



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
 PUBLIC INFORMATION OFFICE  
**RECORDED**  
 JUL 09 2021  
 BY: HEJIKY  
 TIME: 3:00 PM

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 198015**

Present:

LEONEN, J.,  
*Chairperson,*  
 HERNANDO,  
 INTING,  
 DELOS SANTOS, and  
 ROSARIO, \* JJ.

- versus -

**AVELINA MANALANG a.k.a.**  
**TESS ROBLES, a.k.a. ALVINA**  
**MANALANG,**  
*Accused-Appellant.*

Promulgated:

January 20, 2021  
 Mis-ADCBatt

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**DECISION**

**HERNANDO, J.:**

Challenged in this appeal is the November 23, 2010 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-GR CR-HC No. 03820 which found accused-appellant Avelina Manalang a.k.a. Tess Robles, a.k.a. Alvina Manalang (Manalang) guilty beyond reasonable doubt of Illegal Recruitment in Large Scale and three (3) counts of Estafa.

**The Antecedents:**

Manalang was charged with Illegal Recruitment in Large Scale in violation of Section 6(l) and (m) of Republic Act No. 8042 (RA 8042), otherwise known

\* On official leave.

<sup>1</sup> *Rollo*, pp. 2-21; penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Mario V. Lopez (now a Member of this Court) and Rodil V. Zalameda (now a Member of this Court).

as the Migrant Workers and Overseas Filipino Act of 1995, and Estafa under Article 315(2) of the Revised Penal Code (RPC).<sup>2</sup>

Docketed as Criminal Case No. 01-192706, the Information charging Manalang with Illegal Recruitment in Large Scale alleged:

That in or about and during the period comprised between June 2000 to May 28, 2011, inclusive in the City of Manila, Philippines, the said accused (*defendant-appellant, herein*), conspiring and confederating with one whose true name, real identity and present whereabouts is still unknown and mutually helping each other, representing herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad, did then and there willfully and unlawfully, for a fee, recruit and promise employment/job placement to the following persons, to wit:

As Chamber Maid in Australia:

Ma. Teresa P. Maranon  
Erlic Lorricon y Lavado  
Leizel Miguel y Leria  
Gemma L. Ortiz  
Lolita V. Tura

As Factory Worker in South Korea

Jhun M. Labarento  
Edwin L. Geronimo

As Waiter in Australia

Edgardo R. Cawas

without first having secured the required license or authority from the Department of Labor and Employment and said accused without valid reasons and without the fault of the complainants failed to actually deploy them and continuously fail, despite demands to reimburse the expense incurred by the said complainants in connection with their documentation and processing for purpose of their deployment.

Contrary to law.<sup>3</sup>

In addition, eight (8) other Informations<sup>4</sup> docketed as Criminal Case Nos. 01-192707 to 01-192714 charged Manalang with Estafa. The accusatory portions of the Informations in Criminal Case Nos. 01-192707, 01-192712, and 01-192714, which are the subject of the instant appeal, read:

**Criminal Case No. 01-192707:**

That in or about and during the period comprised between December 9, 2000 and May 28, 2001 inclusive, in the city of Manila, Philippines, the said accused, conspiring and confederating with one whose true name identity and present whereabouts are still unknown and helping each other, the said accused

<sup>2</sup> *CA rollo*, p. 89.

<sup>3</sup> *Id.* at 20-21.

<sup>4</sup> *Id.* at 20-35; Informations docketed as Criminal Case Nos. 01192707 to 01192714, all dated May 30, 2001. See Records, p. 25 for Criminal Case No. 01192708.

did then and there willfully, unlawfully and feloniously defraud MA. TERESA P. MARAÑON in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said MA. TERESA P. MARAÑON to the effect that they have the power and capacity to recruit and employ said MA. TERESA P. MARAÑON in Australia as Chamber Maid and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said MA. TERESA P. MARAÑON to give and deliver, as in fact, she gave and delivered to said accused the amount of P80,000.00 on the strength of the 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 said amount of P80,000.00 which amount once in her possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of the said MA. TERESA P. MARAÑON in the aforesaid amount of P80,000.00, Philippine currency.

Contrary to law.<sup>5</sup>

### **Criminal Case No. 01-192712:**

That in or about and during the period comprised between August 16, 2000 and May 28, 2001, inclusive, in the city of Manila, Philippines, the said accused, conspiring and confederating with one whose true name identity and present whereabouts are still unknown and helping each other, the said accused did then and there willfully, unlawfully and feloniously defraud LOLITA V. TURA in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said LOLITA V. TURA to the effect that they have the power and capacity to recruit and employ said LOLITA V. TURA in Australia as Chamber Maid and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said LOLITA V. TURA to give and deliver, as in fact, she gave and delivered to said accused the amount of P56,000.00 on the strength of the 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 said amount of P56,000.00 which amount once in her possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of the said LOLITA V. TURA in the aforesaid amount of P56,000.00, Philippine currency.

Contrary to law.<sup>6</sup>

### **Criminal Case No. 01-192714:**

That in or about and during the period comprised between February 21, 2001 and May 28, 2001, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating with one whose true name identity and present whereabouts are still unknown and helping each other, the said accused did then and there willfully, unlawfully and feloniously defraud EDGARDO R.

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<sup>5</sup> Id. at 22-23.

<sup>6</sup> Id. at 30-31.

CAWAS in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representations which they made to said EDGARDO R. CAWAS to the effect that they have the power and capacity to recruit and employ said EDGARDO R. CAWAS in Australia as waiter and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, and by means of other similar deceits, induced and succeeded in inducing said EDGARDO R. CAWAS to give and deliver, as in fact, she gave and delivered to said accused the amount of P65,000.00 on the strength of the 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 said amount of P65,000.00 which amount once in her possession, with intent to defraud, they willfully, unlawfully and feloniously misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of the said EDGARDO R. CAWAS in the aforesaid amount of P65,000.00, Philippine currency.

Contrary to law.<sup>7</sup>

The cases were thereafter consolidated<sup>8</sup> and upon arraignment, Manalang pleaded not guilty to all charges.<sup>9</sup>

Trial ensued. Eventually, the RTC provisionally dismissed Criminal Case Nos. 01-192708<sup>10</sup> and 01-192710<sup>11</sup> on June 7, 2004 for failure of the respective complainants to appear before the court.<sup>12</sup> Criminal Case Nos. 01-192709,<sup>13</sup> 01-192711,<sup>14</sup> and 01-192713<sup>15</sup> were subsequently dismissed by the trial court for lack of evidence.<sup>16</sup>

During the trial, the testimony of the Philippine Overseas Employment Administration (POEA) representative, Ann Bella Ching, was dispensed<sup>17</sup> with after the defense stipulated on the veracity of the POEA Certification<sup>18</sup> dated January 23, 2002 which partly stated:

This is to certify that per available records of this Office, AVELINA MANALANG, in her personal capacity is neither licensed nor authorized by this Administration to recruit workers for overseas employment.

Any recruitment activity undertaken by the above-named person is deemed illegal. [xxx]<sup>19</sup>

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<sup>7</sup> Id. at 34-35.

<sup>8</sup> Id. at 19.

<sup>9</sup> Records, Order dated July 25, 2001, p. 50.

<sup>10</sup> Id. at 25-26.

<sup>11</sup> CA *rollo*, pp. 26-27.

<sup>12</sup> *Rollo*, p. 5; see also CA *rollo*, p. 89.

<sup>13</sup> CA *rollo*, pp. 24-25.

<sup>14</sup> Id. at 28-29.

<sup>15</sup> Id. at 32-33.

<sup>16</sup> Id. at 96-97.

<sup>17</sup> Records, Order dated January 28, 2002, issued by Presiding Judge Mercedes Posada-Lacap, p. 67.

<sup>18</sup> Records, Exhibit A, p. 64.

<sup>19</sup> Id.

The prosecution presented the private complainants Lolita V. Tura (Tura), Ma. Teresa P. Marañon (Marañon), and Edgardo R. Cawas (Cawas), as witnesses. The defense, on the other hand, presented Manalang and Madilyn Masagca (Masagca) as its witnesses.

### **Evidence for the Prosecution:**

#### **1. Tura's Testimony:**

On August 16, 2000, Tura went to Trade Center Building, Padre Faura St., Ermita, Manila, where a certain "Maria" introduced her to Manalang who deploys workers to Australia.<sup>20</sup>

During their meeting, Manalang promised to deploy Tura to Australia as a chambermaid with a monthly salary of \$1,200.00.<sup>21</sup> Convinced, Tura agreed to travel as a tourist and paid Manalang ₱80,000.00 as placement fee, inclusive of processing charges for her withholding income tax, bank statement and visa.<sup>22</sup>

Tura made the following partial payments: ₱7,000.00 on August 16, 2000;<sup>23</sup> ₱25,000.00 on November 29, 2000;<sup>24</sup> and ₱24,000.00 in January 2001.<sup>25</sup> Since Tura's partial payments amounted to only ₱56,000.00 out of the ₱80,000.00 total placement fee, she and Manalang agreed that the balance will be deducted from her salary upon her deployment.<sup>26</sup>

Manalang issued corresponding receipts for the first two partial payments, or a total of ₱32,000.00. In both instances, Manalang signed the receipts as "Tess Robles" in Tura's presence. Tura was not issued a receipt corresponding to her last payment but she recalled that the payment took place in Manalang's house in Dapitan, Sampaloc, Manila.<sup>27</sup>

Tura waited for her deployment, which defendant-appellant promised would be in January 2001.<sup>28</sup> By March 2001, she was still not deployed. Hence, Tura demanded the reimbursement of ₱56,000.00 but Manalang failed to return said amount.<sup>29</sup>

Thus, Tura filed a complaint before the Criminal Investigation and Detection Group (CIDG), which successfully arrested Manalang in an entrapment operation on May 28, 2001.<sup>30</sup>

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<sup>20</sup> CA rollo, p. 90.

<sup>21</sup> Rollo, p. 7.

<sup>22</sup> Id.

<sup>23</sup> Id.; see also records, p. 86.

<sup>24</sup> Id.; id.

<sup>25</sup> Rollo, p. 7.

<sup>26</sup> Id. at 8; see also CA rollo, p. 90.

<sup>27</sup> Rollo, p. 8.

<sup>28</sup> Id.; see also CA rollo, p. 90.

<sup>29</sup> Rollo, p. 8.

<sup>30</sup> Id.

During trial, Tura positively identified Manalang as the person who issued the receipts for her partial payments, and signed them as “Tess Robles”.<sup>31</sup>

## 2. Marañon's Testimony:

In November 2000, Marañon was looking for a job at Trade Center Building along Padre Faura Street when a certain Mercy Casa approached her and informed her of the ongoing recruitment for employment in Australia. She then went upstairs at Room 221, Honte Travel Tours, and was introduced to Manalang.

Manalang informed Marañon that she can work as a chambermaid in Australia with a salary of AUD15,000.00 per month<sup>32</sup> provided she pays a placement fee of ₱160,000.00 and submits her passport and NBI clearance. In addition, the accused promised Marañon that she will take care of her taxes, charges and fees and the processing of her papers in relation to her tourist visa, and eventually her working visa.<sup>33</sup> They both agreed as well that Marañon will give a down payment of ₱90,000.00 and the balance will be deducted from her salary.<sup>34</sup>

Marañon gave Manalang a total of ₱80,000.00 on the following dates: (1) ₱70,000.00 on November 9, 2000 as evidenced by receipt no. 211405;<sup>35</sup> and (2) ₱10,000.00 on November 29, 2000, as evidenced by receipt no. 211415.<sup>36</sup> Marañon witnessed the accused sign both receipts as “Tess Robles”.<sup>37</sup>

Manalang assured Marañon that she will be deployed for employment in Australia by January 2001. However, this did not materialize. In view of Manalang's failed promises, Marañon went to the POEA to verify whether Manalang is a licensed recruiter. To her surprise, she was informed that Manalang was not authorized to recruit workers abroad.<sup>38</sup> Thus, on April 4, 2001, Marañon demanded Manalang to return her passport and partial payments, however the latter only returned her passport.<sup>39</sup>

Subsequently, Manalang again asked Marañon for an additional ₱10,000.00 to complete her down payment of ₱90,000.00. Due to this, Marañon sought the help of the CIDG. On May 28, 2001, Manalang was arrested in an entrapment operation.<sup>40</sup>

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<sup>31</sup> Id.; see also *CA rollo*, p. 90.

<sup>32</sup> *CA rollo*, p. 91.

<sup>33</sup> *Rollo*, pp. 8-9.

<sup>34</sup> *CA rollo*, p. 91.

<sup>35</sup> *Rollo*, p. 9; see records, p. 22.

<sup>36</sup> Id.; id.

<sup>37</sup> *CA rollo*, p. 91.

<sup>38</sup> Records, POEA Certification dated May 23, 2001, p. 22-A.

<sup>39</sup> *Rollo*, p. 9; see also *CA rollo*, pp. 91-92.

<sup>40</sup> Id.

Marañon positively identified Manalang in open court.<sup>41</sup>

**(3) Cawas' testimony:**

In February 2001, Cawas applied for employment abroad at Honte Travel and Tours, Room 221 of the Trade Center Building, where he met the accused who instructed him to fill out an application form and a BIR form. She then promised to deploy Cawas as a waiter in Australia upon payment of ₱65,000.00 placement fee and submission of his passport.

Cawas paid the ₱65,000.00 placement fee by installment on the following dates: (1) ₱16,000.00 in the morning of February 21, 2001, as evidenced by receipt no. 211425;<sup>42</sup> (2) ₱10,000.00 in the afternoon of February 21, 2001, as evidenced by receipt no. 211426;<sup>43</sup> (3) ₱20,000.00 on February 22, 2001, as evidenced by receipt no. 211430;<sup>44</sup> (4) ₱14,000.00 on February 23, 2001, as evidenced by receipt no. 211431;<sup>45</sup> and (5) ₱5,000.00, as evidenced by an undated petty cash voucher.<sup>46</sup> Cawas saw Manalang sign the foregoing receipts and voucher as “Tess Robles”.<sup>47</sup> Cawas then attended a five-day training for waiters sponsored by Honte Travel and Tours. The accused promised to deploy Cawas on or before May 2001 but failed to do so.<sup>48</sup>

Thereafter, Cawas made inquiries with the POEA which confirmed that Manalang was not licensed to recruit workers abroad. Thus, he demanded the return of his money. However, only his passport was returned.<sup>49</sup>

In view of the foregoing, he sought assistance from the CIDG, which successfully arrested Manalang on May 28, 2001.<sup>50</sup> Cawas positively identified the accused during the trial.<sup>51</sup>

**Evidence for the Defense:**

**(1) Manalang's testimony:**

The accused vehemently denied the accusations against her. She claimed that her real name is Avelina Balala Manalang. She denied knowing “Tess Robles” or using said name in any of her transactions. To support her claim, she presented her Certificate of Live Birth and the Certification for the Civil Registrar General to prove her identity.<sup>52</sup>

<sup>41</sup> Id.; see also TSN, November 20, 2002, p. 3.

<sup>42</sup> *Rollo*, p. 10; see also records, p. 153.

<sup>43</sup> Id.; id.

<sup>44</sup> Id.; id.

<sup>45</sup> Id.; id.

<sup>46</sup> Id.; see also records, p. 154.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Id. at 10-11.

<sup>50</sup> Id. at 11.

<sup>51</sup> Id.; see also TSN, June 25, 2003, pp. 3-4.

<sup>52</sup> *CA rollo*, p. 92.

Manalang averred that: (a) she is the owner of Honte Travel and Tours, which processes applications for passports as well as visas; (b) she also owns Mirilyn Training School, which offers training for hotel and restaurant services, such as food service, housekeeping, and bartending; (c) both offices are located at Room 221 of the Trade Center Building, and both cater to walk-in trainees as well as applicants referred by agents; (d) both offices have permits from the Department of Trade and Industry and from the Office of the Mayor; (e) as of the time of her testimony, their registration with the Department of Labor and Employment (DOLE) and the Technical Education and Skills Development Authority (TESDA) was still being processed;<sup>53</sup> (f) private complainants underwent training in her office; (g) however, she did not process their application forms or offer them employment abroad; and (h) she agreed to reimburse half of the placement fees supposedly paid by private complainants in order to appease them and to avoid trouble.<sup>54</sup>

## **(2) Masagca's testimony:**

Masagca was a desk clerk at Manalang's Mirilyn Training School.<sup>55</sup> She averred that: (a) she worked for Manalang for almost one year from June 2000; (b) the accused is engaged in training hotel and restaurant staff on food service, housekeeping, and bartending; (b) the training center collected payments for training fees upon enrollment of applicants;<sup>56</sup> (c) she is stationed in front of the office as a desk officer and handled inquiries from applicants of the Mirilyn Training School but she never encountered anyone who applied for employment abroad.<sup>57</sup>

## **Ruling of the Regional Trial Court:**

On July 31, 2018, the Regional Trial Court (RTC) found Manalang guilty beyond reasonable doubt of Illegal Recruitment in Large Scale, and three (3) counts of Estafa under Art. 315, paragraph 2(a) of the RPC. The trial court gave credence to the private complainant's positive identification of Manalang as the person who defrauded them by promising their deployment for work abroad and collecting placement fees from them.<sup>58</sup> The dispositive portion of the RTC Decision<sup>59</sup> reads:

WHEREFORE, premises considered, this Court finds the accused AVELINA MANALANG a.k.a. Tess Robles, GUILTY beyond reasonable doubt of the offense of Illegal Recruitment in large scale and hereby imposes upon her a penalty of life imprisonment and a fine of PhP500,000.00.

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<sup>53</sup> *Rollo*, pp. 11-12.

<sup>54</sup> *Id.*; see also *CA rollo*, pp. 91-92.

<sup>55</sup> *Rollo*, p. 12.

<sup>56</sup> *CA rollo*, pp. 93-94.

<sup>57</sup> *Rollo*, p. 12.

<sup>58</sup> *CA rollo*, p. 96.

<sup>59</sup> *Id.* at 96-97; penned by Judge Mercedes Posada-Lacap.



This Court likewise finds her GUILTY beyond reasonable doubt for three (3) counts of Estafa under Art.315 paragraph 2(a) and hereby imposes upon her the penalty of imprisonment of:

a.) In Crim. Case No. 01-192712 – 4 years, 2 months of *prision correccional* to 7 years, 8 months and 21 days of *prision mayor* as maximum and to pay Lolita Tura the amount of PhP32,000.00 plus 12% interest per annum from the finality of this judgment until fully paid;

b.) In Crim. Case No. 01-192707 – 4 years, 2 months of *prision correccional* to 11 years, 8 months and 21 days of *prision mayor* as maximum and to pay Ma. Theresa Maranon the amount of PhP80,000.00 plus 12% interest per annum from the finality of this judgment until fully paid;

c.) In Crim Case No. 01-192714 – 4 years, 2 months of *prision correccional* to 10 years, 8 months and 21 days of *prision mayor* as maximum and to pay Edgardo Cawas the amount of PhP65,000.00 plus 12% interest per annum from the finality of this judgment until fully paid;

Criminal Case Nos. 01-192709, 01-192711 and 01-192713 are DISMISSED for lack of evidence, while the provisional dismissal of Criminal Case Nos. 01-192708 and 01-192710 are hereby made PERMANENT for failure of the complainants to revive the same.

SO ORDERED.<sup>60</sup>

Aggrieved, Manalang filed an appeal with the CA. In a Decision<sup>61</sup> dated November 23, 2010, the appellate court held that the trial court did not commit any reversible error in convicting Manalang of Illegal Recruitment in Large Scale under RA 8042 and three (3) counts of Estafa under Art.315, par.2(a) of the RPC. The appellate court found that all elements of Illegal Recruitment in Large Scale and Estafa were present as to hold her liable for the said crimes. The CA noted that Manalang impressed upon the private complainants that she had the authority to recruit workers for deployment abroad.<sup>62</sup> In addition, the appellate court found that Manalang's deceitful and illegal acts caused damage and prejudice to the private complainants.<sup>63</sup> Thus, the dispositive portion of the assailed CA Decision reads:

**WHEREFORE**, the instant appeal is **DENIED** for lack of merit. The RTC Decision dated July 31, 2008 is **AFFIRMED** in toto.

SO ORDERED.

Discontented, Manalang instituted the instant appeal<sup>64</sup> with this Court.

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<sup>60</sup> CA rollo, pp. 96-97.

<sup>61</sup> Rollo, pp. 2-21.

<sup>62</sup> Id. at 15.

<sup>63</sup> Id. at 20.

<sup>64</sup> Id. at 22; Notice of Appeal dated December 22, 2010.

**Issue:**

Whether or not the CA correctly affirmed the conviction of Manalang for the crimes of Illegal Recruitment in Large Scale under RA 8042 and three (3) counts of Estafa under Art. 315, par. 2(a) of the RPC.

**Our Ruling:**

We affirm.

After examination of the testimonies of the witnesses and the evidence adduced by the parties, We find no reason to disturb the findings of the appellate court and the trial court.

**Manalang is guilty beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale under RA 8042.**

Article 13 (b) of the Labor Code defines recruitment and placement as follows:

Art. 13. *Definitions.* – x x x

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

On the other hand, Illegal Recruitment is defined under Article 38 of the Labor Code as follows:

ART. 38. *Illegal Recruitment.*

(a) **Any recruitment activities**, including the prohibited practices enumerated under Article 34 of this Code, **to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code.** The Department of Labor and Employment or any law enforcement officer may initiate complaints under this Article.

(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. **Illegal recruitment is deemed**

**committed in large scale if committed against three (3) or more persons individually or as a group.**

(c) The Secretary of Labor and Employment or his duly authorized representatives shall have the power to cause the arrest and detention of such non-licensee or non-holder of authority if after investigation it is determined that his activities constitute a danger to national security and public order or will lead to further exploitation of job-seekers. The Secretary shall order the search of the office or premises and seizure of documents, paraphernalia, properties and other implements used in illegal recruitment activities and the closure of companies, establishments and entities found to be engaged in the recruitment of workers for overseas employment, without having been licensed or authorized to do so. (*Emphases supplied*)

Article 13(b) of the Labor Code provides that illegal recruitment encompasses recruitment activities for both local and overseas employment. However, Article 38 of the same Code limits said recruitment activities as those undertaken by non-licensees or non-holders of authority.<sup>65</sup>

Thus, based on the foregoing provisions of the Labor Code, the essential elements<sup>66</sup> of Illegal Recruitment in Large Scale are: (1) that the accused engaged in acts of recruitment and placement of workers as defined under Article 13(b) of the Labor Code, or in any prohibited activities listed under Articles 34<sup>67</sup> and 38<sup>68</sup> of the Labor Code; (2) that he/she had not complied with

<sup>65</sup> *People v. Tolentino*, 762 Phil. 592 (2015).

<sup>66</sup> *People v. Bayker*, 780 Phil. 489 (2016); See also *People v. Camannong*, G.R. No. 199497, August 24, 2016.

<sup>67</sup> Article 34. *Prohibited Practices*. – It shall be unlawful for any individual, entity, licensee, or holder of authority:

(a) To charge or accept, directly or indirectly, any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under this Code;

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him to another unless the transfer is designed to liberate the worker from oppressive terms and conditions of employment;

(e) To influence or to attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor or by his duly authorized representatives;

(h) To fail to file reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor;

(i) To substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the periods of expiration of the same without the approval of the Secretary of Labor;

(j) To become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency; and

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under this Code and its implementing rules and regulations.

<sup>68</sup> ARTICLE 38. *Illegal Recruitment*. — (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment (now Department of Labor and Employment) or any law enforcement officer may initiate complaints under this Article.

the guidelines issued by the Secretary of DOLE with respect to the requirement to secure a license or authority to recruit and deploy workers; and (3) that she committed the unlawful acts against three or more persons.<sup>69</sup>

On the other hand, RA 8042 broadened the concept of illegal recruitment for overseas employment and increased the penalties. Thus, while Article 38 of the Labor Code limits illegal recruitment to recruitment activities undertaken by non-licensees or non-holders of authority, Part II of RA 8042 defines and penalizes illegal recruitment for employment abroad, regardless of whether it was undertaken by a non-licensee or non-holder of authority or by a licensee or holder of authority.<sup>70</sup>

Thus, Section 6 of RA 8042 provides for the definition of illegal recruitment, as follows:

SEC. 6. *Definition.* — For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad for 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:**

(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;

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(b) Illegal Recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

<sup>69</sup> Under Section 6 (m) (Definitions) of Republic Act No. 8042, illegal recruitment "when committed by a syndicate or in large scale shall be considered as offense involving economic sabotage;" and illegal recruitment "is deemed committed by a syndicate 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."

<sup>70</sup> *People v. Tolentino*, supra note 65.

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;

(h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;

(i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;

(j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;

**(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 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. (Emphases supplied)

*People v. Tolentino*,<sup>71</sup> explains the foregoing provision as follows:

Under RA 8042, a non-licensee or non-holder of authority commits illegal recruitment for overseas employment in two ways: (1) by 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; and (2) by undertaking any of the acts enumerated under Section 6 of RA 8042. On the other hand, a licensee or holder

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<sup>71</sup> Supra note 65.

of authority is also liable for illegal recruitment for overseas employment when he or she undertakes any of the thirteen acts or practices [(a) to (m)] listed under Section 6 of RA 8042. To constitute illegal recruitment in large scale, the offense of illegal recruitment must be committed against three or more persons, individually or as a group.<sup>72</sup>

This Court finds that the elements for the crime of Illegal Recruitment in Large Scale were sufficiently established in the instant case.

*Firstly*, there is no doubt that the accused-appellant engaged in acts of recruitment and placement of workers. She promised to deploy the private complaints for work abroad upon payment of their placement fee.

*Secondly*, it was duly established that Manalang was neither licensed nor authorized by the POEA to recruit workers for overseas employment, as evidenced by the POEA Certification<sup>73</sup> dated January 23, 2002.

*Thirdly*, the illegal recruitment was committed in large scale because the accused-appellant defrauded at least three persons, namely, Tura, Marañon and Cawas, who are the private complainants in the instant case.

In sum, the appellate court correctly affirmed Manalang's conviction for the offense of Illegal Recruitment in Large Scale.<sup>74</sup>

However, We deem it proper to modify the penalty imposed on her. RA 8042 increased the penalties for Illegal Recruitment in Large Scale as follows:

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.** (Emphases supplied)

To recall, the RTC imposed a penalty of life imprisonment and a fine of P500,000.00 against Manalang,<sup>75</sup> which was affirmed by the appellate court. Since in this case, the crime of Illegal Recruitment in Large Scale is considered as an offense involving economic sabotage and committed by a non-licensee or

<sup>72</sup> Id.

<sup>73</sup> Records, Exhibit A, p. 64.

<sup>74</sup> See *People v. Bayker*, supra note 66.

<sup>75</sup> CA rollo, p. 96.

non-holder of authority, there is a need to increase the fine imposed from ₱500,000.00 to ₱1,000,000.00.

**Manalang is guilty beyond reasonable doubt of the crime of Estafa under Art.315, par 2(a) of the RPC.**

This Court likewise affirms Manalang's conviction for three (3) counts of Estafa, penalized under Art. 15, par 2(a) of the RPC, which provides:

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

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

x x x x

(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.

x x x x

The elements of estafa by means of deceit, whether committed by false pretenses or concealment, are the following: (a) there must be a false pretense, fraudulent act or fraudulent means; (b) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (c) the offended party must have relied on the false pretense, fraudulent act or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and (d) as a result thereof, the offended party suffered damage.<sup>76</sup>

In the instant case, the elements of deceit and damage are present. We note that the accused-appellant, without any license or authority to do so, promised private complainants overseas employment, then required them to undergo training and collected fees or payments from them, while continually assuring them that they would be deployed abroad, but failed to do so. Persuaded by these assurances given by Manalang, the private complainants paid their placement fees, albeit partially. Thus, her representation induced the victims to part with their money, resulting in damage.<sup>77</sup> This Court also finds that when private complainants paid their placement fees, Manalang issued receipts using the fictitious name of "Tess Robles". In view of the foregoing deceitful and

<sup>76</sup> *Consigna v. People*, G.R. Nos. 175750-51, April 2, 2014; see also *People v. Bayker*, supra note 72.

<sup>77</sup> *People v. Bayker*, supra note 66.

illegal acts of Manalang, the private complainants undoubtedly suffered damage.

Furthermore, this Court finds no reason to disturb the factual findings of the RTC, which was affirmed by the CA, since these factual findings are supported with the evidence on record. Settled is the rule that the evaluation of the credibility of a witness is “best left to the trial court because it has the opportunity to observe the witnesses and their demeanor during the trial.”<sup>78</sup> This Court gives great respect to the findings of trial courts, especially when they are affirmed by the appellate court.

In view of the foregoing, Manalang is also liable for the crime of Estafa. Jurisprudence is settled that a person, for the same acts, may be convicted separately for Illegal Recruitment under RA 8042 (or the Labor Code), and Estafa under Article 315(2)(a) of the RPC.<sup>79</sup>

In estafa, damage is essential, but not in the crime of illegal recruitment. As to the latter, it is the lack of the necessary license or authority, but not the fact of payment that renders the recruitment activity as unlawful.<sup>80</sup>

However, the penalties imposed by the RTC, which was affirmed by the CA, must be modified, in view of the amendments introduced by RA 10951,<sup>81</sup> 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:

1st. The penalty of *prisión correccional* in its maximum period to *prisión mayor* in its minimum period, if the amount of the fraud is over Two million four hundred thousand pesos (P2,400,000) but does not exceed Four million four hundred thousand pesos (P4,400,000), 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 Two million pesos (P2,000,000); 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 Code, the penalty shall be termed *prisión mayor* or *reclusion temporal*, as the case may be.

2nd. The penalty of *prisión correccional* in its minimum and medium periods, if the amount of the fraud is over One million two hundred thousand pesos (P1,200,000) but does not exceed Two million four hundred thousand pesos (P2,400,000).

<sup>78</sup> *People v. Corpuz*, 812 Phil. 62 (2017); see also *People v. Constancio*, G.R. No. 206226, April 4, 2016 and *People v. Amora*, 748 Phil. 608 (2014).

<sup>79</sup> *People v. Tolentino*, supra note 71.

<sup>80</sup> *People v. Dela Cruz*, 811 Phil. 745 (2017).

<sup>81</sup> REPUBLIC ACT NO. 10951, “An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based, and Fines Imposed under the Revised Penal Code”. 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).**

**4th. By *arresto mayor* in its medium and maximum periods, if such amount does not exceed Forty thousand pesos (P40,000): Provided, That in the four cases mentioned, the fraud be committed by any of the following means:<sup>82</sup> (*Emphases supplied*)**

In Criminal Case No. 01-192712, the amount defrauded was ₱32,000.00. Thus, based on the foregoing 4<sup>th</sup> paragraph of RA 10951, the proper imposable penalty is *arresto mayor* in its medium and maximum periods, which has a range of 2 months and 1 day to 6 months.<sup>83</sup>

The Indeterminate Sentence Law (ISL) does not apply since the maximum term of imprisonment does not exceed one (1) year.<sup>84</sup> Hence, we impose upon Manalang the straight penalty of four (4) months and twenty (20) days of *arresto mayor* in Criminal Case No. 01-192712.

In Criminal Case Nos. 01-192707 and 01-192714, the amounts defrauded were ₱80,000.00 and ₱65,000.00, respectively. Thus, based on the 3<sup>rd</sup> 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 4 months and 1 day to 2 years and 4 months.

Applying the ISL, the minimum term should be within the range of *arresto mayor* in its minimum and medium periods, which ranges from one (1) month to four (4) months.<sup>85</sup> Thus, in Criminal Case No. 01-192707 and Criminal Case No. 01-192714, Manalang is sentenced to suffer the penalty of three (3) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prisión correccional*, as maximum.

In line also with recent jurisprudence, the Court also modifies the rate of interest imposed by the RTC, which was upheld by the CA. Thus, interest at the legal rate of six percent (6%) per *annum* shall be imposed on the monetary awards from the date of finality of this Decision until fully paid.<sup>86</sup>

<sup>82</sup> See *Batac v. People*, G.R. No. 191622, June 6, 2018.

<sup>83</sup> Minimum: 2 months and 1 day to 3 months and 10 days  
Medium: 3 months and 11 days to 4 months and 20 days  
Maximum: 4 months and 21 days to 6 months.

<sup>84</sup> See Section 2 of Republic Act No. 4103, or The Indeterminate Sentence Law.


<sup>85</sup> Minimum: 1 month and 1 day to 2 months;  
Medium: 2 months and 1 day to 3 months  
Maximum: 3 months and 1 day to 4 months

<sup>86</sup> *Batac v. People*, supra note 88, citing *People v. Jugueta*, 783 Phil. 806 (2016).


**WHEREFORE**, the appeal is hereby **DISMISSED**. The November 23, 2010 Decision of the Court of Appeals in CA-GR CR-HC No. 03820 is **AFFIRMED** with **MODIFICATIONS**, *viz.*:

- 1) In Criminal Case No. 01-192706, accused-appellant AVELINA MANALANG a.k.a. Tess Robles, a.k.a. ALVINA MANALANG 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 One Million Pesos (₱1,000,000.00).
- 2) In Criminal Case No. 01-192712, accused-appellant AVELINA MANALANG a.k.a. Tess Robles, a.k.a. ALVINA MANALANG, 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 the straight penalty of four (4) months and twenty (20) days of *arresto mayor*. In addition, she is ordered to pay private complainant Lolita Tura the amount of Thirty-Two Thousand Pesos (₱32,000.00) as actual damages, with legal interest at the rate of six percent (6%) per *annum* from the date of finality of this Decision until fully paid;
- 3) In Criminal Case No. 01-192707, defendant-appellant AVELINA MANALANG a.k.a. Tess Robles, a.k.a. ALVINA MANALANG 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 (3) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum. She is also ordered to pay private complainant Ma. Theresa Marañon the amount of Eighty Thousand Pesos (₱80,000.00) as actual damages, with legal interest of at the rate of six percent (6%) per *annum* from the date of finality of this Decision until fully paid;
- 4) In Criminal Case No. 01-192714, defendant-appellant AVELINA MANALANG a.k.a. Tess Robles, a.k.a. ALVINA MANALANG, 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 (3) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum. In addition, she is ordered to pay private complainant Edgardo Cawas the amount of Sixty-Five Thousand Pesos (₱65,000.00) as actual damages, with legal interest of at the rate of six percent (6%) per *annum* from the date of finality of this Decision until fully paid.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**MARVIC M. V. F. LEONEN**  
Associate Justice  
Chairperson


  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

On official leave  
**RICARDO R. ROSARIO**  
Associate Justice

**ATTESTATION**

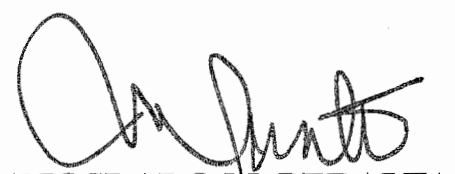
I attest that conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M. V. F. LEONEN**  
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.



**DIOSDADO M. PERALTA**  
Chief Justice