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# SECOND DIVISION

# [ G.R. Nos. 138535-38, April 19, 2001 ]

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUZ GONZALES-FLORES, ACCUSED-APPELLANT.

## D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision[1] of the Regional Trial Court, Branch 77, Quezon City, finding accused-appellant Luz Gonzalez-Flores guilty of illegal recruitment in large scale and of three counts of estafa against Felixberto Leongson, Jr., Ronald Frederizo,[2] and Larry Tibor and sentencing her to suffer four prison terms and to pay indemnity and damages to complainants.

In Criminal Case No. Q-94-59470, the information for estafa against accused-appellant alleged:

> That on or about the month of August, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with several persons whose true names and true identities have not as yet been ascertained, and helping one another, did then and there wilfully, unlawfully and feloniously defraud FELIXBERTO LEONGSON, JR. y CASTAÑEDA in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which she made to said complainant to the effect that they had the power and capacity to recruit and employ complainant abroad as [a] seaman and could facilitate the processing of the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said complainant to give and deliver, as in fact he gave and delivered to said accused the amount of P45,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the amount of P45,000.00, which amount once in possession, with intent to defraud FELIXBERTO LEONGSON, JR. wilfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said complainant in the aforesaid amount of P45,000.00, Philippine Currency.
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> CONTRARY TO LAW.[3]

In Criminal Case No. Q-94-59471, also for estafa, the information charged:

> That on or about the month of August, 1994, in Quezon City, Philippines, the said accused conspiring together, confederating with several persons whose true names and true identities have not as yet been ascertained and helping one another did then and there wilfully, unlawfully and feloniously defraud RONALD F[R]EDERI[Z]O Y HUSENIA in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which they made to said complainant to the effect that they had the power and capacity to recruit and employ complainant abroad as [a] seaman and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said RONALD F[R]EDERI[Z]O Y HUSENIA to give and deliver, as in fact gave and delivered to said accused the amount of P45,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the amount of P45,000.00 which amount once in possession, with intent to defraud complainant wilfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said RONALD F[RE]DERI[Z]O Y HUSENIA in the aforesaid amount of P45,000.00, Philippine Currency.
>
> CONTRARY TO LAW.[4]

In Criminal Case No. Q-94-59472, another case for estafa, the information averred:

> That on or about the month of August, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with several persons whose true names and whereabouts have not as yet been ascertained and helping one another, did then and there wilfully, unlawfully and feloniously defraud LARRY TIBOR Y MABILANGAN in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which they made to said complainant to the effect that they had the power and capacity to recruit and employ complainant abroad as [a] seaman and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said complainant to give and deliver, as in fact gave and delivered to said accused the amount of P38,000.00 on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact they did obtain the amount of P38,000.00 which amount once in possession, with intent to defraud LARRY TIBOR Y MABILANGAN wilfully, unlawfully and feloniously mis-appropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said complainant in the amount of P38,000.00, Philippine Currency.

> CONTRARY TO LAW.[5]

On the other hand, in Criminal Case No. Q-94-59473, the information for illegal recruitment in large scale charged:

> That on or about the month of August, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with several persons whose true names and whereabouts have not as yet been ascertained and helping one another, did then and there, wilfully, unlawfully and feloniously canvass, enlist, contract and promise employment to the following persons, to wit:
>
> 1. RONALD F[R]EDERI[Z]O Y HUSENIA
> 2. LARRY TIBOR Y MABILANGAN
> 3. FELIXBERTO LEONGSON, JR. Y CASTAÑEDA
>
> after requiring them to submit certain documentary requirements and exacting from them the total amount of P128,000.00, Philippine Currency, as recruitment fees, such recruitment activities being done without the required license or authority from the Department of Labor.
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> That the crime described above is committed in large scale as the same was perpetrated against three (3) or more persons individually or as group as penalized under Articles 38 and 39, as amended by P.D. 2018, of the Labor Code.[6]

When arraigned, accused-appellant pleaded not guilty to the criminal charges, whereupon the cases were jointly tried.

The evidence for the prosecution is as follows:

On August 6, 1994, at around 1:00 p.m., complainant Felixberto Leongson, Jr. chanced upon his neighbors, Cloyd Malgapo, Jojo Bumatay, and accused-appellant, who were talking in front of his house at 68-C East Riverside, Bgy. Paltok, San Francisco del Monte, Quezon City. Complainant was asked by accused-appellant if he was interested to work as a seaman in Miami, Florida, United States of America. He replied that he was interested to work abroad but he had doubts regarding his qualification for the job. Accused-appellant assured him that this was not a problem because she could fix his application. All he had to do was pay P45,000.00 as processing fee. Accused-appellant told him that Jojo and Cloyd were departing soon. Complainant told accused-appellant that he would consider the offer.

That night, accused-appellant came to see Felixberto and reiterated her proposal. Felixberto said he wanted the job but he only had P10,000.00. Accused-appellant told him the amount would be sufficient as an initial payment.

Accused-appellant came back with Joseph Mendoza, whose brother-in-law, Engr. Leonardo Domingo, according to accused-appellant, was recruiting seamen. Thereafter, accused-appellant and Mendoza took complainant, Cloyd, and Jojo's wife, Clarita, to a house on Second Street, near Camp Crame in Quezon City, where the latter were introduced to Andy Baloran.[7] Complainant and his companions were told that Baloran was an employee of the National Bureau of Investigation and he would take care of processing the applications for employment. Baloran told complainant and the other job applicants that those who would be employed would be paid a monthly salary of US$1,000.00, plus tips, and given vacation leaves of 45 days with pay. Baloran asked complainant to submit his picture, bio-data, and birth certificate, which complainant later did. Accused-appellant then asked complainant to give her the P10,000.00 as initial payment. Complainant handed her the money and asked for a receipt, but accused-appellant told him not to worry and assured him that she would be responsible if anything untoward happened. Complainant, therefore, did not insist on asking accused-appellant for a receipt. Accused-appellant said she gave the money to Baloran.

Two days later, Baloran and Domingo went to the compound where Felixberto and accused-appellant were residing and called Felixberto, Cloyd, and Jojo to a meeting. Domingo told the applicants that he was the chief engineer of the luxury ocean liner where they would embark and repeated to them the salaries and other benefits which they would receive. He told them not to get impatient.

Accused-appellant later saw complainant to collect the balance of P35,000.00. Complainant was told to give the money to accused-appellant at Wendy's in Cubao, Quezon City on August 12, 1994.

At the appointed date and place, complainant and his wife delivered the amount to accused-appellant who, in turn, handed it to Baloran. No receipt was, however, issued to Felixberto.

Another meeting was held on August 16, 1994 at the Mandarin Hotel in Makati City by accused-appellant, Domingo, Baloran, Mendoza, the Leongson spouses, the Malgapo spouses, and Jojo Bumatay. The applicants were told by Domingo that they would be employed as waiters and attendants in the luxury liner and asked them again to wait a while.

On August 18, 1994, accused-appellant saw complainant again to collect the P25,000.00 balance. Felixberto paid the amount to accused-appellant four days later. As in the case of the first two payments, no receipt was given for the P25,000.00. Accused-appellant told him that she would turn over the amount to Baloran. Although complainant regularly followed up his application with accused-appellant, he was told each time to have patience and to just wait for the call from Domingo or from Baloran. But Felixberto never heard from either one of these two.[8] Felixberto's testimony was corroborated by his wife, Maria Luz, who said that accused-appellant claimed she could help her husband get a job as a seamen despite the latter's lack of formal training.

She knew of the three payments made to accused-appellant, totalling P45,000.00, and witnessed the last two payments of P10,000.00 at Wendy's, Cubao, and P25,000.00 at accused-appellant's residence. Maria Luz said she met Baloran, Mendoza, and Domingo and discussed with them the job offered to her husband and the salaries and benefits appurtenant thereto.[9] Complainant Ronald Frederizo, a resident of 68-A East Riverside, San Francisco del Monte, Quezon City, also testified. According to him, in the morning of August 10, 1994, he received a call from his sister, Elsa Cas, at Far East Bank, Binondo Branch, Manila, asking him to go home because accused-appellant, their neighbor, was in his house recruiting seaman for employment abroad. Ronald said that when he arrived home, he was told by accused-appellant that he had to pay P10,000.00 as initial payment for the processing of his application. Ronald withdrew the amount from Elsa's account. Then, Ronald went with accused-appellant to a house on Second Street near Camp Crame in Quezon City. On the way to that place, accused-appellant assured him that he would receive a salary of US$1,000.00. At an apartment on Second Street, Ronald saw his neighbors, complainant Felixberto, Jojo, and Cloyd. Baloran and Mendoza were also there. Accused-appellant introduced Baloran to Ronald, Cloyd, and Jojo. She told them that Baloran was going to take care of their applications and that he could pull strings at the NBI. Ronald paid accused-appellant P10,000.00 for which no receipt was issued. He was assured by accused-appellant that he would be able to leave for his job abroad in one or two weeks. He was told to be ready with the balance of P35,000.00 for the plane ticket on August 12, 1994.

Hence, on August 15, 1994, Ronald mortgaged his land in Batangas just so he could pay the P35,000.00 remaining balance. Accused-appellant went to Ronald's house to meet him. Thereafter, Ronald, Elsa, and accused-appellant took a cab to Mandarin Hotel in Makati City. Accused-appellant told Ronald to have no fear because the persons whom he was dealing with were her relatives. Elsa gave the P35,000.00 to accused-appellant. Ronald no longer asked for a receipt because he trusted accused-appellant. At the hotel were Felixberto and his wife, Baloran, and Domingo. Domingo showed Ronald and Felixberto his identification card and said that he was the captain of a ship. He told them that they would receive a salary of US$1,000.00 plus other benefits. He also assured them that he would inform them of developments in their applications through accused-appellant. After the meeting, Ronald went to his office and tendered his resignation. Ronald followed up his application almost every week but every time he was told by accused-appellant to be patient[10] because Domingo had not yet called.

Complainant Larry Tibor said that on August 10, 1994, he went to the house of his cousin, Elsa Cas, at 68-A East Riverside, Bgy. Paltok, San Francisco del Monte, Quezon City, because accused-appellant was there recruiting seamen to work abroad. Larry was then looking for a job. Accused-appellant introduced herself and told him that she could get him a job abroad if he had the necessary documents and P45,000.00. Larry said he had only P3,000.00. He was told by accused-appellant to bring the amount the next day for his fare and certification. As instructed, Larry paid the amount in the presence of his sister, Junet. He asked for a receipt, but accused-appellant told him to trust her. Accused-appellant instructed Larry to prepare extra money as his initial payment was insufficient. Larry left for the province to get a loan. He went to accused-appellant's house on August 15, 1994 and paid her an additional amount of P35,000.00. Again, no receipt was issued to him. Thereafter, accused-appellant took him to Mandarin Hotel where he was introduced to Baloran and Domingo. Larry kept waiting for a call, but none came. He was later told by accused-appellant that he could not leave yet because Baloran was sick and he had to postpone his trip.[11] Junet T. Lim, Larry's sister, testified that she was present her when brother paid P3,000.00 to accused-appellant, although no receipt was issued. She stated that she asked accused-appellant questions to make sure she could help Larry get a job abroad as a seaman. Janet said accused-appellant was able to convince her that she could do so. Junet also testified that she accompanied her brother in following up his job application for about three months until November 1994, when they realized they had been defrauded by accused-appellant, Domingo, and Baloran.[12] Realizing that they had been deceived, complainants went to the Baler Police Station 2 in Quezon City on November 11, 1994 to file their complaints for illegal recruitment and estafa against accused-appellant, Baloran, Domingo, and Mendoza. Felixberto executed his sworn statement[13] on the same day, while Ronald and Larry gave their respective statements[14] on November 12, 1994.

On November 14, 1994, complainants went to the Philippine Overseas Employment Administration (POEA) and discovered that accused-appellant and her companions did not have any license or authority to engage in any recruitment activity.

Felixberto and Ronald asked the court to order accused-appellant to pay them back the placement fees of P45,000.00 which each of them had paid and moral damages of P200,000.00 for each of them for the shame, anxiety, and loss of jobs they suffered. They also sought the reimbursement for litigation expenses they each incurred, amounting to P20,000.00 as attorney's fees and P500.00 per court appearance. Larry, on the other hand, sought the recovery of the total amount of P150,000.00 for placement fee, travelling expenses from the province to Manila to follow up his application, and the anguish and shame he suffered.[15] In her defense, accused-appellant Luz Gonzales-Flores, a resident of 68-B East Riverside, San Francisco del Monte, Quezon City, testified that she knew Felixberto Leongson, Jr., who was her neighbor and a nephew of the owner of the house in which they were staying. She came to know Ronald Frederizo and Larry Tibor through Elsa Cas. Accused-appellant denied having promised complainants overseas employment and having collected money from them. According to her, she came to know Andy Baloran and Engr. Leonardo Domingo through Joseph Mendoza, who referred her and her son, Noli, to them in connection with their own applications for overseas employment. She came to know Joseph Mendoza through Elsa Cas and Felixberto Leongson, Jr.

Accused-appellant claimed that she and Noli agreed to pay Baloran, Domingo, and Mendoza the total sum of P90,000.00 for their application fees. Since she did not have enough money to cover the amount, she asked her neighbors and friends to help her get a loan. Felixberto and his wife offered help and introduced her to Jenny Tolentino, from whom she got a loan of P15,000.00 guaranteed by Felixberto's wife. Accused-appellant said she used the amount to pay for her and her son's recruitment fees. Accused-appellant claimed that she paid the total amount of P46,500.00 for her recruitment fee in three installments, *i.e.,* P10,000.00 to Mendoza at her house, P10,000.00, and P16,500.00 to Baloran at the Mandarin Hotel. She alleged that she also gave them several pieces of jewelry worth P10,000.00. According to her, no receipts were issued for the money and jewelry she gave.

Accused-appellant said that because Domingo, Baloran, and Mendoza did not make good their promises, accused-appellant filed a complaint for illegal recruitment and estafa against them on November 7, 1994 in the NBI, including as her co-complainants Felixberto Leongson, Jr., Ronald Frederizo, Larry Tibor, Eduardo Sibbalucas, Har Taccad, Romeo Gallardo, Joseph Mendoza, and her son, Noli Flores.[16] Accused-appellant was investigated by the Baler Police Station 2 on November 11, 1994 as a result of the complaints filed against her by Felixberto, Ronald, and Larry. Thereafter, she was detained.[17] On November 24, 1994, she appeared before the NBI accompanied by a policewoman to comply with the subpoena[18] issued regarding her complaint. According to NBI Agent Jesus Manapat, accused-appellant's complaint was dismissed for lack of merit.[19] Based on the evidence presented, the trial court rendered its assailed decision on November 23, 1998, the dispositive portion of which reads:

> WHEREFORE, the guilt of the accused for illegal recruitment in large scale and estafa in three (3) counts having been proved beyond reasonable doubt, she is hereby convicted of said crimes and is sentenced:
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> (1) To suffer the penalty of life imprisonment and pay a fine of P100,000 in Criminal Case No. Q-94-59473;
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> (2) To suffer the penalty of imprisonment ranging from FOUR (4) YEARS AND THREE (3) MONTHS of **prision correccional**, as minimum, and up to TEN (10) YEARS of **prision mayor**, as maximum, and to pay the costs in Criminal Case No. Q-94-59470;
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> (3) To suffer the penalty of imprisonment ranging from FOUR (4) YEARS AND THREE (3) MONTHS of **prision correccional**, as minimum, and up to TEN (10) YEARS of **prision mayor**, as maximum, and to pay the costs in Criminal Case No. Q-94-59471; and
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> (4) To suffer the penalty of imprisonment ranging FOUR (4) YEARS AND THREE (3) MONTHS of **prision correccional**, as minimum, and up to NINE (9) YEARS of **prision mayor**, as maximum, and to pay the costs in Criminal Case No. Q-94-59472.
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> The accused is also directed to pay: (a) Ronald Federi[z]o, the amount of P45,000.00 as and by way of actual damages; (b) Felixberto Leongson, Jr. P45,000.00 as and by way of actual damages; and (c) Larry Tibor, P38,000.00 as and by way of actual damages.
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> The accused is further directed to pay to the said private complainants moral damages in the sum of TWENTY THOUSAND PESOS (P20,000.00) each.

SO ORDERED.[20]

Hence, this appeal. Accused-appellant contends that-

I. THE LOWER COURT ERRED IN RELYING UPON THE JURISPRUDENCE AND AUTHORITIES CITED, I.E., PEOPLE VS. COMIA, PEOPLE VS. MANOZCA, PEOPLE VS. HONRADA, PEOPLE VS. TAN TIONG MENG, PEOPLE VS. VILLAS AND PEOPLE VS. SENDON BECAUSE, WITH DUE RESPECT, THE FACTS AND CIRCUMSTANCES AVAILING IN SAID CASES ARE DIFFERENT AS IN THE PRESENT CASE; AND

II. [THE LOWER COURT] ERRED IN HOLDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT ON THE BASIS OF THE EVIDENCE ADDUCED BY THE PROSECUTION TAKEN IN THE LIGHT OF THE UNREBUTTED EVIDENCE OF THE ACCUSED ON VERY MATERIAL POINTS.[21]

The contentions are without merit.

In Criminal Case No. Q-94-59473, accused-appellant was charged with illegal recruitment in large scale, the essential elements of which are: (1) that the accused engages in acts of recruitment and placement of workers defined under Art. 13 (b) or in any of the prohibited activities under Art. 34 of the Labor Code; (2) that the accused has not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the securing of a license or an authority to recruit and deploy workers, either locally or overseas; and (3) that the accused commits the unlawful acts against three or more persons, individually or as a group.[22] In these cases, according to the certification of the POEA, accused-appellant had no license or authority to engage in any recruitment activities.[23] In fact, this was stipulated at the trial.[24] Accused-appellant claims, however, that she herself was a victim of illegal recruitment and that she simply told complainants about job opportunities abroad.

The allegation is untenable. Art. 13 (b) of the Labor Code defines "recruitment and placement" as referring to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not. The same article further states 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.[25] The evidence for the prosecution shows that accused-appellant sought out complainants and promised them overseas employment. Despite their initial reluctance because they lacked the technical skills required of seamen, complainants were led to believe by accused-appellant that she could do something so that their applications would be approved. Thus, because of accused-appellant's misrepresentations, complainants gave her their moneys. Accused-appellant's companions, Domingo, Baloran, and Mendoza, made her ploy even more plausible.

Accused-appellant contends that all she did was to refer complainants to Domingo, Baloran, and Mendoza. However, under Art. 13 (b) of the Labor Code, recruitment includes "referral," which is defined as the act of passing along or forwarding an applicant for employment after initial interview of a selected applicant for employment to a selected employer, placement officer, or bureau.[26] In these cases, accused-appellant did more than just make referrals. She actively and directly enlisted complainants for supposed employment abroad, even promising them jobs as seamen, and collected moneys from them.

The failure of complainants to present receipts to evidence payments made to accused-appellant is not fatal to the prosecution case. The presentation of the receipts of payments is not necessary for the conviction of accused-appellant. As long as the prosecution is able to establish through credible testimonies and affidavits that the accused-appellant was involved in the prohibited recruitment, a conviction for the offense can very well be justified.[27] In these cases, complainants could not present receipts for their payment because accused-appellant assured them she would take care of their money.

It must be remembered that the trial court's appreciation of complainants' testimonies deserves the highest respect since it was in a better position to assess their credibility.[28] In these cases, complainants' testimonies, to the effect that they paid money to accused-appellant and her companions, Domingo and Baloran, because the latter promised them overseas employment, were positive, straightforward, and categorical. They maintained their testimonies despite the lengthy and gruelling cross-examination by the defense counsel. They have not been shown to have any ill motive to falsely testify against accused-appellant. Naive, simple-minded, and even gullible as they may have been, it is precisely for people like complainants that the law was made. Accordingly, their testimonies are entitled to full faith and credit.[29] In contrast, accused-appellant's defense is merely denial. Time and again, this Court has ruled that denial, being negative evidence which is self-serving in nature, cannot prevail over the positive identification of prosecution witnesses.[30] Here, complainants positively identified accused-appellant as one of those who represented that they could be deployed for overseas work upon payment of the fees.

Accused-appellant claims that she herself had to borrow P15,000.00 from Jenny Tolentino, guaranteed by Maria Luz Leongson, to defray her own and her son's application expenses. The claim has no merit. Maria Luz Leongson, who is Felixberto's wife, testified that accused-appellant sought her help to guarantee a loan to pay the tuition fees of her daughter and the rent of the apartment in which she and her family were staying,[31] and not to finance her and her son's overseas job applications.

Accused-appellant likewise testified that she paid in cash a total of P36,500.00 in three installments, *i.e.*, P10,000.00 to Mendoza at her house, and P10,000.00 and P16,500.00 to Baloran, at the Mandarin Hotel. This testimony cannot be deemed worthy of belief. When cross-examined, accused-appellant could not remember the dates when she allegedly made these payments. For someone who was jobless[32] and looking for employment, it is very doubtful that she would pay considerable sums of money to strangers without even remembering at least the month or the year when the same were supposed to have been paid.

Accused-appellant further contends that if she was indeed a conspirator in the illegal recruitment transactions with complainants, she would not have filed a complaint[33] in the NBI against Domingo and Baloran. The complaint was, as already stated, dismissed and it is apparent that accused-appellant filed the complaint only to make it appear that she herself had been the victim of swindling and illegal recruitment. First, the complaint shows that it was filed on November 7, 1994, even before she was detained at the Baler Police Station 2 upon the sworn statements of complainants. Complainants were included as complainants in a complaint filed by accused-appellant. Yet, the complainants were never told, nor did they ever knew, of the complaint until the trial of these cases. Second, accused-appellant could have easily told them at least of the complaint because Felixberto Leongson, Jr., Ronald Frederizo and Elsa Cas, a relative of complainant Larry Tibor, were her immediate neighbors. Third, it is also noteworthy that despite her claim that she paid P10,000.00 to Mendoza, accused-appellant made the latter a co-complainant in the complaint she filed with the NBI.

More importantly, accused-appellant's defense is uncorroborated. Not one of the persons she included in her complaint to the NBI was ever presented in her defense in these cases. Nor did she present Domingo, Baloran, or Mendoza to corroborate her statements. It is probable that had she presented any of these persons, their testimonies would have been adverse to accused-appellant.[34] Direct proof of previous agreement to commit a crime is not necessary as it may be deduced from the mode in which the offense was perpetrated, or inferred from the acts of the accused which point to a joint purpose and design.[35] In these cases, the fact is that there was conspiracy among accused-appellant, Domingo, and Baloran in recruiting complainants for employment overseas. The evidence shows that each had a role in that conspiracy. Domingo posed as a representative of the luxury liner in recruiting crew for the vessel. Baloran represented himself as the person who would actually process complainants' travel documents, while accused-appellant acted as a scout for job applicants and a collector of their payments. It was only Mendoza who did not misrepresent himself as someone capable of helping complainants go abroad nor collect money from them.[36] In sum, we are of the opinion that the trial court correctly found accused-appellant guilty of illegal recruitment in large scale. The imposition on accused-appellant of the penalty of life imprisonment and a fine of P100,000.00 is thus justified.

Accused-appellant was likewise found guilty of estafa under Art. 315 (2) (a) of the Revised Penal Code committed -

> 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.

Both elements of the crime were established in these cases, namely, (a) accused-appellant defrauded complainant by abuse of confidence or by means of deceit and (b) complainant suffered damage or prejudice capable of pecuniary estimation as a result.[37] Complainants parted with their money upon the prodding and enticement of accused-appellant on the false pretense that she had the capacity to deploy them for employment abroad. In the end, complainants were neither able to leave for work overseas nor did they get their money back, thus causing them damage and prejudice.[38] The issues that misappropriation on the part of accused-appellant of the money paid by complainants and their demand for the same were not sufficiently established are immaterial and irrelevant, conversion and demand not being elements of estafa under Art. 315 (2) (a) of the Revised Penal Code.

In Criminal Case Nos. Q-94-59470 and Q-94-59471, the amounts involved are both P45,000.00, as testified to by complainants Felixberto Leongson, Jr. and Ronald Frederizo. Pursuant to Art. 315, par. 1 of the Revised Penal Code, the Indeterminate Sentence Law, and the ruling in *People v. Gabres*,[39] the trial court correctly meted accused-appellant the maximum penalty of ten (10) years of *prision mayor* in each case. This is so considering that the maximum penalty prescribed by law for the felony is six (6) years, eight (8) months, and 21 days to eight (8) years of *prision mayor*. The amounts involved in these cases exceed P22,000.00 by at least P20,000.00, necessitating an increase of one (1) year for every P10,000.00. Applying the Indeterminate Sentence Law, the minimum of the sentence is thus from six (6) months and one (1) day to four (4) years and two (2) months of *prision correccional*. The trial court can exercise its discretion only within this period. Thus, the minimum penalty imposed by the trial court should be reduced to four (4) years and two (2) months of *prision correccional*.

In Criminal Case No. Q-94-59472, where the amount involved is P38,000.00, the indeterminate sentence which should be imposed on accused-appellant should range from four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years of *prision mayor*, as maximum.

In accordance with the ruling in *People v. Mercado*,[40] the fact that no receipts were presented to prove the amounts paid by complainants to accused-appellant does not prevent an award of actual damages in view of the fact that complainants were able to prove by their respective testimonies and affidavits that accused-appellant was involved in the recruitment process and succeeded in inveigling them to give their money to her. The award of moral damages should likewise be upheld as it was shown to have factual basis.

**WHEREFORE,** the decision of the Regional Trial Court, Branch 77, Quezon City, finding accused-appellant guilty of illegal recruitment in large scale and estafa against complainants Felixberto Leongson, Jr., Ronald Frederizo, and Larry Tibor is AFFIRMED, with the MODIFICATIONS that, in the cases for estafa, accused-appellant is sentenced:

(1) In Criminal Case No. Q-94-59470, to suffer a prison term ranging from four (4) years and two (2) months of *prision correccional*, as minimum, to ten (10) years of

*prision mayor*, as maximum;

(2) In Criminal Case No. Q-94-59471, to suffer a prison term ranging from four (4) years and two (2) months of *prision correccional*, as minimum, to 10 years of *prision mayor*, as maximum; and

(3) In Criminal Case No. Q-94-59472, to suffer a prison term ranging from four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years of *prision mayor*, as maximum.

SO ORDERED.

*Bellosillo, J. (Chairman), Quisumbing, Buena,* and *De Leon, Jr., JJ.,* concur.

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[1] Per Judge Vivencio S. Baclig.

[2] Also referred to in the records as Ronald Federico and Ronald Federizo.

[3] *Rollo*, p. 15.

[4] *Id*., p.17.

[5] *Id*., p.19.

[6] Records, p. 19.

[7] Also referred to in the records as Andres Baloran and Andres Baluran.

[8] TSN, pp. 2-9, Feb. 1, 1995; TSN, pp. 2-15, June 14, 1995; TSN, pp. 5-11, Aug. 14, 1996; TSN, pp. 2-17, Jan. 14, 1997.

[9] TSN, pp. 8-23, Aug. 18, 1997.

[10] TSN, pp. 4-18, May 20, 1997; TSN, pp. 2-10, July 8, 1997; TSN, p. 6, Aug. 18, 1997.

[11] TSN, pp. 18-23, Jan. 14, 1997; TSN, pp. 9-10, Mar. 4, 1997.

[12] TSN, pp. 5-21, Apr. 7, 1997.

[13] Exh. B.

[14] Exhs. D and C, respectively.

[15] TSN, pp. 10-12, Feb. 1, 1995; TSN, pp. 18-23, May 20, 1997; TSN, pp. 23-28, Jan. 14, 1997.

[16] Exh. 4.

[17] TSN, pp. 8-22, Feb. 4, 1998; TSN, pp. 5-17, Mar. 3, 1998.

[18] Exh. 3.

[19] Exh. 5, TSN, pp. 3-14, July 1, 1998.

[20] *Rollo*, pp. 51-52.

[21] *Id*., p. 87.

[22] People v. Ong, 322 SCRA 38 (2000).

[23] Exh. A.

[24] TSN, p. 29, Jan. 14, 1997.

[25] People v. Mercado, 304 SCRA 504 (1999).

[26] People v. Ordoño, G.R. Nos. 129593 & 143533-35, July 10, 2000.

[27] People v. Yabut, 316 SCRA 237 (1999).

[28] *Id.*

[29] People v. Lumacang, 324 SCRA 254 (2000).

[30] People v. Nicolas, 324 SCRA 748 (2000).

[31] TSN, pp. 12-13, Sept. 1, 1997.

[32] TSN, pp. 3, 6, Feb. 4, 1998.

[33] Exh. 4.

[34] Rules on Evidence, Rule 131, §3(e); People v. Enriquez, 306 SCRA 739 (1999).

[35] People v. Ariola, 318 SCRA 206 (1999).

[36] People v. Mercado de Arabia, G.R. No. 128112, May 12, 2000.

[37] *Id.*

[38] People v. Sagaydo, G.R. Nos. 124671-75, Sept. 29, 2000.

[39] 267 SCRA 581 (1997).

[40] 304 SCRA 504 (1999).

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