Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

MICHELLE DELA CRUZ,[***]
Accused-Appellant.

G.R. No. 214500

Present:

CARPIO,[*] *J.*, *Chairperson*,
PERALTA,[**]
MENDOZA,
LEONEN, and
MARTIRES, *JJ.*

Promulgated:

28 JUN 2017

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DECISION

PERALTA, *J.*:

Before this Court is an appeal from the Decision[1] dated July 2, 2013 of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 04935. The CA affirmed the Decision[2] dated October 21, 2010 of the Regional Trial Court (*RTC*) of Makati City in Criminal Cases Nos. 05-412 to 415, which convicted appellant Michelle Dela Cruz of illegal recruitment in large scale and estafa.

Appellant was charged with illegal recruitment in large scale and three (3) counts of estafa under Article 315, paragraph 2(a) of the Revised Penal Code. The Informations against appellant read:

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[*] On wellness leave.

[**] Acting Chairperson, per Special Order No. 2445 dated June 16, 2017.

[***] Also spelled "dela Cruz" in some parts of the records.

[1] Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Ricardo R. Rosario and Leoncia R. Dimagiba, concurring; *rollo*, pp. 2-16.

[2] CA *rollo*, pp. 39-46.

Criminal Case No. 05-412 for Illegal Recruitment (Large Scale):

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused not being authorized by the POEA of the Department of Labor and Employment to recruit workers for overseas employment, did then and there willfully, unlawfully and feloniously promise and recruit the following complainants, to wit:

ARMELY AGUILAR UY,
SHERYL AGUILAR REFORMADO
& ADONA LUNA QUINES LAVARO

for an overseas job placement abroad and in consideration of said promise, said complainants paid and delivered the total amount of Php300,000.00 as processing fees of their papers, but despite said promise, accused failed to deploy complainants and despite demand to reimburse/return the amount which complainants paid as processing fees, accused did then and there refuse and fail to reimburse/return to said complainants the aforesaid amount, thus in large scale amounting to economic sabotage, in violation of the aforecited law.

Contrary to law."[3]

Criminal Case No. 05-413 for Estafa under Art. 315, par. 2(a) of the RPC.

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud complainant ARMELY AGUILAR UY in the following manner, to wit: The said accused by means of false manifestation and fraudulent representation prior to or simultaneously with the commission of the fraud which she made to the complainant to the effect that she have a power and capacity to recruit workers for the employment of complainant as Domestic Helper in Korea and could facilitate the necessary papers to meet the requirements and by means of other deceit of similar import induced and succeeded in inducing complainant to give and deliver in the total amount of Php100,000.00, the accused knowing fully well that the same was false and fraudulent and was made only to obtain, as in fact the accused obtained the amount of Php100,000.00, which the accused applied and used for her own personal use and benefit, to the damage and prejudice of the said complainant ARMELY AGUILAR UY.

Contrary to law.[4]

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3 Records, pp. 2-3.
4 *Id.* at 6-7.

Criminal Case No. 05-414 for Estafa under Art. 315, par. 2(a) of the RPC.

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud complainant ADONA LUNA QUINES LAVARO in the following manner, to wit: The said accused by means of false manifestation and fraudulent representation prior to or simultaneously with the commission of the fraud which she made to the complainant to the effect that she have a power and capacity to recruit workers for the employment of complainant as Domestic Helper in Korea and could facilitate the necessary papers to meet the requirements and by means of other deceit of similar import induced and succeeded in inducing complainant to give and deliver in the total amount of Php100,000.00, the accused knowing fully well that the same was false and fraudulent and was made only to obtain, as in fact the accused obtained the amount of Php100,000.00, which the accused applied and used for her own personal use and benefit, to the damage and prejudice of the said complainant ADONA LUNA QUINES LAVARO.

Contrary to law.[5]

Criminal Case No. 05-415 for Estafa under Art. 315, par. 2(a) of the RPC.

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud complainant SHERYL AGUILAR REFORMADO in the following manner, to wit: The said accused by means of false manifestation and fraudulent representation prior to or simultaneously with the commission of the fraud which she made to the complainant to the effect that she have a power and capacity to recruit workers for the employment of complainant as Domestic Helper in Korea and could facilitate the necessary papers to meet the requirements and by means of other deceit of similar import induced and succeeded in inducing complainant to give and deliver in the total amount of Php100,000.00, the accused knowing fully well that the same was false and fraudulent and was made only to obtain, as in fact the accused obtained the amount of Php100,000.00, which the accused applied and used for her own personal use and benefit, to the damage and prejudice of the said complainant SHERYL AGUILAR REFORMADO.

Contrary to law.[6]

The prosecution presented the three (3) private complainants as witnesses to prove the crime of Illegal Recruitment on Large Scale, namely: Armely Aguilar-Uy (*Aguilar-Uy*), Sheryl Reformado (*Reformado*), Adona Lavaro (*Lavaro*), and Rosalina Rosales (*Rosales*) from the Philippine Overseas Employment Administration (*POEA*).

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5 *Id.* at 10-11.

6 *Id.* at 14-15.

Testimony of first private complainant Armely Aguilar-Uy:

Private respondent Aguilar-Uy testified that she and appellant were introduced to each other by a certain Maggie Dela Cruz. Aguilar-Uy claimed that appellant recruited her to work in South Korea as domestic helper. She was told that she will receive ₱50,000.00 for eight hours of work and an overtime pay totalling to ₱80,000.00 per month.[7] Appellant informed her that she has twelve (12) visas with her and still needed two more persons to go to South Korea.[8] Appellant required her to submit the requirements that will be sent to South Korea for authentication.

Aguilar-Uy testified that appellant asked for ₱100,000.00 from them as payment for expenses needed to go to South Korea. Aguilar-Uy added that considering that she is also paying for her niece, Sheryl Reformado, who also wants to work abroad, she gave appellant the total amount of ₱200,000.00.

Thereafter, Aguilar-Uy waited for their visas until January 2005, but none were given to them. Aguilar-Uy called up and texted appellant several times to no avail. Upon realizing that they will no longer be able to get their visas, she told appellant to return their passports instead but again appellant did not reply. Finally, when they eventually met on February 18, 2005, appellant asked her anew for additional payment of $72 to renew their visas. Aguilar-Uy narrated that appellant gave them a stub[9] which purported to be coming from the Embassy of the Republic of South Korea. However, when they presented the same to the Korean Embassy, they were told that all their documents were fake. Aguilar-Uy then lodged a complaint against the appellant before the Presidential Task Force Anti-Illegal Recruitment Agency. Appellant promised them that she would pay them back but failed to do so. Aguilar-Uy identified the appellant in open court.[10]

Testimony of second private complainant Sheryl Reformado:

For her part, private complainant, Sheryl Reformado (Reformado) essentially corroborated the testimonies of her aunt, Aguilar-Uy. She testified that she came to know appellant through their neighbor Gemma Dimatera and her sister Maggie Dela Cruz, who were also applying for work with appellant.[11]

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7 *Id.* at 333.
8 *Id.*
9 Exhibit "F," *id.* at 141.
10 Records, p. 35.
11 *Id.* at 110.

Reformado narrated that on September 20, 2004, Gemma Dimatera and Maggie Dela Cruz went to her place at Blk. 22, Lot 13, Makiling St., Mountainview Subdivision, Muzon, San Jose del Monte City, Bulacan and informed her that appellant needed two more applicants to go to South Korea as overseas workers.[12] As agreed upon per phone conversation with appellant, they met in front of the Korean Embassy located in Makati. Appellant immediately asked for ₱40,000.00 from them since the working visa she had with her will expire.[13] She corroborated the claim of Aguilar-Uy that on different dates, they gave appellant the total amount of ₱200,000.00.[14] They waited for the processing of their passport and visa from November 2004 up to February 2005 but none were given to them as promised. Appellant gave them many alibis. They later on asked for police assistance and went to the Korean Embassy so they could get their passports, but the Consul scolded her since the papers they submitted were all fake.[15] Reformado also identified appellant in open court.[16]

Testimony of third private complainant Adona Lavaro:

Third private complainant, Adona Lavaro, testified that she was introduced to appellant by a certain Mary Anne Legaspi. She narrated that it was appellant who called her up and told her that her employer, Mr. Simeon Right, was looking for a domestic helper. Lavaro testified that appellant told her that she will be the one to facilitate the processing of her documents and assured her that she would be able to work in South Korea.[17]

On different occasions, Lavaro testified that appellant asked her for money to be able to work in South Korea. She claimed to have given appellant the amounts of (1) ₱40,000.00 as terminal fee, (2) ₱40,000.00 as processing fee; (3) $72 for the visa, (4) traveler's checks in the amount of US$200, and (5) ₱2,050.00 as terminal fee. Lavaro testified that she gave said amounts of money to appellant because she trusted her and she really wanted to leave for abroad but nothing happened. Lavaro waited for appellant's instruction or call but when appellant finally called her, it was only to ask her anew for money. At this time, she already started to doubt appellant. She later learned that appellant has also been asking money from other people who also wants to work abroad. Lavaro also identified appellant in open court.[18]

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12 *Id.* at 111.
13 *Id.* at 115.
14 *Id.* at 120.
15 *Id.* at 125-126.
16 *Id.* at 128.
17 *Id.* at 269.
18 *Id.* at 251.

In the course of the trial, the prosecution formally offered the following evidence to prove the payments made by private complainants to appellant,[19] to wit:

Amount	Date Given	Payment Details
P 40,000.00[20]	09/21/04	Received by Accused Michelle Dela Cruz
₱ 20, 000.00[21]	09/27/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook[22]
₱20,000.00[23]	10/04/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
₱ 30,000.00[24]	10/09/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
₱ 4,000.00[25]	10/13/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
₱ 2,800[26]	10/12/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
₱ 8,000 or $144[27]	10/04/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
₱10,000.00[28]	10/15/04	Deposited in the Metrobank account of Norlita Hinagpis
₱ 10,000.00[29]	10/15/04	Deposited in the Equitable PCIBank account of Mario Castillo
₱ 4,000.00[30]	11/12/04	Deposited in the Metrobank account of Norlita Hinagpis
₱ 2,000.00[31]	01/05/05	Deposited in the Metrobank account of Norlita Hinagpis
₱ 150,800.00	**TOTAL**	

19 *Id.* at 133-135
20 *Id.* at 136.
21 Exhibit "B-1," *id.* at 146.
22 *Id.*
23 Exhibit "B-2," *id.*
24 Exhibit "B-3," *id.*
25 Exhibit "B-4," *id.*
26 Exhibit "B-5," *id.*
27 Exhibit "B-6," *id.*
28 Exhibit "D," *id.* at 139.
29 Exhibit "C," *id.* at 138.
30 Exhibit "E," *id.* at 140.
31 Exhibit "B," *id.* at 137.

Meanwhile, prosecution witness, Rosalina Rosales testified that as per Certification[32] issued by Noriel Devanadera, Director IV, Licensing and Regulation Office, POEA, appellant Dela Cruz is not authorized to recruit workers for overseas employment during the year 2005 up to the present. Rosales was the one who prepared the Certification signed by Director Devanadera.

For the defense, appellant testified that prior to her arrest, she has worked in South Korea as an OFW for five years and three months. She alleged that private complainants, namely, Armely Aguilar, Adona Lavaro and Sheryl Aguilar were introduced to her by a certain Alma Palomares, the sister of her compadre Aldrin who was also an OFW in South Korea.[33] Thereafter, private complainants asked her the necessary requirements for them to be able to work in South Korea.

Appellant denied that she promised private complainants any deployment abroad, specifically in South Korea. She claimed that she just told them to secure the needed documents. Appellant averred that she introduced the complainants to her agent named "Rosa," who assisted her in going to Korea. She also admitted that she assisted the complainants in securing the original copies of ITR, employment certificate and bank certificate to get a tourist visa. However, after introducing the complainants to "Rosa", appellant claimed to be unaware anymore as to what happened next because she went to the province as she was pregnant that time.[34]

When confronted with an acknowledgement receipt marked as Exh. "A", appellant declared that said document represents the payment in securing the ITR and the bank certification. She averred that the amount of ₱40,000.00 was personally delivered to her and thereafter she gave the amount to Alma Palomares.[35] She said she did not know what Alma did with the money. She further added that private complainants filed a case against her just because she was the one who talked to them and they could not contact Aldrin, who was still in South Korea at that time.

On cross-examination, appellant testified that she facilitated for a fee the procurement of private complainants' papers like ITR, bank certificate and certificate of employment. She confirmed having received the amount of ₱40,000.00 for the facilitation of said documents. She claimed that Madam Rosa, Alma Palomares and private complainants were the ones communicating with each other.[36]

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32 Exhibit "H," *id.* at 144.
33 Records, pp. 328-330.
34 *Id.* at 334-338.
35 *Id.* at 338- 339.
36 *Id.* at 341-342.

Appellant likewise admitted that the documents which she produced for private complainants were all fake. She recalled that her first entry to South Korea was illegal because she also used fake ITR, bank certificate and certificate of employment. Appellant, however, averred that she merely referred private complainants to the person who faked all her papers but she has no hand in the preparation of the fake documents.[37]

On October 21, 2010, the RTC found the accused-appellant guilty of the cime of illegal recruitment in large scale and estafa. The dispositive portion of said decision reads in this wise:

> WHEREFORE, in Criminal Case No. 05-412, this Court finds the accused Michelle Dela Cruz guilty beyond reasonable doubt of violation of Article 38 (b) of the Labor Code, as amended, in relation to Article 13 (b) and 34 of the same Code (Illegal Recruitment in Large Scale) and hereby sentences her to suffer the penalty of life imprisonment and pay a fine of ₱500,000.00.
>
> Accused is further ordered to pay complainant Armely Aguilar-Uy the amount of ₱40,000.00 as actual or compensatory damages.
>
> In Criminal Case No. 05-413, this Court finds the accused Michell Dela Cruz guilty beyond reasonable doubt of the crime of Estafa under Article 315, par. 2 (a) of the Revised Penal Code and hereby sentences her to a prison term ranging from two (2) years, eleven (11) months and eleven (11) days of prision correccional as minimum up to eight (8) years of prision mayor as maximum.
>
> In Criminal Cases Nos. 05-414 and 05-415, accused Michelle Dela Cruz is hereby ACQUITTED of the crime charged for insufficiency of evidence.
>
> SO ORDERED."[38]

The RTC was unconvinced by the defense of alibi and denial interposed by appellant. The trial court relied on the testimony of Rosalina Rosales of the Licensing Division of the POEA who confirmed that appellant is not licensed to recruit workers for overseas employment. It likewise accorded greater weight to the testimonies of private complainants who positively identified appellant as the person who recruited them for employment in South Korea and received the placement fees.

The court *a quo* also found appellant guilty beyond reasonable doubt of estafa for misrepresenting herself as having the power and capacity to recruit and place private complainants as domestic helpers in South Korea.

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37 *Id.* at 343-344.

38 CA *rollo*, p. 46.

Such misrepresentation, the trial court stressed, induced private complainants to part with their money.

Unperturbed, appellant appealed the trial court's decision before the Court of Appeals.

On July 2, 2013, in its disputed Decision,[39] the Court of Appeals denied the appellant's appeal for lack of merit.

Hence, this appeal, raising the same issues brought before the appellate court, to wit:

> I
>
> WHETHER THE COURT *A QUO* GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.
>
> II
>
> WHETHER THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S VERSION AND INSTEAD RELYING HEAVILY ON THE PROSECUTION'S VERSION.

Appellant avers that she cannot be held criminally liable for illegal recruitment because she merely assisted private complainants in processing their travel documents without any promise of employment. She asserts that the prosecution failed to establish whether she actually undertook any recruitment activity or any prohibited practice enumerated under Art. 13 (b) or Art. 34 of the Labor Code.

The appeal lacks merit.

The crime of illegal recruitment is defined and penalized under Sections 6 and 7 of Republic Act (*R.A.*) No. 8042, or the *Migrant Workers and Overseas Filipinos Act of 1995*,[40] as follows:

> SEC. 6. *Definition.* – For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for

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39 *Supra* note 1.

40 *REPUBLIC ACT NO. 8042: 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.*

> profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13 (f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, x x x:
>
> x x x x
>
> Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Thus, in order to hold a person liable for illegal recruitment, the following elements must concur: (1) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13(b) of the Labor Code, or any of the prohibited practices enumerated under Article 34 of the Labor Code (now Section 6 of Republic Act No. 8042) and (2) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers. In the case of *illegal recruitment in large scale*, as in this case, a third element is required: that the offender commits any of the acts of recruitment and placement against three or more persons, individually or as a group.

In the instant case, appellant committed the acts enumerated in Section 6 of R.A. 8042. As testified to by Aguilar-Uy, Reformado and Lavaro, appellant gave them an impression that she is capable of sending them to South Korea as domestic helpers. The testimonial evidence presented by the prosecution clearly shows that, in consideration of a promise of overseas employment, appellant received monies from private complainants. Such acts were accurately described in the testimonies of the prosecution witnesses, to wit:

> ***Direct-examination of Armely Aguilar-Uy:***
>
> A. ***I was informed by this Michelle dela Cruz that she has twelve (12) visas with her and she still needs two more persons to go to Korea and during that time on September 20 she even called me and asked information regarding myself so that our papers will be sent to Korea for authentication.***
>
> Q. You mentioned that you were called by Michelle dela Cruz. In what manner were you called?
> A. Through [cellphone].
>
> Q. What did the two of you talk about?
> A. She asked me to give my name and age, the name of my niece Sheryl because according to her she needs to authenticate the papers.

Q. And would you kindly tell this Honorable Court what is the purpose of the authentication of the papers and the documents which you just mentioned?
A. ***For us to be able to go to Korea.***

Q. ***And after you were told through telephone call made by the accused asking for your names and documents for proper authentication with the Korean Embassy, what did you do next, Madame Witness?***
A. After that [cellphone] call from her that evening she told me to prepare the money and bring it so that we can meet each other the next day.

Q. Will you tell the Honorable Court what is the money for?
A. ***That money is for the expenses needed to be paid for us to go to Korea.***

Q. And that would be how much, Madame Witness?
A. ₱100,000.00

Q. And were you able to give that said amount of ₱100,000.00?
A. We were not able to give the full amount at once. We gave the said amount on various dates and different places.

Q. And would you kindly tell this Honorable Court in what manner and under what circumstances were you able to give the amount of ₱100,000.00 to the said accused?
A. ***Other payments by giving the money personally to her and the others we deposited the money in the bank.***[41]

x x x x

Q. When was the last payment which you made?
A. December 5, 2004, additional payment for our tickets.

Q. After the last payment which you made, which you claimed you made a total payment of ₱200,000.00, would you kindly tell this Honorable Court what happened after you made the last payment?
A. She made several schedules for our departure and she even told us to bring our things. I gave a condition to her that we will not bring our things unless she will show to us our visa.

Q. And what is the reaction of the said accused when you told her unless she can be able to produce the visa?
A. ***She agreed and told us that she is going to show us the visa.***

Q. And was she able to show you your visa as promised?
A. No, sir.[42]

x x x x

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41 TSN, December 12, 2005, pp. 7-9.
42 *Id.* at 24-25.

Q. ***Going back to your previous testimony that the said visa is for going to Korea and you were being recruited to work as what?***
A. Domestic Helper.

Q. And how much did said accused tell you on how much you are going to receive as your salary?
A. ₱50,000.00 for eight (8) hours plus overtime pay so we could earn ₱80,000.00 per month.[43]

Cross-examination of Sheryl Reformado:

Q. And it was this Alvin Palomares who knows Michelle dela Cruz and was the one who indorsed Michelle to Maggie dela Cruz?
A. I am not familiar with the story, what I am aware of was that she told us that Maggie Dela Cruz, that this Michelle Dela Cruz came from Korea and she is looking for workers to work there.

x x x x

Q. And she told you that money will be required for the facilitation for the processing of these papers, so that you will be able to get the tourist visa for Korea?
A. ***She told us she needs the money to get the document and so we can travel and work abroad in Korea.***

Q. But this document was a requirement for the procurement of the tourist visa, is that right?
A. ***Yes ma'am. She told us that she is into direct hiring.***[44]

x x x x

Re-direct examination of Sheryl Reformado:

Q. And when these documents were given to you, what were these documents for, according to the accused?
A. ***According to her, those documents are needed for us to work abroad.***

x x x x

Re-cross examination of Sheryl Reformado:

Q. You for yourself to determine whether it is genuine or fake?
A. ***Yes ma'am. We were able to examine. We examined those documents, we were always asking her if we will not encounter any problem as to those documents, she told us none, because the consul in the Philippines and the consul in Korea knows about the document and she told us that those were just formality, so that we can work abroad.***[45]

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43 *Id.* at 34.
44 TSN, May 8, 2006, pp. 158-160.
45 *Id.* at 72-173.

Direct-examination of Adona Lavaro:

Q. What, if any, did you talk about?
A. ***On August 4, Michelle called up informing me that her employer needs domestic helper and from that time on she used to call me several times.***

Q. And after being told or being informed that there is that need for domestic helpers in Korea, what was your reaction, if any?
A. I made some thinking and because of several calls from her, I decided to accept the offer.[46]

x x x x

Q. And you said a while ago, "'napapayag ka.'" What do you mean by napapayag ka?
A. ***I was encouraged to accept the job she was offering because of her good words and promises. She told me that the work will be from Monday to Friday and the salary would be ₱40,000.00 plus and I can have a part time job. And because of that I asked her about the fees and the other requirements. And she told me that I have to give a partial payment. According to her, I can give ₱40,000.00.***[47]

Cross-examination of Adona Lavaro:
Q. ***You never insisted from her for you to get your... you never insisted that you be deployed to Korea?***
A. No. more because she was always asking for money and gives us several promises that we will be able to work for Korea.[48]

Thus, considering the foregoing, we can conclude that all three elements of illegal recruitment in large scale are present in the instant case. To recapitulate: ***First,*** appellant engaged in recruitment when she represented herself to be capable of deploying workers to South Korea upon submission of the pertinent documents and payment of the required fees; ***Second,*** all three (3) private complainants positively identified appellant as the person who promised them employment as domestic helpers in Korea for a fee; and ***Third,*** Rosalina Rosales of the Licensing Division of the POEA, testified that as per Certification issued by Noriel Devanadera, Director IV, Licensing and Regulation Office, appellant is not licensed or authorized to recruit workers for overseas employment. Clearly, the existence of the offense of illegal recruitment in large scale was duly proved by the prosecution.

This Court has consistently conformed to the rule that findings of the trial court on the credibility of witnesses deserve great weight. Factual findings of the trial court and its observation as to the testimonies of the witnesses are accorded great respect, if not conclusive effect, most

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46 TSN, June 14, 2006, p. 202.
47 *Id.* at 203.
48 TSN, September 4, 2006, p. 279. (Emphasis ours)

especially when affirmed by the Court of Appeals, as in this case. The reason for this is that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed first-hand their demeanor and manner of testifying under grueling examination. In the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[49]

Moreover, private complainants' testimonies were consistent and substantially corroborate each other on material points, such as the amount of the fees they gave to appellant, the country of destination and the nature of work. It was also established that appellant gave private complainants the impression that she had the ability to send them to South Korea for work in such a manner that the latter were convinced to part with their money in order to be employed. Without any evidence to show that private complainants were propelled by any ill motive to testify falsely against appellant, we shall accord their testimonies full faith and credit.[50]

Meanwhile, appellant's defense that she merely referred private complainants to a certain "Madam Rosa" fails to convince as the same was unsupported by any evidence. Between the categorical statements of the private complainants and the bare denial of appellant, the former must perforce prevail. An affirmative testimony is far stronger than a negative testimony especially when the former comes from the mouth of a credible witness. Denial, same as an alibi, 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.[51]

Furthermore, we agree with the court *a quo* that the same pieces of evidence which establish appellant's liability for illegal recruitment in large scale likewise confirm her culpability for estafa.

It is well-established in jurisprudence that a person may be charged and convicted for both illegal recruitment and estafa. The reason therefor is not hard to discern: illegal recruitment is *malum prohibitum*, while estafa is *mala in se*. In the first, the criminal intent of the accused is not necessary for conviction. In the second, such intent is imperative. Estafa under Article 315, paragraph 2(a) of the Revised Penal Code is committed by any person who defrauds another by using fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or

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49 *People v. Colorada*, G.R. No. 215715 (Resolution), [August 31, 2016].
50 *People v. Daud, et al.*, 734 Phil. 698, 718 (2014).
51 *People v. Ocden*, 665 Phil. 268, 289 (2011).

imaginary transactions, or by means of similar deceits executed prior to or simultaneously with the commission of fraud.[52]

The elements of estafa by means of deceit are the following: (a) that there must be a false pretense or fraudulent representation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage.[53]

In the instant case, the prosecution has established that appellant defrauded private complainants by leading them to believe that she has the capacity to send them to South Korea for work as domestic helpers, even as she does not have a license or authority for the purpose. Such misrepresentation came before private complainants delivered various amounts for purportedly travel expenses and visa assistance to appellant. Clearly, private complainants would not have parted with their money were it not for such enticement by appellant. As a consequence of appellant's false pretenses, the private complainants suffered damages as the promised employment abroad never materialized and the money they paid were never recovered. All these representations were actually false and fraudulent and thus, the appellant must be made liable under par. 2 (a), Article 315 of the Revised Penal Code.

However, as to appellant's acquittal in Criminal Case Nos. 05-414 and 05-415, due to the trial court's finding that there is "insufficient" evidence to show that payment has been made to appellant, this Court can no longer review and pass judgment in view of the appellant's right against double jeopardy. Nevertheless, even if appellant was acquitted in these two estafa cases, it must be clarified that she can still be convicted of illegal recruitment. This is because while in estafa, damage is essential, the same is not an essential element in the crime of illegal recruitment. It is the lack of the necessary license or authority, not the fact of payment that renders the recruitment activity of appellant unlawful.[54] As long as the prosecution is able to establish through credible testimonial evidence that the accused-appellant has engaged in illegal recruitment, a conviction for the offense can very well be justified.[55]

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52 *People v. Chua*, 695 Phil.16, 31 (2012).

53 *Id.* at 32.

54 See *C.F. Sharp Crew Management, Inc. v. Undersecretary Español*, 559 Phil. 826, 837 (2007); *People v. Señoron*, 334 Phil. 932, 940 (1997); *People v. Sanchez*, 353 Phil. 536, 549 (1998).

55 *People v. Saley*, 353 Phil. 897, 932 (1998).

PENALTY

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

> 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 (₱200,000.00) nor more than Five hundred thousand pesos (₱500,000.00).
>
> (b) The penalty of life imprisonment and a fine of 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.
>
> 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.

As the crime was committed in large scale, it is an offense involving economic sabotage and is punishable by life imprisonment and a fine of not less than ₱500,000.00 nor more than ₱1,000,000.00. The trial court, thus, aptly imposed the penalty of life imprisonment and a fine of ₱500,000.00.

The prescribed penalty for estafa under Article 315 of the RPC, is prision correccional maximum to prision mayor minimum, if the amount of the fraud is over ₱12,000.00 but does not exceed ₱22,000.00. If the amount exceeds ₱22,000.00, the penalty shall be imposed in its maximum period, adding one year for each additional ₱10,000.00, provided that the total penalty shall not exceed twenty (20) years.

Since the amount defrauded exceeded ₱22,000.00, the penalty shall be imposed in its maximum period which is six (6) years, eight (8) months and twenty-one (21) days to eight (8) years.

Applying the Indeterminate Sentence Law, the minimum term shall be within the range of the penalty next lower to that prescribed by the RPC, or anywhere within *prision correccional* in its minimum and medium periods or six (6) months and one (1) day to four (4) years and two (2) months. Thus, in this case, the minimum term to be imposed should be four (4) years and two (2) months of *prision correccional.*

The maximum term, on the other hand, shall be that which could be properly imposed under the rules of the RPC, which in this case shall be six (6) years, eight (8) months and twenty-one (21) days to eight (8) years. The incremental penalty shall be added to the maximum period of the prescribed penalty, which is anywhere between six (6) years, eight (8) months and twenty-one (21) days to eight (8) years.

While there were several evidence formally offered during trial, only Exhibit "A,"[56] representing the receipt amounting to ₱40,000.00 received by appellant from complainant Aguilar-Uy, can be given probative value. And considering the amount defrauded is ₱40,000.00 which is ₱18,000.00 more than ₱22,000.00, one (1) year shall be added to six (6) years, eight (8) months and twenty-one (21) days making the maximum term of the indeterminate sentence to seven (7) years, eight (8) months and twenty-one (21) days.

Finally, following prevailing jurisprudence, the Court, likewise, imposes interest at the rate of six percent (6%) *per annum* on each of the amounts awarded from the date of finality of this Decision until fully paid.

WHEREFORE, premises considered, the appeal is hereby **DISMISSED**. The Court of Appeals Decision dated July 2, 2013 in CA G.R. CR-HC No. 04935 is **AFFIRMED** with **MODIFICATION** to read as follows:

> 1. In Criminal Case No. 05-412, the Court finds appellant Michelle Dela Cruz **GUILTY** beyond reasonable doubt of the crime of Illegal Recruitment committed in large scale. She is hereby sentenced to suffer the penalty of life imprisonment, and ordered to pay a fine of ₱500,000.00;
>
> 2. In Criminal Case No. 05-413, the Court finds appellant Michelle Dela Cruz **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to seven (7) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum.
>
> 3. Appellant Michelle Dela Cruz is likewise ordered to indemnify private complainant Armely Aguilar Uy in the amount of Forty Thousand Pesos (₱40,000.00) as actual damages, with legal interest of six percent (6%) *per annum* from the finality of this decision, until the said amount is fully paid.

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56 Records, p. 136.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

On wellness leave
ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

ATTESTATION

I attest that the conclusion 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.

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

MARIA LOURDES P. A. SERENO
Chief Justice