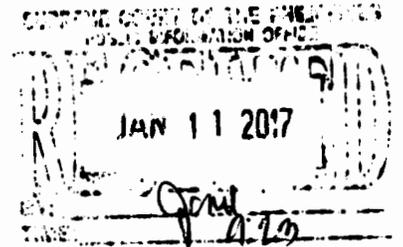




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 198664

Present:

- versus -

SERENO, C.J.,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 *PERLAS-BERNABE, and
 CAGUIOA, JJ.

OWEN MARCELO CAGALINGAN
 and **BEATRIZ B. CAGALINGAN,**
 Accused-Appellants.

Promulgated:

NOV 23 2016

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DECISION

BERSAMIN, J.:

Illegal recruitment is a crime committed by a person who, not having the valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers, undertakes any of the activities within the meaning of “recruitment and placement” mentioned in Article 13(b) of the *Labor Code*, or any of the prohibited practices enumerated in Section 6 of Republic Act No. 8042 (*Migrant Workers’ Act*), against three or more persons, individually or as a group.

The Case

The accused-appellants assail the decision promulgated on March 18, 2011,¹ whereby the Court of Appeals (CA) affirmed their convictions for illegal recruitment in large scale and three counts of *estafa* handed down on

* On leave.

¹ *Rollo*, pp. 3-24; penned by Associate Justice Rodrigo F. Lim, Jr. (retired), with Associate Justice Angelita A. Gacutan (retired) and Associate Justice Nina G. Antonio-Valenzuela concurring.

November 25, 2004 by the Regional Trial Court (RTC), Branch 18, in Cagayan de Oro City.²

Antecedents

The factual and procedural antecedents, as summarized by the CA, are as follows:

Accused-appellants Owen Marcelo Cagalingan (Owen) and Beatriz B. Cagalingan (Beatriz) (accused spouses) were charged with Illegal Recruitment in Large Scale before the Regional Trial Court of Cagayan de Oro City in a complaint initiated by private complainants Reynalyn B. Cagalingan (Reynalyn), Roselle Q. Cagalingan (Roselle), Laarni E. Sanchez (Laarni), Norma R. Cagalingan (Norma); and Arcele J. Bacorro (Arcele). Accused-appellants were likewise indicted for three (3) counts of *estafa* in the same court by private complainants Reynalyn, Roselle, and Arcele, docketed as Criminal Case Nos. 2003-124, 2003-125, and 2003-238, respectively.

The information in Criminal Case No. 2003-173, which charged the accused with illegal recruitment in large scale reads, as follows:

"That on or about and during the period from the months of October up to November, 2002, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, representing themselves to have the capacity to contract, enlist, hire and transport Filipino workers for employment in Macau, China, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, for a fee, recruit and promise employment/job placement to the following persons:

1. Reynalyn B. Cagalingan
2. Roselle Q. Cagalingan
3. Laarni E. Sanchez
4. Norma R. Cagalingan; and
5. Arcele J. Bacorro

Without first having secured or obtained the required license or authority from the government agency.

Contrary to and in Violation of Section 6, in relation to Section 7(b) of RA 8042, the Migrant Workers and Overseas Filipinos Act of 1995."

That in Criminal Case No. 2003-124 for the crime of *estafa*, the information reads:

"That on or about November 23, 2002 in the City of Cagayan de Oro, Philippines and within the jurisdiction of

² CA rollo, pp. 75-99; penned by Presiding Judge Edgardo T. Lloren (now a Member of the Court of Appeals).

this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud Reynalyn Cagalingan in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said Reynalyn Cagalingan to the effect that they had the power and capacity to recruit and employ her abroad as a worker in Macao, China and could facilitate 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 the said Reynalyn Cagalingan to give and deliver, as in fact the latter gave and deliver (sic), to said accused the amount of Php 40,000.00 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 Php 40,000.00 which amount once in their possession, with intent to defraud, they willfully, unlawfully and feloniously appropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Reynalyn Cagalingan in the aforesaid amount of Php 40,000.00, Philippine Currency.

Contrary to Article 315 (2)(a) of the Revised Penal Code."

That in Criminal Case No. 2003-125 for the crime of *estafa*, the information reads:

"That on or about November 22, 2002 in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Code, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud Roselle Cagalingan in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said Roselle Cagalingan to the effect that they had the power and capacity to recruit and employ her abroad as a worker in Macau, China and could facilitate 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 the said Roselle Cagalingan to give and deliver, as in fact the latter gave and deliver (sic), to said accused the amount of Php 40,000.00 on the strength of said manifestation and fraudulent 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 Php 40,000.00 which amount once in their possession, with intent to defraud, they willfully, unlawfully and feloniously appropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Roselle Cagalingan in the aforesaid amount of Php. 40,000.00, Philippine Currency.

CONTRARY to Article 315 (2)(a) of the Revised Penal Code."

And that in Criminal Case No. 2003-238 for *estafa*, the information reads:

"That on October 28, 2002, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud Arcele J. Bacorro in the following manner, to wit: accused by means of false pretenses and fraudulent representations, which they made to said Arcele J. Bacorro representing that they had the power and capacity to recruit and employ her to work at Macau, China and by means of their similar deceits, induced and succeeded in inducing the said Arcele J. Bacorro to give and deliver, as in fact the latter did give and deliver (sic), to said accused the amount of Php 40,000.00 as placement fee well-knowing that their representations were false and fraudulent and made solely to obtain, as in fact they did obtain the amount of Php 40,00.00 which amount once in their possession, accused willfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal, use, gain and benefit, to the damage and prejudice of the offended party Arcele J. Bacorro in the aforesaid sum of ₱40,000.00, Philippine Currency.

Contrary to and in violation of Article 315 (2)(a) of the Revised Penal Code."

Warrants of arrest against accused spouses were issued on various dates and accused spouses were arrested on May 26, 2003 in Vigan, Ilocos Sur. Nevertheless, due to budgetary constraints, accused spouses were brought to the court *a quo* only on June 4, 2004.

Thereafter, upon arraignment both accused assisted by counsel pleaded "not guilty" to the crimes charged. Joint trial ensued thereafter.

The prosecution presented as witnesses the following: private complainants Arcele, Reynalyn, Laarni, and Roselle; Leonardo G. Rodrigo (Leonardo), Officer-in-Charge of the Philippine Overseas Employment Administration (POEA)-Regional Extension Unit-10, Cagayan de Oro City; and Marichu Damasing (Marichu), Branch Clerk of Court, Branch I, MTCC-Cagayan de Oro City. The evidence presented by the prosecution established the following facts.

On different dates and occasions, private complainants were recruited by Accused Spouses to work in Macau, China for a fee. Accused spouses Owen and Beatriz were from Vigan, Ilocos Sur but Owen grew up and finished his high school education in Cagayan de Oro City. Owen is the first cousin of the husbands of private complainants Reynalyn and Roselle and the nephew of the husband of private complainant Norma.

A

Private complainant Arcele testified that she met accused spouses on October 28, 2002 at around 12 o'clock noon, at the house of private complainant Norma. The latter introduced accused spouses to her and she was told by accused Owen that her wife, accused Beatriz, was asked by her employer, a certain Lu Ting Hoi Simon, of Macau, China to hire office workers who are computer literate to work at Mandarin Oriental Hotel. Beatriz confirmed this information and added that she was even given a leave of absence by her employer just to come home in order to hire workers. It was Owen who explained to her about the job and the requirements like: passport, bio-data, Diploma in lieu of Transcript of Records, and Forty Thousand Pesos (₱40,000.00) for roundtrip tickets and documentation fees as Beatriz could not speak Visayan.

On November 6, 2002, Arcele paid Fifteen Thousand Pesos (₱15,000.00) to accused Owen and subsequently, another ₱5,000.00 after she mortgaged her house in order to raise the required amount. She was issued a receipt for the ₱20,000.00 and was told that the balance of ₱20,000.00 was needed for the documentation fee. She was likewise told that her departure for Manila would be on November 22, 2002 and on November 23, 2002 for Macau, China. Nonetheless, as she was not able to pay the ₱20,000.00 before the scheduled date, her departure was postponed. Hence, on November 23, 2002, she paid in full the balance of ₱20,000.00 without receipt as she trusted accused spouses. The departure was rescheduled on November 29, 2002 for Manila at 3 o'clock in the afternoon and on November 30, 2002 for Macau, China. They further agreed that Accused Spouses would fetch her at her house at 12 o'clock noon on November 29, 2002. Unfortunately, on the said date and time, accused spouses failed to appear. Hence, she decided to proceed to Cagayan de Oro City airport and look for accused spouses but the latter were not around. Instead, she met the other recruits at the airport and they all realized that they were victims of illegal recruitment. She and the other private complainants went home aggrieved and humiliated.

Private complainant Reynalyn likewise recounted that accused Owen was the first cousin of her husband and accused spouses were introduced to her by her parents-in-law on October 4, 2002 as the latter stayed at the house of her parents-in-law located adjacent to her house. Accused Owen offered to help her find work in Macau, China as accused Beatriz was allegedly asked by her employer to find Filipino workers who could replace the Taiwanese and Portuguese workers in Mandarin Oriental Hotel at Macau, China. As Reynalyn was not a college graduate, she was told that she could be assigned at the laundry section with a salary rate equivalent to Eighteen Thousand Pesos (₱18,000.00) per month. She was told to secure her passport, to fill-up the bio-data with Chinese character and to pay ₱40,000.00 for plane tickets and other documents. She paid accused spouses the said amount and a receipt was issued to her. However, on the scheduled date of departure to Manila on November 29, 2002, she waited for accused spouses at the airport but to her disappointment, the latter failed to show up.

Another prosecution witness, private complainant Laarni, also testified that it was private complainant Roselle who informed her that accused spouses were recruiting workers for Macau, China. On October 21, 2002, she met Roselle together with accused spouses and the latter asked her if she was willing to work in Macau. She was asked about her educational background and upon knowing that she is an AB Journalism

graduate, and took up computer informatics, Beatriz assured her that she could work in Macau. She was offered as office secretary for a two (2) years contract with a salary of ₱18,000.00 a month. She was then given a bio-data with Chinese characters with a corresponding English translation to fill up and was required to submit her transcript of records, diploma, certificate of employment and a photocopy of her passport. She was also required to pay ₱40,000.00 for the processing fee, plane ticket and documentation. Thereafter, accused spouses made follow-ups at the office of her father at Branch 1, MTCC-Cagayan de Oro City.

On November 20, 2002, she met accused spouses again at the office of her father and she told accused spouses that she might not proceed with her application as she was able to raise only ₱11,500.00 and the said amount was even borrowed from a lending institution. Accused Spouses nonetheless accepted the said amount and told her that the balance of the payment would be deducted from her salary in Macau, China. Thereafter, Accused Spouses issued a receipt and she was told that her departure for Manila would be on November 29, 2002 and they would just meet at Cagayan de Oro airport at 1 o'clock in the afternoon. However, on the said date, she did not find accused spouses at the airport and upon inquiry from the airline counter she was informed that their names were not on the plane manifest.

The testimony of Laarni as to the receipt of ₱11,500.00 was collaborated by prosecution witness Marichu Damasing. She testified that the said amount was received by Beatriz and the latter even counted the money at her table. The receipt was prepared by Laarni's father and was signed by Beatriz and witnessed by her. She further testified that upon receipt of the said amount, accused spouses left the office.

Corollarily, private complainant Roselle narrated that she met accused spouses on October 4, 2002 at the house of her mother-in-law. Accused spouses told her that they would be hiring workers for Macau, China and considering that at that time she was jobless, she told them of her interest to apply for work. She was then offered the position of an office clerk for two (2) years with a monthly salary of ₱22,000.00 and was asked to submit the required documents and to pay ₱40,000.00 as placement fee. Albeit it was the first time she met them, yet, she trusted them considering that Owen was the first cousin of his husband and they were staying at the same house. On November 20, 2002, she initially paid ₱20,000.00 and on November 26, 2002, the balance of ₱20,000.00. A receipt was issued to her and she was told that her departure to Manila would be on November 29, 2002. Upon the request of accused spouses, a "despidida" party was held on November 28, 2002 at the house of private complainant Reynalyn located just beside the house of her mother-in-law.

She further narrated that on November 29, 2002, accused spouses left the house of her mother-in-law at about 8 o'clock in the morning and told her that they would go to Gusa, Cagayan de Oro City to attend another "despidida" party and they would just meet at the airport. Accordingly, at about 12 o'clock noon, she and other private complainants were already at the Cagayan de Oro City airport but accused spouses were not around. They stayed at the airport until 5 o'clock in the afternoon but still accused spouses did not show up. Together with the other private complainants, they proceeded to Macabalan, Cagayan de Oro City at the house of Arcele and stayed there until 12 o'clock midnight as she was

ashamed of her neighbours (sic). When she finally got home, she and her family checked the bag of accused spouses which was left at the house of her mother-in-law and to their surprise, the bag contained pillows only. Hence, she reported the incident and upon verification with the POEA she learned that Accused Spouses were not licensed recruiters.

The prosecution likewise presented Leonardo, the officer-in-charge of the POEA–Regional Extension Unit-10. At the trial, he issued certifications upon requests of private complainants Reynalyn, Roselle, Arcele and Norma certifying that upon verification of their computer database, accused spouses were neither licensed nor authorized to recruit workers and/or applicants for employment abroad.

On the other hand, the accused spouses denied the charges against them and argued that they neither recruited nor promised private complainants any work in Macau and explained that it was very difficult to find work in Macau, China unless they have relatives or siblings working there who could find work for them and who could recommend them to their employers. Albeit they admitted to be in Cagayan de Oro City sometime in August and September 2002, yet, they denied being in Cagayan de Oro City sometime in October and November 2002 as alleged by private complainants. They admitted that they met private complainants on different occasions while they were in Cagayan de Oro City as some of them were relatives of accused Owen but they asserted that they neither offered any work nor required private complainants to submit any documents and pay any amount for possible work in Macau. In fact, it was private complainants who requested them to find work for them in Macau but they turned down their requests as it was very difficult to find work in said place. They likewise denied having received any money from private complainants because they were not in Cagayan de Oro City when the alleged payments were made and as indicated in the receipts and they further testified that some of the private complainants were hard up and were incapable of producing the said amount. They could not think of any reason why private complainants accused them and filed charges against them except that they turned down their requests for job placements in Macau, China.³

Judgment of the RTC

On November 25, 2004, the RTC rendered judgment convicting the accused-appellants,⁴ disposing:

IN THE LIGHT OF ALL THE FOREGOING, the court finds accused OWEN MARCELO CAGALINGAN and BEATRIZ B. CAGALINGAN **GUILTY beyond reasonable doubt** of violating Section 6 of Republic Act 8042, otherwise known as “Migrant Workers and Overseas Filipinos Act of 1995” (Criminal Case No. 2003-173). Accordingly, they are hereby sentenced and are **SO ORDERED** to suffer the penalty of **LIFE IMPRISONMENT**, and for each accused to pay a fine of One Million Pesos (₱1,000,000.00).

³ *Rollo*, pp. 5-17.

⁴ *Supra* note 2.

Both accused are jointly and severally directed and **SO ORDERED** to pay to Mrs. Arcele J. Bacorro the sum of Forty Thousand Pesos (₱40,000.00), with legal interest to start from the date of the promulgation of this judgement until fully satisfied, as refund for the plane ticket and documentation fee; **SO ORDERED** to pay Mrs. Reynalyn Cagalingan the sum of Forty Thousand Pesos (₱40,000.00), with legal interest to start from the date of promulgation until fully satisfied as refund for the plane ticket and affidavit of support; **SO ORDERED** to pay Mrs. Roselle Q. Cagalingan the sum of Forty Thousand Pesos (₱40,000.00), with legal interest to start from the date of the promulgation until fully satisfied, as refund for the plane ticket and affidavit of support; **SO ORDERED** to pay Miss Laarni E. Sanchez the sum of Eleven Thousand Five Hundred Pesos (₱11,500.00), with legal interest to start from the promulgation until fully satisfied, as refund for the processing fee.

The Court likewise finds OWEN MARCELO CAGALINGAN and BEATRIZ B. CAGALINGAN **GUILTY beyond reasonable doubt** (in Criminal Case No. 2003-124) of violating paragraph 2(a) of Article 315 of the Revised Penal Code, for swindling Reynalyn Cagalingan the sum of ₱40,000.00 with the promised (sic) to employ her in Macao, (sic) China. Accordingly, after applying the Indeterminate Sentence law, both accused are hereby sentenced and **SO ORDERED** to suffer the imprisonment of *Four (4) Years Nine Months and Eleven (11) days of Prision Correccional, as the Minimum, to Nine (9) years of Prision Mayor, as the maximu, including its accessory penalty.*

The Court likewise finds OWN MARCELO CAGALINGAN and BEATRIZ B. CAGALINGAN **GUILTY beyond reasonable doubt** (in Criminal Case No. 2003-125) of violating paragraph 2(a) of Article 315 of the Revised Penal Code, for swindling Roselle Cagalingan the sum of ₱40,000.00 with the promised (sic) to employ her in Macao (sic), China. Accordingly, after applying the Indeterminate Sentence Law, both accused are hereby sentenced and **SO ORDERED** to suffer the imprisonment of *Four (4) Years Nine (9) Months and Eleven (11) days of PRision Correccional, as the Minimum, to Nine (9) years of Prision Mayor, as the Maximum, including its accessory penalty.*

The Court likewise finds OWEN MARCELO CAGALINGAN and BEATRIZ B. CAGALINGAN **GUILTY beyond reasonable doubt** (in Criminal Case No. 2003-238) of violating paragraph 2(a) of Article 315 of the Revised Penal Code, for swindling Arcele J. Bacorro the sum of ₱40,000.00 with the promised to employ her in Macao (sic), China. Accordingly, after applying the Indeterminate Sentence Law, both accused are hereby sentenced and **SO ORDERED** to suffer the imprisonment of *Four (4) Years Nine (9) Months and Eleven (11) days of Prision Correccional, as the Minimum, to Nine (9) years of Prision Mayor, as the Maximum, including its accessory penalty.*

The Court declines to award damages in *estafa* cases since they were provided already in the case of Illegal Recruitment in Large Scale.

SO ORDERED.⁵

⁵ Id. at 96-99.

Decision of the CA

On March 18, 2011, the CA affirmed the convictions of the accused-appellants by the RTC,⁶ viz.:

WHEREFORE, premises foregoing, the instant appeal is **DISMISSED** for lack of merit.

SO ORDERED.⁷

Hence, this appeal.

Issue

The accused-appellants assign the sole error that:

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RTC DECISION FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH BEYOND REASONABLE DOUBT ALL THE ELEMENTS OF THE CRIMES CHARGED.⁸

The accused-appellants insist that the complainants well knew that they were not connected to any recruitment agency, or that they were not recruiters themselves; that they did not represent themselves to the latter as having the capability to deploy workers overseas;⁹ that they did not commit any act of fraudulent misrepresentations essential in the *estafa* for which they were convicted; and that they simply assisted in processing the papers of the latter to help them realize their desire to work abroad.¹⁰

Did the CA correctly affirm the convictions of the accused-appellants for illegal recruitment in large scale and for three counts of *estafa*?

Ruling of the Court

The appeal lacks merit.

We find no reason to disturb the factual findings and legal conclusions by the CA affirming the factual findings of the RTC, to wit:

⁶ *Rollo*, pp. 3-24.

⁷ *Id.* at 24.

⁸ *Id.* at 45.

⁹ *Id.* at 46-48.

¹⁰ *Id.* at 50.

To constitute illegal recruitment in large scale, three **elements** must concur: **(a)** the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers; **(b)** the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13(b) of the Labor Code, or any of the prohibited practices enumerated under Article 34 of the same Code (now Section 6 of Republic Act No. 8042); and, **(c)** the offender committed the same against three (3) or more persons, individually or as a group.

x x x x

In the case at bench, all three (3) elements were established during trial. First, it was proved by private complaints that accused spouses were not licensed or authorized to engage in recruitment activities. This fact was substantiated by POEA's Certifications and as testified to by the Officer-in-Charge of the POEA who issued the same. Second, private complainants testified and proved that indeed accused spouses undertook acts constituting recruitment and placement as defined under Article 13 (b) of the Labor Code. They testified that they were induced, offered and promised by accused spouses employment in Macau, China for two (2) years for a fee. They were made to believe that accused spouses were authorized to hire them and capable of sending them to Macau for work with higher pays. They paid accused spouses for documentation and processing fees, yet, they were unable to go abroad. These testimonies, as well as the documentary evidence they submitted consisting of the receipts issued to them by accused spouses, all proved that the latter were engaged in recruitment and placement activities. And third, there are five (5) complainants against whom accused spouses are alleged to have recruited.

Moreover, the defense proffered by accused spouses consisted merely of alibi and denial. It is however noteworthy to state that denial, like alibi, is inherently a weak defense and it is not at all persuasive. Accused spouses did not deny being in Cagayan de Oro City, albeit they asserted to have arrived months earlier than the alleged date, and they likewise did not deny having met private complainants on different occasions as some of the private complainants were even relatives of accused Owen.

x x x x

Parenthetically, there is no question that accused spouses are likewise liable for *estafa* under Article 315 (2) (a) of the Revised Penal Code. We are convinced that the prosecution proved beyond reasonable doubt Accused Spouses' guilt for three (3) counts of *Estafa*.

x x x x

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

fraudulent representation constitutes the very cause or the only motive which induces the complainant to part with the thing of value.

In the present case, private complainants were led to believe by accused spouses that they possessed the power and qualifications to provide them with work in Macau when in fact they were neither licensed nor authorized to do so. Accused spouses made it appear to private complainants that Beatriz was requested by her employer to hire workers for Macau, when in fact she was not. They even recruited their own relatives in the guise of helping them get better jobs with higher pays abroad for them to improve their standard of living. Likewise, private complainants were deceived by accused spouses by pretending that the latter could arrange their employment in Macau, China. With these misrepresentations, false assurances and deceit, they suffered damages and they were forced to part with their hard-earned money, as one of them even testified to have mortgaged her house and another, to have borrowed money from a lending institution just to raise the alleged processing fees.¹¹

The factual findings of the CA are accepted because the Court is not a trier of facts. Such findings, which affirmed those of the RTC as the trial court, are now even binding on us. This is because the RTC had the unique advantage to observe the witnesses' demeanor while testifying, and the personal opportunity to test the accuracy and reliability of their recollections of past events, both of which are very decisive in a litigation like this criminal prosecution for the serious crime of illegal recruitment committed in large scale where the parties have disagreed on the material facts.¹² The Court may revise such findings in its rare and extraordinary role of a trier of facts only when the appellants convincingly demonstrate that such findings were either erroneous, or biased, or unfounded, or incomplete, or unreliable, or conflicted with the findings of fact of the CA.¹³ Alas, that demonstration was not made herein.

The records show that the Prosecution presented the complainants themselves to establish that the accused-appellants had made the complainants believe that they could deploy them abroad for a fee despite their having had no license or authority to do so from the proper government agency; receipts; and the certification from the POEA on the lack of the license to recruit having been issued in favor of the accused-appellants.

In contrast, the accused-appellants offered only denial. Such defense was futile because denial, essentially a negation of a fact, did not prevail over the affirmative assertions of the fact. The courts – trial as well as appellate – have generally viewed denial in criminal cases with considerable caution, if not outright rejection. This dismissive judicial attitude comes from the recognition that denial is inherently weak and unreliable by virtue of its being an excuse too easy and too convenient for the guilty to make.

¹¹ Id. at 19-23.

¹² *People v. Inovero*, G.R. No. 195668, June 25, 2014, 727 SCRA 257, 268.

¹³ *People v. Reyes*, G.R. No. 173307, July 17, 2013, 701 SCRA 455, 461.

Denial, to be worthy of consideration at all, should be substantiated by clear and convincing evidence. Hence, the appeal of the accused should also fail because it relied solely on negative and self-serving negations. Verily, the denial carried no weight in law and had no greater evidentiary value than the testimonies of credible witnesses of the Prosecution who testified on affirmative matters.¹⁴

We next ascertain if the CA properly affirmed the imposition of the penalties for illegal recruitment in large scale and the three counts of *estafa*.

Under Section 7(b)¹⁵ of the *Migrant Workers' Act*, the penalty for illegal recruitment in large scale is life imprisonment and fine of not less than ₱500,000.00 nor more than ₱1,000,000.00. Although Republic Act No. 10022,¹⁶ approved on March 8, 2010, has since introduced an amendment to the *Migrant Workers' Act* to raise the imposable fine to not less than ₱2,000,000.00 nor more than ₱5,000,000.00, the amendment does not apply herein because the illegal recruitment subject of this case was committed in October and November, 2002, or long before the amendment took effect. Accordingly, we hold that the RTC and CA correctly imposed life imprisonment and fine of ₱1,000,000.00.¹⁷

For the three counts of *estafa*, the relevant legal provision is Article 315, first paragraph, of the *Revised Penal Code*, which provides:

Article 315. Swindling (*estafa*). - Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

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

¹⁴ *People v. Inovero*, note 12, at 268-269; *People v. Bensig*, G.R. No. 138989, September 17, 2002, 389 SCRA 182, 194.

¹⁵ Section 7. PENALTIES. - x x x
x x x x

(b) The penalty of life imprisonment and a fine not less than five hundred thousand pesos (₱500,000.00) nor more than one million pesos (₱1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

x x x x

¹⁶ Section 6. Section 7 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

SEC. 7. Penalties. - x x x

x x x x

(b) The penalty of life imprisonment and a fine of not less than Two million pesos (₱2,000,000.00) nor more than Five million pesos (₱5,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

x x x x

¹⁷ *CA rollo*, p. 97.

Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

X X X X

The minimum of the indeterminate sentence for each count of *estafa* is fixed within the range of the penalty next lower to that prescribed by Article 315 of the *Revised Penal Code*,¹⁸ which is *prision correccional* in its minimum period to *prision correccional* in its medium period (*i.e.*, six months and one day to four years and two months). The RTC imposed the minimum of four years, nine months, and eleven days of *prision correccional*, thereby exceeding the legal range for the minimum of the indeterminate sentence. Accordingly, the minimum of the indeterminate sentence is reduced to four years of *prision correccional* considering the absence of any modifying circumstances.

As to the maximum term for each count of *estafa* under the *Indeterminate Sentence Law*, the maximum period of the prescribed penalty is first determined, and the incremental penalty of one year of imprisonment for every ₱10,000.00 in excess of ₱22,000.00 is then added, provided that the total penalty shall not exceed 20 years. To compute the maximum period of the prescribed penalty, the time included in *prision correccional* maximum to *prision mayor* minimum shall be divided into three equal portions, with each portion forming a period.¹⁹ Based on the computation, the maximum period for *prision correccional* maximum to *prision mayor* minimum is from six years, eight months, and 21 days to eight years. The incremental penalty, when proper, shall thus be added to anywhere from six years, eight months, and 21 days to eight years, at the discretion of the court. In computing the incremental penalty, the amount defrauded shall be subtracted by ₱22,000.00, and the difference shall be divided by ₱10,000.00. Any fraction of a year is disregarded.²⁰

For the maximum term of the three counts of *estafa*, the RTC imposed nine years. We note that the RTC ordered the gravest imposable penalty within the range (eight years of *prision mayor* plus the one-year incremental penalty). However, because neither the RTC nor the CA found the attendance of any modifying circumstance,²¹ we reduce the maximum to six years, eight months, and 21 days of *prision mayor* and add the incremental penalty of one year, or a total of seven years, eight months, and 21 days.

¹⁸ *People v. Bayker*, G.R. No. 170192, February 10, 2016.

¹⁹ Accordingly, the **minimum period** ranges from four years, two months and one day to five years, five months and 10 days; the **medium period**, from five years, five months and 11 days to six years, eight months and 20 days; and the **maximum period**, from six years, eight months and 21 days to eight years.

²⁰ *People v. Ocdan*, G.R. No. 173198, June 1, 2011, 650 SCRA 124, 151; *People v. Temporada*, G.R. No. 173473, December 17, 2008, 574 SCRA 258, 299.

²¹ See *People v. Bayker*, note 18 (“x x x the floor of the maximum period - six years, eight months and 21 days - is fixed in the absence of any aggravating circumstance, or of any showing of the greater extent of the evil produced by the crime, to which is then added the incremental penalty of one year for every ₱10,000.00 in excess of ₱22,000.00. x x x”).

Finally, in line with prevailing jurisprudence,²² the accused-appellants shall pay interest of 6% *per annum* on the respective amounts due to each of the complainants, reckoned from the finality of this decision until the amounts are fully paid.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on March 18, 2011 **IN ALL RESPECTS** subject to the following **MODIFICATIONS**:

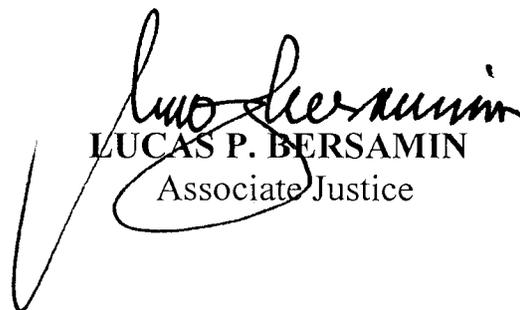
1. In Criminal Case No. 2003-173, the accused-appellants shall suffer the penalty of life imprisonment and fine of ₱1,000,000.00 each;

2. In each of Criminal Case No. 2003-124, Criminal Case No. 2003-125, and Criminal Case No. 2003-238, the accused-appellants shall suffer an indeterminate penalty of four years of *prision correccional*, as minimum, to seven years, eight months, and 21 days of *prision mayor*;

3. The accused-appellants shall indemnify complainants Arcele J. Bacorro, Reynalyn Cagalingan, Roselle Q. Cagalingan, and Laarni E. Sanchez in the respective amounts of ₱40,000.00, ₱40,000.00, ₱40,000.00, and ₱11,500.00 plus interest of 6% *per annum* from the finality of this decision until the amounts are fully paid; and

4. The accused-appellants shall pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

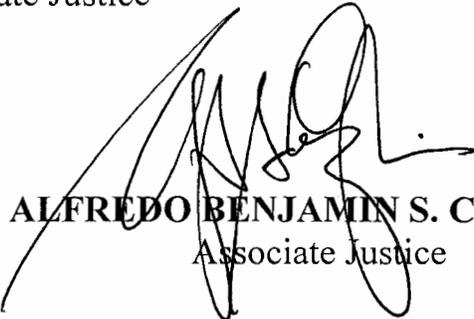


MARIA LOURDES P. A. SERENO
Chief Justice

²² See *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 459.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On Leave)
ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice