalty of two (2) years, eleven (11) months and eleven (11) days of *prision correccional* as minimum to six (6) years, eight (8) months and twenty-one (21) days of *prision mayor* as maximum, and to indemnify complainant Junior Agustin in the amount of Twenty-Eight Thousand (P28,000.00) Pesos.^[26]

Ochoa filed a Notice of Appeal^[27] in which she stated her intention to appeal the RTC judgment of conviction and prayed that the records of her case be forwarded to the Court of Appeals. Ochoa's appeal was docketed as CA-G.R. CR. No. 24147 before the Court of Appeals.

In a Resolution^[28] dated August 8, 2000, the Court of Appeals granted Ochoa's First

Motion for Extension of Time to file her brief.

Ochoa filed her Appellant's Brief on September 4, 2000^[29] while the People, through the Office of the Solicitor General (OSG), filed its Appellee's Brief on March 1, 2001.^[30]

The Special Fourteenth Division of the Court of Appeals promulgated its Decision^[31] dated June 17, 2002 affirming the appealed RTC decision dated April 17, 2000. Ochoa filed a Motion for Reconsideration,^[32] which the People opposed for being bereft of merit.^[33]

In its Resolution^[34] dated August 6, 2003, the Court of Appeals declared that it had no jurisdiction over Ochoa's appeal, ratiocinating thus:

We affirmed this judgment on 17 June 2002. While neither the accused-appellant nor the Office of the Solicitor General representing the people ever raised the issue of jurisdiction, our second look at the suit proved worthwhile because we came to realize that we mistakenly assumed jurisdiction over this case where it does not obtain.

It was error to consider accused-appellant's appeal from a trial court judgment imposing life imprisonment in Criminal Case No. Q-98-77300 for illegal recruitment in a large scale. Consequently, the judgment we rendered dated 17 June 2002 is null and void. No less than Article VIII, §5(2)(d) of the Constitution proscribes us from taking jurisdiction--

SECTION 5. The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify or affirm on appeal or certiorari as the law or Rules of Court may provide, final judgments and orders of the lower court in:

x x x x

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher..

§17(1) of the Judiciary Act of 1948 reiterates -

SECTION 17. Jurisdiction of the Supreme Court.

The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm on appeal, as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in--

(1) All criminal cases involving offenses for which the penalty imposed is life imprisonment; and those involving offenses which, although not so punished, arose out of the same occurrences or which may have been committed by the accused on the same occasion as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices, or accessories, or whether they have been tried jointly or separately; x x x.

§3 of Rule 122 of the Revised Rules of Criminal Procedure likewise declares -

SEC. 3. How appeal taken. -

(c) The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is *reclusion perpetua* or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, *reclusion perpetua*, or life imprisonment is impose[d], shall be by filing a notice of appeal in accordance with paragraph (a) of this section.

Even if only in Criminal Case No. Q-98-77300 was the penalty of life imprisonment meted out, we still cannot consider the appeal of the verdict in Criminal Case Nos. 98-77301 to 98-77303 for as the Supreme Court clearly clarified--

An appeal of a single decision cannot be split between two courts. The splitting of appeals is not conclusive to the orderly administration of justice and invites possible conflict of dispositions between the reviewing courts. Specifically, the Court of Appeals has no jurisdiction to review an appeal of a judgment imposing an indeterminate sentence, if the same ruling also imposes *reclusion perpetua*, life imprisonment and death for crimes arising out of the same facts. In other words, the Supreme Court has exclusive jurisdiction over appeals of criminal cases in which the penalty imposed below is *reclusion perpetua*, life imprisonment or death, even if the same decision orders, in addition, a lesser penalty or penalties for crimes arising out of the same occurrence or facts.

It will be seen that Robert Gubat, private complainant in Criminal Case No.

Q-98-77301, Cesar Aquino, private complainant in Criminal Case No. Q-98-77302 and Junior Agustin, private complainant in Criminal Case No. Q-98-77303 were also the private complainant in the illegal recruitment in a large scale suit, docketed as Criminal Case No. Q-98-77300. As gleaned from the charges, the estafa cases were intimately related to or arose from the facts and occurrences of the alleged illegal recruitment. Clearly, we have no recourse but to refuse cognizance over the estafa cases as well.^[35]

Despite its lack of jurisdiction over Ochoa's appeal, the Court of Appeals did not dismiss the same and merely ordered its transfer to us:

While the Supreme Court Circular No. 2-90 directs the dismissal of appeals filed before the wrong court, the Supreme Court has in practice allowed the transfer of records from this Court to the highest court. In which case, we shall subscribe to this practice in the interest of substantial justice.

WHEREFORE, premises considered, our decision is declared **NULL and VOID**. We order the **TRANSFER** of the records of Criminal Cases Nos. 98-77300 to 98-77303 to the Supreme Court for proper action.^[36]

In the Resolution^[37] dated September 17, 2003, we accepted Ochoa's appeal and informed both Ochoa and the OSG to file their respective additional briefs. Ochoa's appeal was then docketed as G.R. No. 159252.

On August 17, 2004, Ochoa's counsel filed an explanation stating that he had nothing more to add since he had already written and filed all necessary pleadings, complete with all the necessary research and arguments.^[38]

In the meantime, *People v. Mateo*^[39] was promulgated on July 7, 2004, where we held that an appeal from the decisions of the RTC, sentencing the accused to life imprisonment or *reclusion perpetua*, should be made to the Court of Appeals. Thus, in our Resolution^[40] dated March 11, 2005, the Court ordered the transfer of the records of G.R. No. 159252 to the Court of Appeals for a decision on the merit. We likewise directed the Court of Appeals to raffle the said case to any of its regular divisions.

When Ochoa's appeal was before the Court of Appeals a second time, it was docketed as CA-G.R. CR.-H.C. No. 00888. The Court of Appeals, in a Decision dated March 2, 2006, affirmed with modification the RTC Decision dated April 17, 2000. The appellate court essentially affirmed the findings of fact and law of the RTC, but reduced the award of damages in Criminal Case No. 98-77301 and increased the prison sentence in Criminal Case No. 98-77303. The decretal portion of said Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

I. The judgment of the trial court in Criminal Case No. 98-77300 finding appellant Rosario Ochoa guilty beyond reasonable doubt of Illegal Recruitment in Large Scale constituting economic sabotage under Sec. 6 (l) and (m) in relation to Sec. 7(b) of R.A. No. 8042 and sentencing her to life imprisonment and a fine of One Million Pesos (P1,000,000.00) is AFFIRMED.

II. The judgment in Criminal Case No. 98-77301, finding appellant guilty beyond reasonable doubt of estafa is MODIFIED. Appellant is, hereby, ordered to indemnify Robert Gubat in the amount of P15,000.00 only as and by way of actual damages.

III. The judgment in Criminal Case No. 98-77302, finding appellant guilty beyond reasonable doubt of estafa is AFFIRMED.

IV. The judgment in Criminal Case No. 98-77303, finding appellant guilty beyond reasonable doubt of estafa is MODIFIED. Appellant is, hereby, sentenced to an indeterminate penalty of FOUR (4) YEARS and TWO (2) MONTHS of *prision correccional* as minimum, to EIGHT (8) YEARS OF *prision mayor* as maximum.^[41]

Ochoa's appeal is anchored on the following assignment of errors:

The lower court erred:

- a. In admitting Exhibit "A" - the POEA Certification - when it was already excluded during the bail hearing
- b. In shifting the burden of the accused to prove that there was no illegal recruitment
- c. In finding that there was estafa
- d. By not limiting liability of the accused to civil liability only^[42]

We find no reversible error in the assailed Court of Appeals decision.

Illegal recruitment in large scale

Ochoa was charged with violation of Section 6 of Republic Act No. 8042. Said provision broadens the concept of illegal recruitment under the Labor Code^[43] and provides stiffer penalties, especially for those that constitute economic sabotage, *i.e.*, illegal recruitment in large scale and illegal recruitment committed by a syndicate.

Section 6 of Republic Act No. 8042 defines illegal recruitment as follows:

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, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

x x x x

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

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.

It is well-settled that to prove illegal recruitment, it must be shown that appellant gave complainants the distinct impression that she had the power or ability to send complainants abroad for work such that the latter were convinced to part with their money in order to be employed.^[44] All eight private complainants herein consistently declared that Ochoa offered and promised them employment overseas. Ochoa required private complainants to submit their bio-data, birth certificates, and passports, which private complainants did. Private complainants also gave various amounts to Ochoa as payment for placement and medical fees as evidenced by the receipts Ochoa issued to Gubat,^[45] Cesar,^[46] and Agustin.^[47] Despite private complainants' compliance with all the requirements Ochoa specified, they were not able to leave for work abroad. Private complainants pleaded that Ochoa return their hard-earned money, but Ochoa failed to do so.

Ochoa contends that Exhibit "A," the POEA certification - which states that Ochoa, in her personal capacity, is neither licensed nor authorized to recruit workers for overseas employment - was already rejected by the RTC during the hearings on bail for being hearsay, and should not have been admitted by the RTC after the trial on the merits of the criminal cases. Inadmissible evidence during bail hearings do not become admissible evidence after formal offer. Without the POEA certification, the prosecution had no proof that Ochoa is unlicensed to recruit and, thus, she should be acquitted.

Ochoa's contention is without merit.

We refer to the following ruling in *Fullero v. People*,^[48] wherein we rejected a similar argument raised by petitioner therein against a certification issued by an officer of the Professional Regulation Commission:

Regarding the third issue, petitioner contended that the prosecution's documentary evidence, consisting of Exhibits "A," "C," "F," "G," "H," "I," "J," "K," "L," "M," "N," "O," "P," "Q" and "R" and their sub-markings, are inadmissible in evidence based on the following reasons:

(1) Exhibit "A," which is the Certification of the PRC dated 17 January 1998, confirming that petitioner's name does not appear in the registry books of licensed civil engineers, was not properly identified during the trial. The proper person to identify the certification should have been the signatory therein which was PRC Director II Jose A. Arriola, or in his absence, a person who actually witnessed the execution of the certification. Prosecution witness Atayza, who was not present when the certification was executed, had identified the certification during the trial. Thus, the contents of the certification are mere hearsay; x x x.

x x x x

Section 36, Rule 130 of the Revised Rules on Evidence, states that a witness can testify only to those facts which he knows of or comes from his personal knowledge, that is, which are derived from his perception. A witness, therefore, may not testify as to what he merely learned from others either because he was told, or he read or heard the same. Such testimony is considered hearsay and may not be received as proof of the truth of what he has learned. This is known as the hearsay rule.

The law, however, provides for specific exceptions to the hearsay rule. One of the exceptions is the entries in official records made in the performance of duty by a public officer. In other words, official entries are admissible in evidence regardless of whether the officer or person who made them was presented and testified in court, since these entries are considered *prima facie* evidence of the facts stated therein. Other recognized reasons for this exception are necessity and trustworthiness. The necessity consists in the inconvenience and difficulty of requiring the official's attendance as a witness to testify to innumerable transactions in the course of his duty. This will also unduly hamper public business. The trustworthiness consists in the presumption of regularity of performance of official duty by a public officer.

Exhibit "A," or the Certification of the PRC dated 17 January 1998, was signed by Arriola, Director II of the PRC, Manila. Although Arriola was not presented in court or did not testify during the trial to verify the said certification, such certification is considered as *prima facie* evidence of the facts stated therein and is therefore presumed to be truthful, because

petitioner did not present any plausible proof to rebut its truthfulness. Exhibit A is therefore admissible in evidence.^[49]

In the case at bar, the POEA certification was signed by Dir. Mateo of the POEA Licensing Branch. Although Dir. Mateo himself did not testify before the RTC, the prosecution still presented Cory, Dir. Mateo's subordinate at the POEA Licensing Branch, to verify Dir. Mateo's signature.

Also worth re-stating is the justification provided by the Court of Appeals for the admissibility of the POEA certification, *viz*:

The certificate is admissible. It is true that the trial court, during the bail hearings, rejected the certification for being hearsay because at that stage of the proceedings, nobody testified yet on the document. However, as the trial progressed, an officer of the POEA, specifically in its licensing branch, had testified on the document. It does not follow, then, as appellant would want this court to assume, that evidence rejected during bail hearings could not be admissible during the formal offer of evidence.

This court admits that Ms. Cory Aquino was not the signatory of the document. Nevertheless, she could testify on the veracity of the document because she is one of the officers of the licensing branch of the POEA. Being so, she could testify whether a certain person holds a license or not. It bears stressing that Ms. Aquino is familiar with the signature of Mr. Mateo because the latter is her superior. Moreover, as testified to by Ms. Aquino, that as a policy in her office, before a certification is made, the office checks first whether the name of the person requested to be verified is a reported personnel of any licensed agency by checking their index and computer files.

As found in the office's records, appellant, in her personal capacity, is neither licensed nor authorized to recruit workers for overseas employment. It bears stressing, too, that this is not a case where a certification is rendered inadmissible because the one who prepared it was not presented during the trial. To reiterate, an officer of the licensing branch of the POEA, in the person of Ms. Aquino, testified on the document. Hence, its execution could be properly determined and the veracity of the statements stated therein could be ascertained.^[50]

More importantly, Ochoa could still be convicted of illegal recruitment even if we disregard the POEA certification, for regardless of whether or not Ochoa was a licensee or holder of authority, she could still have committed illegal recruitment. Section 6 of Republic Act No. 8042 clearly provides that any person, **whether a non-licensee, non-holder, licensee or holder of authority** may be held liable for illegal recruitment for certain acts as enumerated in paragraphs (a) to (m) thereof. Among such acts, under Section 6(m) of Republic Act No. 8042, is the "[f]ailure to reimburse expenses incurred by the worker in connection with his documentation and processing

for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault." Ochoa committed illegal recruitment as described in the said provision by receiving placement and medical fees from private complainants, evidenced by the receipts issued by her, and failing to reimburse the private complainants the amounts they had paid when they were not able to leave for Taiwan and Saudi Arabia, through no fault of their own.

Ochoa further argues in her defense that she should not be found personally and criminally liable for illegal recruitment because she was a mere employee of AXIL and that she had turned over the money she received from private complainants to AXIL.

We are not convinced. Ochoa's claim was not supported by any corroborating evidence. The POEA verification dated September 23, 1998, also signed by Dir. Mateo, and presented by Ochoa during trial, pertains only to the status of AXIL as a placement agency with a "limited temporary authority" which had already expired. Said verification did not show whether or not Ochoa was employed by AXIL. Strangely, for an alleged employee of AXIL, Ochoa was not able to present the most basic evidence of employment, such as appointment papers, identification card (ID), and/or payslips. The receipts presented by some of the private complainants were issued and signed by Ochoa herself, and did not contain any indication that Ochoa issued and signed the same on behalf of AXIL. Also, Ochoa was not able to present any proof that private complainants' money were actually turned over to or received by AXIL.

There is no reason for us to disturb the weight and credence accorded by the RTC to the evidence of the prosecution, over that of the defense. As is well-settled in this jurisdiction, greater weight is given to the positive identification of the accused by the prosecution witnesses than the accused's denial and explanation concerning the commission of the crime.^[51] Likewise, factual findings of the trial courts, including their assessment of the witnesses' credibility, are entitled to great weight and respect by the Supreme Court, particularly when the Court of Appeals affirmed such findings. After all, the trial court is in the best position to determine the value and weight of the testimonies of witnesses. The absence of any showing that the trial court plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case, or that its assessment was arbitrary, impels the Court to defer to the trial court's determination according credibility to the prosecution evidence.^[52] Moreover, in the absence of any evidence that the prosecution witnesses were motivated by improper motives, the trial court's assessment of the credibility of the witnesses shall not be interfered with by this Court.^[53]

Under the last paragraph of Section 6 of Republic Act No. 8042, illegal recruitment shall be considered an offense involving economic sabotage if committed in a large scale, that is, committed against three or more persons individually or as a group. Here, there are eight private complainants who convincingly testified on Ochoa's acts of illegal recruitment.

In view of the overwhelming evidence presented by the prosecution, we uphold the verdict of the RTC, as affirmed by the Court of Appeals, that Ochoa is guilty of illegal recruitment constituting economic sabotage.

Section 7(b) of Republic Act No. 8042 provides that the penalty of life imprisonment and a fine of not less than P500,000.00 nor more than P1,000,000.00 shall be imposed when the illegal recruitment constitutes economic sabotage. Thus:

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.

Since the penalty of life imprisonment and a fine of P1,000,000.00 imposed on Ochoa by the RTC, and affirmed by the Court of Appeals, are in accord with the law, we similarly sustain the same.

Estafa

We affirm as well the conviction of Ochoa for estafa committed against three private complainants in Criminal Case Nos. 98-77301, 98-77302, and 98-77303. The very same evidence proving Ochoa's criminal liability for illegal recruitment also established her criminal liability for estafa.

It is settled that a person may be charged and convicted separately of illegal recruitment under Republic Act No. 8042, in relation to the Labor Code, and estafa under Article 315, paragraph 2(a) of the Revised Penal Code. We explicated in *People v. Cortez and Yabut*^[54] that:

In this jurisdiction, it is settled that a person who commits illegal recruitment may be charged and convicted separately of illegal recruitment under the Labor Code and estafa under par. 2(a) of Art. 315 of the Revised Penal Code. The offense of illegal recruitment is *malum prohibitum* where the criminal intent of the accused is not necessary for conviction, while estafa is *malum in se* where the criminal intent of the accused is crucial for conviction. Conviction for offenses under the Labor Code does not bar conviction for offenses punishable by other laws. Conversely, conviction for estafa under par. 2(a) of Art. 315 of the Revised Penal Code does not bar a conviction for illegal recruitment under the Labor Code. It follows that one's acquittal of the crime of estafa will not necessarily result in his acquittal of the crime of illegal recruitment in large scale, and *vice versa*.^[55]

Article 315, paragraph 2(a) of the Revised Penal Code defines estafa as:

Art. 315. *Swindling (estafa)*. - Any person who shall defraud another by any of the means mentioned hereinbelow x x x:

x x x x

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.

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.^[56] Both elements are present in Criminal Case Nos. 98-77301, 98-77302, and 98-77303. Ochoa's deceit was evident in her false representation to private complainants Gubat, Cesar, and Agustin that she possessed the authority and capability to send said private complainants to Taiwan/Saudi Arabia for employment as early as one to two weeks from completion of the requirements, among which were the payment of placement fees and submission of a medical examination report. Ochoa promised that there were already existing job vacancies overseas for private complainants, even quoting the corresponding salaries. Ochoa carried on the deceit by receiving application documents from the private complainants, accompanying them to the clinic for medical examination, and/or making them go to the offices of certain recruitment/placement agencies to which Ochoa had actually no connection at all. Clearly deceived by Ochoa's words and actions, private complainants Gubat, Cesar, and Aquino were persuaded to hand over their money to Ochoa to pay for their placement and medical fees. Sadly, private complainants Gubat, Cesar, and Aquino were never able to leave for work abroad, nor recover their money.

The penalty for estafa depends on the amount of defraudation. According to 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 *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 under the provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

It was established by evidence that in Criminal Case No. 98-77301, Gubat was defrauded by Ochoa in the amount of P15,000.00; in Criminal Case No. 77-98302, Cesar paid Ochoa the sum of P17,000.00; and in Criminal Case No. 77-98303, Agustin handed over to Ochoa a total of P28,000.00.

The prescribed penalty for estafa under Article 315 of the Revised Penal Code, when the amount of the fraud is over P12,000.00 but not exceeding P22,000.00, is *prision correccional* maximum to *prision mayor* minimum (*i.e.*, from 4 years, 2 months and 1 day to 8 years). If the amount of fraud exceeds P22,000.00, the aforementioned 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.

Under the Indeterminate Sentence Law, the minimum term shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code, or anywhere within *prision correccional* minimum and medium (*i.e.*, from 6 months and 1 day to 4 years and 2 months).^[57] Consequently, the minimum terms in Criminal Case Nos. 98-77301 and 98-77302 were correctly fixed by the RTC and affirmed by the Court of Appeals at 2 years, 11 months, and 11 days of *prision correccional*. While the minimum term in Criminal Case No. 98-77303 was increased by the Court of Appeals to 4 years and 2 months of *prision correccional*, it is still within the range of the penalty next lower to that prescribed by Section 315 of the Revised Penal Code.

The maximum term under the Indeterminate Sentence Law shall be that which, in view of attending circumstances, could be properly imposed under the rules of the Revised Penal Code. To compute the minimum, medium, and maximum periods of the prescribed penalty for estafa when the amount of fraud exceeds P12,000.00, the time included in *prision correccional* maximum to *prision mayor* minimum shall be divided into three equal portions, with each portion forming a period. Following this computation, the minimum period for *prision correccional* maximum to *prision mayor* minimum is from 4 years, 2 months, and 1 day to 5 years, 5 months, and 10 days; the medium period is from 5 years, 5 months, and 11 days to 6 years, 8 months, and 20 days; and the maximum period is from 6 years, 8 months, and 21 days to 8 years. Any incremental penalty (*i.e.*, 1 year for every P10,000.00 in excess of P22,000.) shall thus be added to anywhere from 6 years, 8 months, and 21 days to 8 years, at the discretion of the court, provided that the total penalty does not exceed 20 years.^[58]

In Criminal Case Nos. 98-77301 and 98-77302, the amounts of fraud were more than P12,00.00 but not exceeding P22,000.00, and in the absence of any mitigating or aggravating circumstance, the maximum term shall be taken from the medium period of the penalty prescribed (*i.e.*, 5 years, 5 months, and 11 days to 6 years, 8 months, and 20 days). Thus, the maximum terms of 6 years, 8 months, and 20 days actually imposed by the RTC and affirmed by the Court of Appeals in Criminal Case Nos. 98-

77301 and 98-77302 are proper.

As for determining the maximum term in Criminal Case No. 98-77303, we take into consideration that the amount of fraud was P28,000.00. Since the amount of fraud exceeded P22,000.00, the maximum term shall be taken from the maximum period of the prescribed penalty, which is 6 years, 8 months, and 21 days to 8 years; but since the amount of fraud exceeded P22,000.00 by only P6,000.00 (less than P10,000.00), no incremental penalty shall be imposed. Considering that the maximum term of 8 years fixed by the Court of Appeals in Criminal Case No. 98-77303 is within the maximum period of the proscribed penalty, we see no reason for disturbing the same.

WHEREFORE, we **DENY** the present appeal for lack of merit and **AFFIRM** the Decision dated March 2, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00888, affirming with modification the Decision dated April 17, 2000 of the Regional Trial Court, Quezon City, Branch 104, in Criminal Case Nos. 98-77300 to 98-77303, to read as follows:

1. In Criminal Case No. 98-77300, accused-appellant Rosario "Rose" Ochoa is found **guilty** beyond reasonable doubt of illegal recruitment in large scale, constituting economic sabotage, as defined and penalized in Section 6(l) and (m), in relation to Section 7(b), of Republic Act No. 8042, and is sentenced to life imprisonment and a fine of One Million Pesos (P1,000,000.00);

2. In Criminal Case No. 98-77301, accused-appellant Rosario "Rose" Ochoa is found **guilty** beyond reasonable doubt of the crime of estafa, as defined and penalized in Article 315, paragraph 2(a) of the Revised Penal Code, and is sentenced to an indeterminate penalty of two (2) years, eleven (11) months, and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months, and twenty (20) days of *prision mayor*, as maximum, and to indemnify private complainant Robert Gubat in the amount of Fifteen Thousand Pesos (P15,000.00) as actual damages;

3. In Criminal Case No. 98-77302, accused-appellant Rosario "Rose" Ochoa is found **guilty** beyond reasonable doubt of the crime of estafa, as defined and penalized in Article 315, paragraph 2(a) of the Revised Penal Code, and is sentenced to an indeterminate penalty of two (2) years, eleven (11) months, and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months, and twenty (20) days of *prision mayor*, as maximum, and to indemnify private complainant Cesar Aquino in the amount of Seventeen Thousand Pesos (P17,000.00); and

4. In Criminal Case No. 98-77303, accused-appellant Rosario "Rose" Ochoa is found **guilty** beyond reasonable doubt of the crime of estafa, as defined and penalized in Article 315, paragraph 2(a) of the Revised Penal Code, and is sentenced to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, and to indemnify private complainant Junior Agustin in the amount of Twenty-Eight Thousand Pesos (P28,000.00).

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] *Rollo*, pp. 3-24; penned by Associate Justice Jose L. Sabio, Jr. with Associate Justices Fernanda Lampas Peralta and Arturo G. Tayag, concurring.

[2] *CA rollo*, pp. 26-60; penned by Judge Thelma A. Ponferrada.

[3] *Id.* at 5.

[4] *Id.* at 7.

[5] *Id.* at 9.

[6] *Id.* at 11.

[7] Robert Gubat, Cesar Aquino, Richard Luciano, Fernando Rivera, Mariano Mislang, Helen Palogo, Joebert Decolongon, Corazon Austria, Christopher Bermejo, Leticia Londonio, Alma Borromeo, Francisco Pascual, Reynaldo Bermejo and Rosemarie Bermejo. (TSN, September 21, 1998, pp. 11-12.)

[8] TSN, July 14, 1998, pp. 10-50; TSN, September 21, 1998, pp. 2-24.

[9] TSN, September 21, 1998, pp. 25-43.

[10] TSN, September 28, 1998, pp. 2-14.

[11] TSN, October 5, 1998, pp. 2-11.

[12] TSN, October 26, 1998, pp. 6-14.

[13] TSN, February 16, 1999, pp. 4-16.

[14] TSN, April 12, 1999, pp. 2-10.

[15] TSN, May 5, 1999, pp. 2-15.

[16] TSN, October 26, 1998, pp. 2-5.

[17] TSN, January 17, 2000, p. 5.

[18] *Id.*

[19] *Id.* at 6.

[20] Id.

[21] Id. at 5.

[22] Id. at 6.

[23] Id. at 6-7.

[24] Id. at 7.

[25] Id. at 7-9.

[26] CA *rollo*, pp. 59-60.

[27] Id. at 63.

[28] Id. at 70.

[29] Id. at 71-78.

[30] Id. at 125-137.

[31] Id. at 142-158.

[32] Id. at 165-168.

[33] Id. at 170-173.

[34] Id. at 176-183.

[35] Id. at 180-182.

[36] Id. at 182.

[37] Id. at 193.

[38] Id. at 201.

[39] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[40] CA *rollo*, pp. 207-213.

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

[42] *CA rollo*, p. 71.

[43] Article 13 x x x

(b) "Recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising for advertising for employment locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

[44] *People v. Gasacao*, 511 Phil. 435, 444-445 (2005).

[45] Folder of Exhibits, Exhibits "C," "D," and "E."

[46] *Id.*, Exhibit "G."

[47] *Id.*, Exhibit "L."

[48] G.R. No. 170583, September 12, 2007, 533 SCRA 97.

[49] *Id.* at 118-120.

[50] *Rollo*, pp. 14-15.

[51] *People v. Gharbia*, 369 Phil. 942, 953 (1999).

[52] *People v. Nogra*, G.R. No. 170834, August 29, 2008, 563 SCRA 723, 735.

[53] *People v. Saulo*, 398 Phil. 544, 554 (2000).

[54] 374 Phil. 575 (1999).

[55] *Id.* at 586.

[56] *People v. Ballesteros*, 435 Phil. 205, 228 (2002).

[57] *People v. Temporada*, G.R. No. 173473, December 17, 2008, 574 SCRA 258, 299.

[58] *Id.*



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