



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
JUL 05 2022

BY: _____
TIME: _____

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 232245

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

MILDRED COCHING* LIWANAG,
Accused-Appellant.

Promulgated:

MAR 02 2022

X-----X

DECISION

HERNANDO, J.:

This is an appeal¹ filed by Mildred Coching Liwanag (accused-appellant) from the January 31, 2017 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07838 that affirmed the May 19, 2015 Judgment³ of the Regional Trial Court (RTC), Branch 205 of Muntinlupa City. The RTC found accused-appellant guilty beyond reasonable doubt of the offense of Illegal Recruitment in Large Scale in Criminal Case No. 10-443, and the crime of Estafa under paragraph 2 (a), Article 315 of the Revised Penal Code (RPC), in Criminal Case Nos. 10-444, 10-445, 10-446, and 10-447.

* Also referred to as Conching in some parts of the records.

¹ Rollo, pp. 23-25; Notice of Appeal dated February 17, 2017.

² Id. at 2-22. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Ramon A. Cruz and Henri Jean Paul B. Inting (now a Member of this Court).

³ CA rollo, pp. 47-59. Penned by Judge Amelia A. Fabros.

Accused-appellant was charged with the following criminal violations under the following Informations:

Criminal Case No. 10-443 for Illegal Recruitment in Large-Scale:

That [on] or about the month of March 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, canvass, enlist, contract and promise employment in Japan to four (4) persons, namely, Carol Pagulayan Sepina, Jennifer Claudel y Reynante, Allan Sepina y Porciuncula and Christopher Claudel y Reynante, for a fee without first securing license and/or permit to recruit workers for overseas employment from the Philippine Overseas Employment Administration (POEA).

CONTRARY TO LAW.⁴

Criminal Case No. 10-444 for Estafa:

That [on] or about the month of March 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud by means of deceit, false pretenses and fraudulent representations executed prior to or simultaneous with the commission of the fraud, did then and there willfully, unlawfully and feloniously defraud complainant Carol Pagulayan Sepina in the following manner, to wit: Accused represented to said complainant that she has the qualification and capacity to deploy complainant in Japan as factory worker in a noodles factory thru her sister who is working in Japan as manager thereat, and demanded from her the total amount of P40,500.00 as application and processing fee and for the visa and air plane ticket promising the complainant that she can leave for Japan on October 4, 2009, accused knowing fully well that those representations were false and fraudulent as she is not licensed/authorized to recruit workers for overseas employment by the Philippine Overseas Employment Administration, a government agency tasked to grant the same and that said false representations made by the accused were made solely to induce complainant to part with her money, and complainant, relying on those representations of accused as true, in fact gave and delivered the total amount of P40,500.00 to the accused who thereafter misappropriated and converted the said amount to her personal use and benefit, to the damage of Carol Pagulayan Sepina in the total amount of P40,500.00.

CONTRARY TO LAW.⁵

Criminal Case No. 10-445 for Estafa:

That [on] or about the month of March 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud by means of deceit, false pretenses and fraudulent representations executed prior to or simultaneous with the commission of the fraud, did then and there willfully, unlawfully and feloniously defraud complainant Jennifer Claudel y Reynante in the following manner, to wit: Accused represented to said complainant that she has the qualification and capacity to deploy complainant in Japan as factory worker in a noodles factory thru her sister who is working in Japan as manager thereat,

⁴ Records, p. 1.

⁵ Id. at 3.

and demanded from her the total amount of P40,500.00 as application and processing fee and for the visa and air plane ticket promising the complainant that she can leave for Japan on October 4, 2009, accused knowing fully well that those representations were false and fraudulent as she is not licensed/authorized to recruit workers for overseas employment by the Philippine Overseas Employment Administration, a government agency tasked to grant the same and that said false representations made by the accused were made solely to induce complainant to part with her money, and complainant, relying on those representations of accused as true, in fact gave and delivered the total amount of P40,500.00 to the accused who thereafter misappropriated and converted the said amount to her personal use and benefit, to the damage of Jennifer Claudel y Reynante in the total amount of P40,500.00.

CONTRARY TO LAW.⁶

Criminal Case No. 10-446 for Estafa:

That [on] or about the month of March 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud by means of deceit, false pretenses and fraudulent representations executed prior to or simultaneous with the commission of the fraud, did then and there willfully, unlawfully and feloniously defraud complainant Allan Sepina y Porciuncula in the following manner, to wit: Accused represented to said complainant that she has the qualification and capacity to deploy complainant in Japan as factory worker in a noodles factory thru her sister who is working in Japan as manager thereat, and demanded from him the total amount of P40,500.00 as application and processing fee and for the visa and air plane ticket promising the complainant that he can leave for Japan on October 4, 2009, accused knowing fully well that those representations were false and fraudulent as she is not licensed/authorized to recruit workers for overseas employment by the Philippine Overseas Employment Administration, a government agency tasked to grant the same and that said false representations made by the accused were made solely to induce complainant to part with her money, and complainant, relying on those representations of accused as true, in fact gave and delivered the total amount of P40,500.00 to the accused who thereafter misappropriated and converted the said amount to her personal use and benefit, to the damage of Allan Sepina y Porciuncula in the total amount of P40,500.00.

CONTRARY TO LAW.⁷

Criminal Case No. 10-447 for Estafa:

That [on] or about the month of March 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud by means of deceit, false pretenses and fraudulent representations executed prior to or simultaneous with the commission of the fraud, did then and there willfully, unlawfully and feloniously defraud complainant Christopher Claudel y Reynante in the following manner, to wit: Accused represented to said complainant that she has the qualification and capacity to deploy complainant in Japan as factory worker in a noodles factory thru her sister who is working in Japan as manager thereat, and demanded from him the total amount of P40,500.00 as application and

⁶ Id. at 7.

⁷ Id. at 11.

processing fee and for the visa and air plane ticket promising the complainant that he can leave for Japan on October 4, 2009, accused knowing fully well that those representations were false and fraudulent as she is not licensed/authorized to recruit workers for overseas employment by the Philippine Overseas Employment Administration, a government agency tasked to grant the same and that said false representations made by the accused were made solely to induce complainant to part with his money, and complainant, relying on those representations of accused as true, in fact gave and delivered the total amount of P40,500.00 to the accused who thereafter misappropriated and converted the said amount to her personal use and benefit, to the damage of Christopher Claudel y Reynante in the total amount of P40,500.00.

CONTRARY TO LAW.⁸

Accused-appellant pleaded not guilty to the crimes charged when she was arraigned on August 11, 2011.⁹

Version of the Prosecution:

The prosecution presented private complainants Carol Pagulayan Sepina (Carol),¹⁰ Allan P. Sepina (Allan),¹¹ and Christopher Claudel (Christopher)¹² as witnesses. Dolores Pagulayan (Dolores), Carol's mother and Allan's mother-in-law, was likewise presented as a witness.¹³

The evidence of the prosecution showed that sometime in March 2009, accused-appellant met private complainants, spouses Allan and Carol and spouses Christopher and Jennifer Claudel (Jennifer), and promised them employment abroad. Christopher and Jennifer are Carol's uncle and aunt respectively, with Christopher being the brother of Dolores, Carol's mother. Accused-appellant informed the four complainants that she has a sister in Japan, Evangeline Motosawa, who knew a lot of people who owned noodle factories where they could work as factory workers.¹⁴

Accused-appellant accompanied Carol and Jennifer, while their respective spouses were at work, to the Provider Travel Corporation situated along Roxas Boulevard, Pasay City, and introduced them to a certain Agnes. Accused-appellant told them that Agnes would take charge in the processing of all their application papers, and that the private complainants would leave for Japan on October 4, 2009.¹⁵

Aside from the processing fee and other fees that accused-appellant asked from them, she also demanded from the private complainants the amount of

⁸ Id. at 15.

⁹ Id. at 56-58.

¹⁰ TSN, September 7, 2012, pp. 2-27; TSN, May 21, 2013, pp. 2-18.

¹¹ TSN, August 17, 2012, pp. 2-30.

¹² TSN, May 25, 2012, pp. 2-17; TSN, June 8, 2012, pp. 2-11.

¹³ TSN, December 11, 2013, pp. 6-55.

¹⁴ TSN, September 7, 2012, pp. 6-8; TSN, May 25, 2012, pp. 7-8; TSN, August 17, 2012, pp. 11-13; TSN, December 11, 2013, pp. 9, 23-25.

¹⁵ TSN, September 7, 2012, pp. 8-12.

₱3,000.00 each or a total amount of ₱12,000.00 for their visa application. The amount of ₱12,000.00 was collected and paid to accused-appellant in the presence of Carol, Jennifer, and Dolores. Accused-appellant, however, failed to issue a receipt for said amount. The private complainants no longer requested for a receipt since they trusted her, her father was a co-worker of Dolores.¹⁶

On July 23, 2009, accused-appellant required them to pay the amount of ₱37,500.00 each or a total amount of ₱150,000.00 for their visas and plane tickets. The amount of ₱150,000.00, which was pooled by private complainants, was handed to accused-appellant by Dolores, Carol's mother, while Carol and Jennifer were present.¹⁷ Accused-appellant likewise did not issue a receipt for said amount.¹⁸

On the scheduled date for their departure, accused-appellant went to private complainants' residence at Muntinlupa City and informed them that their flight would be cancelled because accused-appellant's sister would come home soon. It turned out that there were no plane tickets, visas, passports or job orders from the prospective employer in Japan for the private complainants.¹⁹

Accused-appellant did not reimburse any of the amounts given by the private complainants despite the latter's demand.²⁰ Consequently, private complainants filed a complaint against accused-appellant with the barangay.²¹ Accused-appellant admitted her receipt of certain amounts from private complainants and promised to repay the said amounts as shown in the barangay blotter.²² Thereafter, the instant cases were filed in court. At the trial, private complainants who testified, as well as Dolores, identified accused-appellant as the perpetrator of the crimes charged.²³ The complainants likewise submitted the Philippine Overseas Employment Administration (POEA) certification dated September 4, 2012,²⁴ which certifies that accused-appellant is not licensed or authorized by the POEA to recruit workers for overseas employment.

Version of the Defense:

For her part, accused-appellant denied the charges against her. She testified that she was introduced to private complainants through her father, a

¹⁶ TSN, September 7, 2012, pp. 13-15; TSN, May 25, 2012, pp. 15-17; TSN, August 17, 2012, pp. 13-14.

¹⁷ Id. at 17-19.

¹⁸ TSN, September 7, 2012, pp. 18-19.

¹⁹ TSN, September 7, 2012, p. 20-21; TSN, August 17, 2012, p. 15-16.

²⁰ TSN, May 31, 2013, p. 14-16. TSN, December 11, 2013, p. 11; TSN, May 25, 2012, pp. 15-17; TSN, August 17, 2012, pp. 17-18

²¹ TSN, August 17, 2012, pp. 15-16; TSN, May 21, 2013, pp. 2-4; TSN, December 11, 2013, pp. 28-32, 37.

²² Record, p. 148.

²³ TSN, September 7, 2012, pp. 21, 26; TSN, May 25, 2012, p. 17; TSN, August 17, 2012, p. 20; TSN, December 11, 2013, p. 8.

²⁴ Records, p. 151.

barangay police.²⁵ While she confirmed that her sister lived in Japan, she stated that her sister was a housewife and not a manager of a noodle factory.²⁶ She denied that she promised to send complainants abroad for work or that she received any money or documents from them for such purpose.²⁷ She claimed she met Carol and Jennifer at a *lugawan* owned by Carol sometime in March and June 2009, where the private complainants merely inquired about her experience of working in Saudi Arabia, and the process of going abroad since accused-appellant previously worked in Saudi Arabia.²⁸ She had previously seen Christopher and Allan but had yet to personally talk to them.²⁹ She was unaware of any personal grudge against her that would compel the complainants to file these complaints against her.³⁰

Ruling of the Regional Trial Court:

On May 19, 2015, the RTC rendered its judgment convicting accused-appellant of Illegal Recruitment in Large Scale and four counts of Estafa, thus:

WHEREFORE, the Court hereby renders judgment finding the accused Mildred Coching Liwanag:

1. In Criminal Case No. 10-443, **GUILTY** beyond reasonable doubt of the crime of Illegal Recruitment committed in large scale as defined and penalized under Article 13(b) in relation to Articles 38(b), 34 and 39 of the Labor Code, as amended. She is hereby sentenced to suffer the penalty of **life imprisonment and to pay a fine of P500,000.00**;

2. In Criminal Case No. 10-444, **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of **six (6) years of prison correccional, as the minimum, to twelve (12) years of prison mayor, as the maximum, with additional one year for the exceeding amount of P10,000.00 or thirteen (13) years as the maximum.**

3. In Criminal Case No. 10-445, **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of **six (6) years of prison correccional, as the minimum, to twelve (12) years of prison mayor, as the maximum, with additional one year for the exceeding amount of P10,000.00 or thirteen (13) years as the maximum.**

4. In Criminal Case No. 10-446, **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of **six (6) years of prison correccional, as the minimum, to twelve (12) years of prison mayor, as the maximum, with additional one year for the exceeding amount of P10,000.00 or thirteen (13) years as the maximum.**

5. In Criminal Case No. 10-447, **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of **six (6) years of prison correccional, as the minimum, to twelve (12) years of prison**

²⁵ TSN, November 25, 2014, p. 4.

²⁶ Id. at 11.

²⁷ Id. at 4-6.

²⁸ Id. at 6-10.

²⁹ Id. at 11-12.

³⁰ Id. at 12.

mayor, as the maximum, with additional one year for the exceeding amount of P10,000.00 or thirteen (13) years as the maximum.

As to the civil liability, the accused is ordered to indemnify the private complainants the amount of **P40,500.00 each.**

With costs against the accused.

SO ORDERED.³¹

Ruling of the Court of Appeals:

In her appeal, accused-appellant decried the RTC's finding of guilt, and argued that the prosecution failed to prove the elements of the offenses charged. Accused-appellant maintained that inconsistencies in Carol's testimony cast doubt on her credibility as a witness, and that she may not be convicted of illegal recruitment in large scale since Jennifer, one of the complainants, was not presented as a prosecution witness. Moreover, the prosecution failed to establish that the money allegedly taken by accused-appellant was in consideration of her promising overseas employment in view of the lack of receipts evidencing the same.³² On the other hand, the Office of the Solicitor General (OSG) stressed that accused-appellant's guilt has been proven beyond reasonable doubt, with the testimony of the prosecution witnesses entitled to full faith and credit.³³

In its January 31, 2017 Decision, the CA denied the appeal and affirmed the RTC's judgment, with modification only with respect to the penalty in Criminal Case Nos. 10-444 to 10-447. The appellate court imposed the indeterminate penalty of four years and two months of *prision correccional*, as the minimum, to seven years, eight months, and 21 days of *prision mayor*, as the maximum for each count of Estafa, coupled with legal interest on accused-appellant's civil liability from July 22, 2010 and until the said amount is fully paid.³⁴

Hence, this appeal.³⁵ Accused-appellant and the OSG manifested that they were adopting their respective Briefs filed with the CA and dispensing with the filing of supplemental briefs.³⁶

Issue

The sole issue for resolution is whether accused-appellant is guilty beyond reasonable doubt of the crimes charged.

³¹ CA *rollo*, pp. 58-59.

³² *Id.* at 30-43.

³³ *Id.* at 80-83.

³⁴ *Rollo*, pp. 20-21.

³⁵ *Id.* at 23-25.

³⁶ *Id.* at 32-33 and 38-40.

Our Ruling

The appeal is bereft of merit.

Accused-appellant is guilty beyond reasonable doubt of Illegal Recruitment in Large Scale.

Accused-appellant was charged with Illegal Recruitment in Large Scale, which is defined under Section 6 of Republic Act No. (RA) 8042,³⁷ also known as the "Migrant Workers and Overseas Filipinos Act of 1995," to wit:

SECTION 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

(l) **Failure to actually deploy without valid reason** as determined by the Department of Labor and Employment; and

(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.**

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

Illegal Recruitment may be undertaken by either non-license or license holders. Non-license holders are liable for the simple act of engaging

³⁷ Entitled "AN ACT TO INSTITUTE THE POLICIES OF OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES." Approved: June 7, 1995.

in recruitment and placement activities, while license holders may also be held liable for committing the acts prohibited under Section 6 of RA 8042. Further, Illegal Recruitment is deemed done in large scale and is considered as an offense involving economic sabotage if it is committed against three or more persons individually or as a group.³⁸

The essential elements for Illegal Recruitment in Large Scale are that: (1) the person charged undertook any recruitment activity as defined under Section 6 of RA 804; (2) accused did not have the license or the authority to lawfully engage in the recruitment of workers; and (3) accused committed the same against three or more persons individually or as a group.³⁹

After a careful review of the records in this case, the Court finds that all three elements have been established beyond reasonable doubt by the prosecution. Accused-appellant's acts of offering and promising to deploy the four complainants to Japan on October 4, 2009 to work as factory workers in a noodle factory, as well as collecting money for passports, plane tickets, visa processing, and placement fees, clearly constitute a recruitment activity as defined under Section 6 of RA 8042. Moreover, the POEA certification dated September 4, 2012⁴⁰ sufficiently established that accused-appellant is neither licensed nor authorized to recruit workers for overseas employment.

Accused-appellant seeks to overthrow the finding of guilt against her by emphasizing that the private complainants failed to present any receipt to establish that she received money from them. This contention must fail. The fact that no receipt was issued by the accused-appellant is not fatal to the prosecution's cause, more so if the respective testimonies of private complainants clearly narrated accused-appellant's involvement in illegal recruitment activities.⁴¹ The absence of receipts to evidence payment does not automatically warrant acquittal of the accused since a person charged with the offense of Illegal Recruitment may be convicted on the strength of the testimonies of the complainants, if found to be credible and convincing.⁴² Moreover, the testimony of the prosecution witnesses on the matter is bolstered by the barangay blotter, wherein accused-appellant admitted having received certain amounts from private complainants and promised to repay the said amounts.⁴³

Accused-appellant's attempt to cast doubt on the credibility of the prosecution witnesses and their testimony must likewise fail. The law does not require that at least three victims testify at the trial to convict an accused for Illegal Recruitment in Large Scale, for so long as there is sufficient

³⁸ *People v. David*, G.R. No. 233089, June 29, 2020.

³⁹ *People v. Palicpic*, G.R. No. 240694, September 7, 2020, citing *People v. Matheus*, 810 Phil. 626, 636 (2017).

⁴⁰ Records, p. 151.

⁴¹ See *People v. Imperio*, G.R. No. 232623, October 5, 2020.

⁴² See *People v. Saulo*, 398 Phil. 544, 554 (2000).

⁴³ Records, p. 148.

evidence proving that the offense was committed against three or more persons.⁴⁴ Here, the evidence presented by the prosecution, considered as a whole, meets this threshold. Contrary to accused-appellant's assertions, the absence of Jennifer's testimony is not fatal to the prosecution's case since the witnesses were privy to Jennifer's recruitment and payment of fees to accused-appellant, and sufficiently testified on the same. The testimony of the prosecution witnesses was positive and categorical, and corroborated each other on material points, particularly that: (1) the four private complainants were made to believe that accused-appellant was capable of securing them work in Japan in noodle factories; (2) accused-appellant exacted processing and placement fees and required them to submit various documents; and (3) she failed to secure overseas employment for them as promised nor did she reimburse them for the fees paid. Without any evidence to show that the witnesses were propelled by any ill motive to testify falsely against appellant, their testimonies deserve full faith and credit.⁴⁵

It is settled that categorical statements of the private complainants prevail over the bare denial of an accused. An affirmative testimony is far stronger than negative testimony especially when the former comes from a credible witness. Denial, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law. It is considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it is easily fabricated and concocted.⁴⁶

Finally, it is settled that factual findings of the trial courts, including their assessment of the witnesses' credibility, are entitled to great weight and respect by the Court, particularly when the CA 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 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.⁴⁷ In fine, the Court finds no cogent reason to disturb the finding of the courts *a quo* that all of the elements for Illegal Recruitment in Large Scale are present in the instant case.

Accused-appellant is guilty beyond reasonable doubt of the crime of Estafa under Article 315, par. 2 (a) of the RPC.

⁴⁴ See *People v. Ocdan*, 665 Phil. 268, 290-291 (2011).

⁴⁵ See *People v. Gallemit*, 734 Phil. 698, 718 (2014).

⁴⁶ *Id.*, citing *People v. Ocdan*, *supra* at 145.

⁴⁷ See *People v. Ocdan*, *supra* at 289-290.

It is settled that a person, for the same acts, may be convicted separately of Illegal Recruitment under RA 8042 or the Labor Code, and Estafa under Article 315 (2) (a) of the RPC.⁴⁸ Case law holds that the same pieces of evidence that establish liability for Illegal Recruitment in Large Scale confirm culpability for Estafa.⁴⁹

Estafa is defined under Article 315 of the RPC, which provides:

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

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: (1) the accused defrauded another by abuse of confidence or by means of deceit; and (2) the offended party or a third party suffered damage or prejudice capable of pecuniary estimation.⁵⁰

All the aforesaid elements are present in this case. The prosecution sufficiently established that accused-appellant defrauded the four private complainants by making them believe that she has the capacity to deploy them to Japan as factory workers, even if she did not have the authority or license for the purpose. Because of accused-appellant's promises to deploy them to Japan, the victims willingly parted with their money as processing and placement fees to the accused-appellant. Consequently, all the victims suffered damages in the amount of ₱40,500.00 each as the promised employment abroad never materialized, and the said money they parted with were never recovered.

Accused-appellant again contends that the prosecution failed to prove the second element of Estafa, *i.e.*, prejudice or pecuniary loss, since the prosecution did not present any receipt signed by accused-appellant proving that she received money from private complainants. This contention deserves scant consideration. Aside from accused-appellant's admission in the barangay blotter that she received amounts from private complainants, this Court has previously held that the presentation of receipts is not necessarily essential to a conviction for Estafa, since the payment of placement fees to illegal recruiters is not evidenced by receipts alone and may be established by testimonies of witnesses.⁵¹

⁴⁸ *People v. Matheus*, supra note 39 at 638, citing *People v. Tolentino*, 761 SCRA 332, 357 (2015).

⁴⁹ *People v. Racho*, 819 Phil. 137, 151 (2017).

⁵⁰ *People v. Matheus*, supra note 39 at 639.

⁵¹ See *People v. Gallemit*, supra note 45 at 721-722.

Verily, there is no cogent reason for us to disturb the finding of the RTC, as affirmed by the CA, that both elements of Estafa are present in Criminal Case Nos. 10-444, 10-445, 10-446, and 10-447. Thus, we sustain accused-appellant's conviction for Estafa.

Penalty and Civil Indemnity.

We deem it proper to modify the penalty imposed on accused-appellant in Criminal Case No. 10-443. It is worthy to note that under RA 8042, the maximum penalty shall be imposed if Illegal Recruitment is committed by a non-licensee or non-holder of authority:

SEC. 7. Penalties. —

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

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

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

The CA affirmed the RTC's imposition of life imprisonment and a fine of P500,000.00 against accused-appellant. Since the crime of Illegal Recruitment in Large-Scale is considered an offense involving economic sabotage and was committed by a non-licensee or non-holder of authority, the fine imposed should accordingly be increased from P500,000.00 to P1,000,000.00.

We likewise modify the penalties imposed by the CA for the four counts of Estafa in Criminal Case Nos. 10-444 to 10-447 in view of the amendments introduced by RA 10951,⁵² which reads:

Section 85. Article 315 of the same Act, as amended by Republic Act No. 4885, Presidential Decree No. 1689, and Presidential Decree No. 818, is hereby further amended to read as follows:

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

x x x x

⁵² Entitled "AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AS AMENDED." Approved: August 29, 2017.

3rd. The penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period, if such amount is over Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000). (Emphasis supplied)

The amount defrauded in Criminal Case Nos. 10-444 to 10-447 is P40,500.00 each. Thus, based on the third paragraph of the foregoing provision of RA 10951, the proper imposable penalty in each case is *arresto mayor* in its maximum period, to *prisión correccional* in its minimum period, which has a range of four months and one day to two years and four months.

There being no mitigating and aggravating circumstance, the maximum penalty should be between one year and one day to one year and eight months of *prisión correccional*.⁵³ Applying the Indeterminate Sentence Law,⁵⁴ the minimum term should be within the range of *arresto mayor* in its minimum and medium periods, which ranges from one month and one day to four months. Thus, for each count of Estafa, accused-appellant is sentenced to suffer the penalty of three months of *arresto mayor*, as minimum, to one year and eight months of *prisión correccional*, as maximum.

WHEREFORE, the appeal is **DISMISSED**. The January 31, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07838 is hereby **AFFIRMED with MODIFICATIONS**, viz.:

1. In Criminal Case No. 10-443, accused-appellant MILDRED COCHING LIWANAG is found **GUILTY** beyond reasonable doubt of the offense of Illegal Recruitment in Large-Scale, constituting economic sabotage, as defined and penalized in Sections 6 and 7 (b) of Republic Act No. 8042. She is sentenced to suffer the penalty of life imprisonment and to pay a fine in the increased amount of P1,000,000.00;

2. In Criminal Case No. 10-444, accused-appellant MILDRED COCHING LIWANAG is found **GUILTY** beyond reasonable doubt of the offense of Estafa, as defined and penalized in Article 315 (2) (a) of the Revised Penal Code. She is sentenced to suffer the indeterminate sentence of three

⁵³ Article 64 of the RPC states:

Art. 64. *Rules for the application of penalties which contain three periods.* — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of Articles 76 and 77, the court shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.

⁵⁴ Section 1 of Act No. 4103, otherwise known as the Indeterminate Sentence Law, states:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.


months of *arresto mayor*, as minimum, to one year and eight months of *prision correccional*, as maximum. She is also ordered to pay private complainant Carol Pagulayan Sepina the amount of ₱40,500.00 as actual damages, with legal interest of twelve percent (12%) per *annum* from the filing of information until June 30, 2013 and six percent (6%) per *annum* from July 1, 2013 until finality of this Decision; and the total amount of the foregoing shall, in turn, earn interest at the rate of six percent (6%) per *annum* from finality of this Decision until full payment;

3. In Criminal Case No. 10-445, accused-appellant MILDRED COCHING LIWANAG is found **GUILTY** beyond reasonable doubt of the offense of Estafa, as defined and penalized in Article 315 (2) (a) of the Revised Penal Code. She is sentenced to suffer the indeterminate sentence of three months of *arresto mayor*, as minimum, to one year and eight months of *prision correccional*, as maximum. She is also ordered to pay private complainant Jennifer Claudel y Reynante the amount of ₱40,500.00 as actual damages, with legal interest of twelve percent (12%) per *annum* from the filing of information until June 30, 2013 and six percent (6%) per *annum* from July 1, 2013 until finality of this Decision; and the total amount of the foregoing shall, in turn, earn interest at the rate of six percent (6%) per *annum* from finality of this Decision until full payment;


4. In Criminal Case No. 10-446, accused-appellant MILDRED COCHING LIWANAG is found **GUILTY** beyond reasonable doubt of the offense of Estafa, as defined and penalized in Article 315 (2) (a) of the Revised Penal Code. She is sentenced to suffer the indeterminate sentence of three months of *arresto mayor*, as minimum, to one year and eight months of *prision correccional*, as maximum. She is also ordered to pay private complainant Allan Sepina y Porciuncula the amount of ₱40,500.00 as actual damages, with legal interest of twelve percent (12%) per *annum* from the filing of information until June 30, 2013 and six percent (6%) per *annum* from July 1, 2013 until finality of this Decision; and the total amount of the foregoing shall, in turn, earn interest at the rate of six percent (6%) per *annum* from finality of this Decision until full payment; and

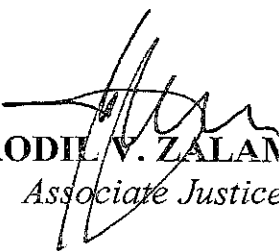
5. In Criminal Case No. 10-447, accused-appellant MILDRED COCHING LIWANAG is found **GUILTY** beyond reasonable doubt of the offense of Estafa, as defined and penalized in Article 315 (2) (a) of the Revised Penal Code. She is sentenced to suffer the indeterminate sentence of three months of *arresto mayor*, as minimum, to one year and eight months of *prision correccional*, as maximum. She is also ordered to pay private complainant Christopher Claudel y Reynante the amount of ₱40,500.00 as actual damages, with legal interest of twelve percent (12%) per *annum* from the filing of information until June 30, 2013 and six percent (6%) per *annum* from July 1, 2013 until finality of this Decision; and the total amount of the foregoing shall, in turn, earn interest at the rate of six percent (6%) per *annum* from finality of this Decision until full payment.


SO ORDERED.

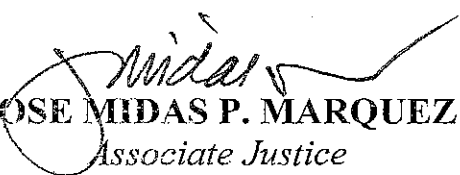

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

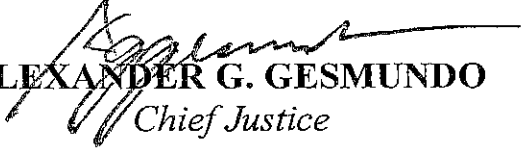
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice