



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 227093  
PHILIPPINES,

Plaintiff-Appellee,

Members:

-versus-

LEONEN, *Acting Chief Justice*,\*  
LAZARO-JAVIER,  
LOPEZ, M. (on official business),  
LOPEZ, J., and  
KHO, JR., *JJ.*

IRENE MARZAN and FELY  
DULAY,

Accused,

Promulgated:

SEP 21 2022

IRENE MARZAN,

Accused-Appellant.

X-----X

DECISION

LAZARO-JAVIER, *J.*:

The Case

Appellant Irene Marzan (*Irene*) assails the Decision<sup>1</sup> dated October 26, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04682 entitled

\* As per Special Order No. 2914 dated September 15, 2022.

<sup>1</sup> Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Mariflor P. Punzalan-Castillo and Flerito S. Macalino, concurring. *Rollo*, pp. 2-24.

*People of the Philippines v. Irene Marzan and Fely Dulay* which affirmed her conviction in Crim. Case Nos. T-4373, T-4401, T-4203, T-4207, T-4219, T-4221, T-4223, T-4225, T-4227, and T-4231, and increased the fine imposed on her in Criminal Case Nos. T-4200<sup>2</sup> and T-4273<sup>3</sup> for Illegal Recruitment in Large Scale from Php500,000.00 in each case, to Php1,000,000.00, respectively.

### Antecedents

Appellant Irene, together with Bal Marzan (*Bal*), Fely Dulay (*Fely*), Apolonio Dulay (*Apolonio*), Marlon Agoncillo (*Marlon*), and Alejandro *a.k.a* “Alex” Navarro, Jr. (*Alex*) were charged, as follows, *viz*:<sup>4</sup>

#### Criminal Case No. T-4200

(Illegal Recruitment in Large Scale under Section 6 of RA 8042)  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay

“That sometime during the months from March to July 2006, in the [M]unicipalit[ies] of Tayug, Natividad, San Quintin[,] and San Nicolas, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court pursuant to Section 6, p. (m), of Republic Act 8042, the above named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully, and feloniously recruit ERWIN T. URBANO, ALFREDO LUCENA, ARMANDO HIDALGO, CRISCENT P. ORTIZ, CHOLIN T. PINTO, MARCOS D. GOROSPE,<sup>5</sup> CATHERINE GATCHALION,<sup>6</sup> ALEX P. DOTON, JR., JUANITO N. SEBASTIAN, MARY CHARMY C. MARIANO, SHERENE A. MENSALVAS, JOEL C. BARTOLOME, CHERRY LYN C. DOTON, JUN JOHN D. MURILLO, ARLEEN P. SERQUIÑA, ARNOLYN M. RODRIGO, VILMA R. SERQUIÑA, RENE P. ALAGANO, ROBERT P. NUÑEZ, NELSON S. COMPAY, PRISCILLA D. TAMBO, SHIELYN A. FRAMIL, SOFRONIO J. LUZANO, JR., ROMAR R. MARZAN, NATHANIEL P. DELA CRUZ, DAISY S. DISISTO,<sup>7</sup> MARIANO V. MIRANDA, JR., ROMEO V. MIRANDA, CATHERINE R. DULAY, JUVELYN R.

<sup>2</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay.

<sup>3</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo

<sup>4</sup> CA *Rollo*, p. 423. See also *rollo*, p.2.

<sup>5</sup> Sometimes spelled as Gruspe in the *rollo*.

<sup>6</sup> Sometimes referred to as Gatchalon in the Records.

<sup>7</sup> Sometimes referred to as Desisto in the *rollo*.

ALMERON, APOLONIO DULAY, JR. and DANTE P. ALAGANO for employment abroad (South Korea) without first securing the requisite license or authority from the Philippine Overseas Employment Administration (POEA) to the damage and prejudice of said ERWIN T. URBANO, ALFREDO LUCENA, ARMANDO HIDALGO, CRISCENT P. ORTIZ, CHOLIN T. PINTO, MARCOS D. GOROSPE, CATHERINE GATCHALION, ALEX P. DOTON, JR., JUANITO N. SEBASTIAN, MARY CHARMY C. MARIANO, SHERENE A. MENSALVAS, JOEL C. BARTOLOME, CHERRY LYN C. DOTON, JUN JOHN D. MURILLO, ARLEEN P. SERQUIÑA, ARNOLYN M. RODRIGO, VILMA R. SERQUIÑA, RENE P. ALAGANO, ROBERT P. NUÑEZ, NELSON S. COMPAY, PRISCILLA D. TAMBO, SHIELYN A. FRAMIL, SOFRONIO J. LUZANO, JR., ROMAR R. MARZAN, NATHANIEL P. DELA CRUZ, DAISY S. DISISTO, MARIANO V. MIRANDA, JR., ROMEO V. MIRANDA, CATHERINE R. DULAY, JUVELYN R. ALMERON, APOLONIO DULAY, JR. [,] and DANTE P. ALAGANO.

CONTRARY to Section 6, p.(m) of Republic Act No. 8042, otherwise known as [the] Migrant Workers and Overseas Filipinos Act of 1995.

Tayug, Pangasinan, February 16, 2009.<sup>8</sup>

**Criminal Case No. T-4273**

**(Illegal Recruitment in Large Scale under Section 6 of RA 8042)  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo**

That sometime during the month[s] from March to July 2006, in the [M]unicipality of Tayug, Natividad and San Nicolas, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court pursuant to Section 6, p. (m), of Republic Act 8042, the above-named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously recruit **ARNULFO A. LUGA, RODILLO M. RAFAEL, ROLAND M. LUCAS, EVERLINA T. LAYCO[,] and REYNALDO B. DELA CRUZ** for employment abroad (South Korea) without first securing the requisite license or authority from the Philippine Overseas Employment Administration (POEA) to the damage and prejudice of said **ARNULFO A. LUGA, RODILLO M. RAFAEL, ROLAND M. LUCAS, EVERLINA T. LAYCO[,] and REYNALDO B. DELA CRUZ**.

CONTRARY to Section 6, p.(m) of Republic Act 8042, otherwise known as Migrant Workers and Overseas Filipinos Act of 1995.

Tayug, Pangasinan, January 19, 2006.<sup>9</sup>

<sup>8</sup> CA rollo, pp. 110-111.

<sup>9</sup> Id. at 128.

**Criminal Case No. T-4373**

(Illegal Recruitment in Large Scale under Section 6 of RA 8042)  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo

That sometime during the months of May and August 2006, in the [M]unicipality of San Nicolas, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court pursuant to Section 6, p. (m) of Republic Act 8042, the above named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously recruit **JOCELYN L. SARVALLON, BRINDEN D. VALDEZ, and ARISTOTLE E. DE VERA** for employment abroad (South Korea) without first securing the requisite license or authority from the Philippine Overseas Employment Administration (POEA) to the damage and prejudice of said **JOCELYN L. SARVALLON, BRINDEN D. VALDEZ[,] and ARISTOTLE E. DE VERA.**

CONTRARY to Section 6, p.(m) of Republic Act 8042, otherwise known as [the] Migrant Workers and Overseas Filipinos Act of 1995.

Tayug, Pangasinan, July 11, 2007.<sup>10</sup>

**Criminal Case No. T-4401**

(Illegal Recruitment in Large Scale under Section 6 of RA 8042)  
against Irene Marzan, Bal Marzan, and Marlon Agoncillo

That sometime during the month of February 2006, in the [M]unicipality of San Quintin, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court pursuant to Section 6, p. (m), of Republic Act 8042, the above named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously recruit **REMO PONTANOS y ESPERO, EVITA TOME y PAMBUENA, and JESUS PADUA y ORTIZ** for employment abroad (South Korea) without first securing the requisite license or authority from the Philippine Overseas Employment Administration (POEA) to the damage and prejudice of said **REMO PONTANOS y ESPERO, EVITA TOME y PAMBUENA[,] and JESUS PADUA y ORTIZ.**

CONTRARY to Section 6, p. (m) of Republic Act 8042, otherwise known as [the] Migrant Workers and Overseas Filipinos Act of 1995.

Tayug, Pangasinan, August 13, 2007.<sup>11</sup>

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<sup>10</sup> Id. at 130.

<sup>11</sup> Id. at 132.

**Criminal Case No. T-4203**

(Estafa under Article 315, par. 2(a) of the Revised Penal Code)  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo

That on or about the 15<sup>th</sup> day of June, 2006, in the [M]unicipality of San Quintin, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and helping one another, did then and there willfully, unlawfully, and [,] feloniously, by means of false representation and fraudulent acts, received from complainant **ARMANDO HIDALGO** a resident of Brgy. Lagasit, San Quintin, Pangasinan, the sum of P180,000.00, under an express promise to employ the herein complainant abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainant, failed and refused to do so, to the damage and prejudice of **ARMANDO HIDALGO**.

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

Tayug, Pangasinan, November 16, 2006.<sup>12</sup>

**Criminal Case No. T-4207**

(Estafa under Article 315, par. 2(a) of the Revised Penal Code)  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo

That on or about the 20<sup>th</sup> day of May, 2006, in the [M]unicipality of San Quintin, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,], and helping one another, did then and there willfully, unlawfully, and[,], feloniously, by means of false representation and fraudulent acts, received from complainant **CHOLIN T. PINTO**, a resident of Brgy. Sto. Tomas, San Nicolas, Pangasinan, the sum of Php75,000.00, under an express promise to employ the herein complainant abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainant, failed and refused to do so, to the damage and prejudice of **CHOLIN T. PINTO**.

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

Tayug, Pangasinan, November 16, 2006.<sup>13</sup>

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<sup>12</sup> Id. at 112.

<sup>13</sup> Id. at 114.

**Criminal Case No. T-4219**

(Estafa under Article 315, par. 2(a) of the Revised Penal Code)  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo,  
Fely Dulay, and Apolonio Dulay

That sometime during the months of May and July, 2006, in the [M]unicipality of San Nicolas, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously, by means of false representation and fraudulent acts, received from the complainants **MARCOS D. GRUSPE**, a resident of Brgy. Camangaan, San Nicolas, Pangasinan, the sum of Php68,000.00, **CATHERINE GATCHALON**, a resident of Brgy. Malilion, San Nicolas, Pangasinan, the sum of Php74,150.00, and **ALEX P. DOTON, JR.**, a resident of Brgy. Malilion, San Nicolas, Pangasinan, the sum of Php75,000.00 under an express promise to employ the herein complainants abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainant[s], failed and refused to do so, to the damage and prejudice of **MARCOS D. GRUSPE, CATHERINE GATCHALION, and ALEX P. DOTON, JR.**

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

Tayug, Pangasinan, December 15, 2006.<sup>14</sup>

**Criminal Case No. T-4221**

(Estafa under Article 315, par. 2(a) of the Revised Penal Code (RPC))  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo,  
Fely Dulay, and Apolonio Dulay

That sometime during the months of March to June, 2006, in the [M]unicipality of San Nicolas, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously, by means of false representation and fraudulent acts, received from the complainants **JUANITO N. SEBASTIAN**, a resident of Brgy. San Felipe East, San Nicolas, Pangasinan, the sum of Php67,500.00, **MARY CHARMY C. MARIANO**, a resident of Brgy. Camangaan, San Nicolas, Pangasinan, the sum of Php68,000.00, **SHERENE A. MENSALVAS**, a resident of Brgy. San Felipe East, San Nicolas, Pangasinan, the sum of Php70,450.00, **JOEL C. BARTOLOME**, a resident of Brgy. San Felipe West, San Nicolas, Pangasinan, the sum of Php71,350.00, and **CHERRY LYN C. DOTON**, a resident of Brgy. Malilion, San Nicolas, Pangasinan, the sum of Php75,150.00 under an express promise to employ the herein complainants abroad (South Korea), but said accused, with intent to

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<sup>14</sup> Id. at 116.



defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainant[s], failed and refused to do so, to the damage and prejudice of **JUANITO N. SEBASTIAN, MARY CHARMY C. MARIANO, SHERENE A. MENSALVAS, JOEL C. BARTOLOME[,] and CHERRY LYN C. DOTON.**

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

Tayug, Pangasinan, December 15, 2006.<sup>15</sup>

**Criminal Case No. T-4223**

(Estafa under Article 315, par. 2(a) of the Revised Penal Code (RPC))  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo,  
Fely Dulay, and Apolonio Dulay

That sometime during the months of March to June, 2006, in the [M]unicipality of San Nicolas, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously, by means of false representation and fraudulent acts, received from the complainants **NELSON S. COMPAY**, a resident of Brgy. Camangaan, San Nicolas, Pangasinan, the sum of Php68,850.00, **PRISCILLA P. [TAMBO]**, a resident of Brgy. San Felipe East, San Nicolas, Pangasinan, the sum of Php71,000.00, and **SHIELYN A. FRAMIL**, a resident of Brgy. San Felipe East, San Nicolas, Pangasinan, the sum of Php70,450.00, under an express promise to employ the herein complainants abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainants, failed and refused to do so, to the damage and prejudice of **NELSON S. COMPAY, PRISCILLA P. TAMBO[,] and SHIELYN A. FRAMIL.”**

CONTRARY to Art. 315, par. 2(a) of the Revised Penal Code.

Tayug, Pangasinan, December 15, 2006.<sup>16</sup>

**Criminal Case No. T-4225**

(Estafa under Article 315, par. 2(a) of the Revised Penal Code (RPC))  
against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo,  
Fely Dulay, and Apolonio Dulay

That sometime during the months of April to June, 2006, in the [M]unicipality of San Nicolas, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and helping one

<sup>15</sup> Id. at 118-119.

<sup>16</sup> Id. at 120.

another, did then and there willfully, unlawfully[,] and feloniously, by means of false representation and fraudulent acts, received from the complainants **SOFRONIO J. LUZANO, JR.**, a resident of Brgy. San Isidro, San Nicolas, Pangasinan, the sum of Php70,650.00, **ROMAR R. MARZAN**, a resident of Brgy. San Felipe East, San Nicolas, Pangasinan, the sum of Php45,000.00, and **NATHANIEL P. DELA CRUZ**, a resident of Brgy. San Felipe West, San Nicolas, Pangasinan, the sum of Php71,350.00 under an express promise to employ the herein complainant[s] abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise or to return the amount received from the complainants, failed and refused to do so, to the damage and prejudice of **SOFRONIO J. LUZANO, JR., ROMAR R. MARZAN[,] and NATHANIEL P. DELA CRUZ.**

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

Tayug, Pangasinan, December 15, 2006.<sup>17</sup>

**Criminal Case No. T-4227**

**(Estafa under Article 315, par. 2(a) of the Revised Penal Code)**  
**against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo**

That sometime during the months of March to May, 2006, in the [M]unicipality of San Nicolas, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously, by means of false representation and fraudulent acts, received from the complainants **DAISY S. DESISTO**, a resident of Brgy. San Felipe West, San Nicolas, Pangasinan, the sum of Php75,000.00, **MARIANO V. MIRANDA**, a resident of Brgy. San Felipe West, San Nicolas, Pangasinan, the sum of Php100,000.00, and **ROMEO V. MIRANDA**, a resident of Brgy. San Felipe West, San Nicolas, Pangasinan, the sum of Php75,000.00 under an express promise to employ the herein complainants abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainant, failed and refused to do so, to the damage and prejudice of **DAISY S. DESISTO, MARIANO V. MIRANDA, and ROMEO V. MIRANDA.**

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

Tayug, Pangasinan, December 1, 2006.<sup>18</sup>

<sup>17</sup> Id. at 122.

<sup>18</sup> Id. at 124.



**Criminal Case No. T-4231**

**(Estafa under Article 315, par. 2 (a) of the Revised Penal Code)**  
**against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo**

That sometime during the months of March to June, 2006, in the [M]unicipality of San Nicolas, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and helping one another, did then and there willfully, unlawfully[,] and feloniously, by means of false representation and fraudulent acts, received from the complainants **VILMA R. SERQUIÑA**, a resident of Brgy. San Felipe East, San Nicolas, Pangasinan, the sum of Php116,000.00, **RENE P. ALAGANO**, a resident of Brgy. Sa[lpad], San Nicolas, Pangasinan, the sum of Php75,000.00, and **ROBERT R. NUÑEZ**, a resident of Brgy. Camindoroan, San Nicolas, Pangasinan, the sum of Php100,000.00, under an express promise to employ the herein complainants abroad (South Korea), but said accused, with intent to defraud and with abuse of confidence, and despite repeated demands to comply with their promise, or to return the amount received from the complainant[s], failed and refused to do so, to the damage and prejudice of **VILMA R. SERQUIÑA, RENE P. ALAGANO[,] and ROBERT R. NUÑEZ.**

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

Tayug, Pangasinan, December 1, 2006.<sup>19</sup>

The cases were raffled to the Regional Trial Court (RTC) Branch 52, Tayug, Pangasinan.<sup>20</sup>

Only Spouses Fely and Apolonio Dulay and Spouses Irene and Bal Marzan were arrested, while Marlon and Alex remain at-large.<sup>21</sup>

On arraignment, the four accused pleaded not guilty to the respective charges against them.<sup>22</sup> Thereafter, the cases got consolidated and jointly tried. Notably, during the pre-trial,<sup>23</sup> Spouses Dulay admitted that they had no license to recruit workers for overseas employment.<sup>24</sup>

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<sup>19</sup> Id. at 126.

<sup>20</sup> Id at 423.

<sup>21</sup> Id. at 61.

<sup>22</sup> Id. at 426.

<sup>23</sup> March 25, 2009.

<sup>24</sup> CA rollo, p. 79.

### ***The Prosecution's Version***

In her Complaint-Affidavit dated September 4, 2006,<sup>25</sup> Cholin Pinto (*Cholin*),<sup>26</sup> claimed to have paid the total amount of Php75,000.00<sup>27</sup> to Spouses Marlon and Marzan.

During the trial in Crim. Case Nos. T-4200<sup>28</sup> and T-4207,<sup>29</sup> Cholin reiterated that she paid a placement fee of Php75,000.00 for employment in South Korea. Initially, she paid Php30,000.00 to Irene as evidenced by receipt dated May 20, 2006 issued by Marlon. A week thereafter, she paid another Php45,000.00, but this time, no receipt was issued. Irene promised that the receipt will be issued upon her (Irene) return from Manila.<sup>30</sup>

Cholin patiently waited for her deployment abroad, but it never came into fruition. Upon verification with the Department of Labor and Employment (DOLE) in Dagupan, she discovered that Spouses Marzan, Alex, and Marlon were not authorized to conduct any recruitment activity for overseas employment. They proceeded to the National Bureau of Investigation (NBI) in Dagupan City to file a case which was referred to the trial court.<sup>31</sup> Per her testimony, she paid Php75,000.00 for her application for work in South Korea.

In his Complaint-Affidavit<sup>32</sup> dated August 28, 2006, Armando Hidalgo (*Armando*),<sup>33</sup> claimed to have paid Php180,000 to Spouses Marzan and Marlon of his employment application in South Korea.<sup>34</sup>

Armando testified in Crim. Case Nos. T-4200<sup>35</sup> and T-4203<sup>36</sup> that Spouses Marzan and Marlon offered him employment in South Korea for a placement fee of Php180,000.00. While at San Quintin, Pangasinan, he initially paid Php10,000.00 with receipt dated March 24, 2006 and another Php20,000.00 with receipt dated April 23, 2006 to Irene as his recruiter. Marlon issued the receipts.<sup>37</sup>

<sup>25</sup> Dated September 4, 2006, RTC Crim. Case No. T-4207; *Id.*, p. 114.

<sup>26</sup> 28 years old and a resident from Brgy. Sto. Tomas, San Nicolas, Pangasinan.

<sup>27</sup> Itemized as follows: Php30,000 initial payment, Php30,000 partial payment, Php3,500 medical fee, Php1,000 insurance fee, Php1,500 OWWA membership fee, Php350 jacket, and Php3,650 another medical fee; *CA rollo*, p. 62.

<sup>28</sup> *Illegal Recruitment in Large Scale* under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; *id.* at 98.

<sup>29</sup> *Estafa* under Article 315, par. 2 (a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo; *id.* at 114.

<sup>30</sup> *CA rollo*, p. 62.

<sup>31</sup> *Records*, pp. 12-21.

<sup>32</sup> *Id.* at 9.

<sup>33</sup> 32 years old, a resident of Brgy Lagasit, San Quintin, Pangasinan.

<sup>34</sup> *Records*, p. 9.

<sup>35</sup> *Supra* note 26.

<sup>36</sup> *Estafa* under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marza Alejandro Navarro, and Marlon Agoncillo; *CA rollo*, p. 112.

<sup>37</sup> *CA rollo*, p. 63.

After two months, Armando paid another placement fee of Php60,000.00. On August 7, 2006 at the Manila office of the accused, he paid another Php90,000.00 as placement fee to Irene in the presence of Bal, Marlon, and their boss Alex. He requested for a receipt, but he was ignored. Per his testimony, he paid Php180,000.00 for his application for overseas work.<sup>38</sup>

On the day of Armando's supposed departure, his flight was allegedly postponed since there was no available ticket. Despite repeated inquiries to Irene for an alternative flight, Armando never left for South Korea as promised. Thus, he filed a case before the NBI with his co-applicants.<sup>39</sup>

In his Complaint-Affidavit dated September 4, 2006, Aristotle De Vera (*Aristotle*),<sup>40</sup> claimed to have paid the total amount of Php74,850.00<sup>41</sup> for his supposed employment in South Korea.

Aristotle testified in Crim. Case Nos. T-4373<sup>42</sup> and T-4401<sup>43</sup> that Spouses Marzan, together with Fely, offered him employment in South Korea. On May 15, 2006, Spouses Marzan asked him to prepare the initial amount of Php25,000.00 to be paid on May 20, 2006. On said date and in the presence of Spouses Marzan, he paid this amount to Marlon, as evidenced by a receipt.<sup>44</sup>

On June 18, 2006, while in Manila, Aristotle paid another Php45,000.00 for the remaining balance to Spouses Marzan and Marlon. This time, his payment did not come with a receipt. He also paid the following: Php3,500.00 as medical fee, Php350.00 for a jacket, and Php1,000.00 as membership fee. He repeatedly asked for a receipt, but he was always told to wait. He was ultimately not deployed for overseas work as promised.<sup>45</sup> Per his testimony, he paid Php74,850.00 for his application.

In her Complaint-Affidavit,<sup>46</sup> Shielyn Framil (*Shielyn*)<sup>47</sup> claimed to have paid a total of Php70,450.00 to Spouses Dulay for the processing of her employment in South Korea.

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<sup>38</sup> Id.

<sup>39</sup> *Records*, pp. 22-47.

<sup>40</sup> 36 years old, a resident of Sitio Cavite, Barangay Narra, San Manuel, Pangasinan.

<sup>41</sup> Itemized as follows: Php45,000 initial payment, Php25,000 partial payment, Php3,500 medical fee, Php350 jacket, and Php1,000 membership fee.

<sup>42</sup> *Illegal Recruitment in Large Scale under Section 6 of RA 8042* against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo; *CA rollo*, p. 130.

<sup>43</sup> *Illegal Recruitment in Large Scale under Section 6 of RA 8042* against Irene Marzan, Bal Marzan, and Marlon Agoncillo; *Id.* at 132

<sup>44</sup> *CA rollo*, p. 63.

<sup>45</sup> *Records*, pp. 48-57.

<sup>46</sup> *Id.* at 17.

<sup>47</sup> 25 years old, a resident of San Felipe Estate, San Nicolas, Pangasinan.

In Crim. Case Nos. T-4200<sup>48</sup> and T-4223,<sup>49</sup> Shielyn testified that Spouses Dulay personally visited her to offer employment in South Korea for a placement fee of Php180,000.00. On March 30, 2006, she paid an initial processing fee of Php30,000.00 to Spouses Marzan. Marlon issued her a receipt. Thereafter, Spouses Dulay, Marlon, and Spouses Marzan accompanied her to Malate, Manila for medical examination.<sup>50</sup>

On April 23, 2006, Shielyn paid another Php30,000.00 to Spouses Marzan. Marlon issued a receipt for this amount.<sup>51</sup>

Shielyn also paid the following though she was not issued any receipts: Php5,000.00 as training fee, Php2,600.00 as medical fee, Php350.00 for a jacket, Php1,500.00 for Overseas Workers Welfare Administration (OWWA) fee, and Php1,000.00 as insurance. Per her testimony, she paid a total of Php70,450.00 for the processing of her supposed employment in South Korea.<sup>52</sup>

But she was not deployed to South Korea, hence, she filed a complaint against the accused before the NBI. She also discovered that the accused were not licensed to deploy workers abroad per DOLE Certification.<sup>53</sup>

In his Complaint-Affidavit<sup>54</sup> dated September 13, 2006, Nelson Compay (*Nelson*)<sup>55</sup> claimed to have paid Php69,850.00<sup>56</sup> for his supposed employment in South Korea.

In Crim. Case Nos. T-4200<sup>57</sup> and T-4223,<sup>58</sup> Nelson testified that on May 20, 2006, at San Nicolas, Pangasinan, he paid Php30,000.00 to Irene who turned over the same to Marlon who then issued him a receipt. Bal and Spouses Dulay were also present at that time. On May 28, 2006, he paid another Php30,000.00, this time, to Fely. According to Fely, Irene will issue the receipt.<sup>59</sup>

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<sup>48</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; *CA rollo*, pp. 110-111.

<sup>49</sup> Estafa under Article 315, par. 2 (a) of the Revised Penal Code (RPC) against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; *id.* at 120.

<sup>50</sup> *Id.* at 64.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Records*, pp. 59-70.

<sup>54</sup> *Id.* at 9.

<sup>55</sup> 20 years old, single, a student from Brgy. Camangaan, San Nicolas, Pangasinan.

<sup>56</sup> Itemized as follows: Php30,000 initial payment to Irene Marzan, Php30,000 partial payment and Php 3,500 as medical fee to Fely Dulay, Php5,000 as training fee, Php1,000 as insurance and Php350 for the uniform to Catherine Dulay (Fely Dulay's daughter).

<sup>57</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay.

<sup>58</sup> Estafa under Article 315, par. 2 (a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay.

<sup>59</sup> *CA rollo*, p. 64.

Nelson also paid Fely Php3,500.00 as medical fee, Php1,000.00 for insurance, and Php350.00 for uniform.<sup>60</sup> With regard to the Php5,000.00 training fee, Marlon issued a Philippine Academy for Career and Technology Incorporated Receipt dated May 15, 2006 for a training slot in Technical Education and Skills Development Authority (TESDA) Manila. Per his testimony, he paid Php68,850.00 for the processing of his application for overseas employment.<sup>61</sup>

Nelson was not able to work abroad though. He discovered that Marlon and Alex absconded with the money that he and his co-applicants paid. They (Nelson and his co-applicants) proceeded to the Philippine Overseas Employment Administration (POEA) and learned that Alex was not even an employee there. Consequently, they filed the complaint before the NBI Dagupan.<sup>62</sup>

In her Complaint-Affidavit<sup>63</sup> dated September 4, 2006, Vilma Serquiña (*Vilma*)<sup>64</sup> claimed to have paid a total of Php116,000.00 as placement and processing fee for her employment in South Korea.

In Crim. Case Nos. T-4200<sup>65</sup> and T-4231,<sup>66</sup> Vilma testified that on May 25, 2006, she paid Php20,000.00 to Fely at the latter's residence<sup>67</sup> for her application for employment abroad. On August 2, 2006, she paid Php30,000.00 but, this time, to Irene at her residence,<sup>68</sup> who also issued a corresponding receipt.

Aside from these amounts, she also paid the following to Fely: Php40,000.00 as medical examination fee at Lucas Medical Center, Php26,000.00 for training, other medical fees, transportation fees, and a jacket. She repeatedly asked Fely for a receipt but was not given any. Per her testimony, she paid Php116,000.00 for her overseas employment.<sup>69</sup>

Consequently, Vilma discovered that she was defrauded by Irene. She then went to the NBI to file a complaint.<sup>70</sup>

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<sup>60</sup> Paid to Catherine Dulay (Fely Dulay's daughter): *id.* at 65.

<sup>61</sup> *Id.* at 120.

<sup>62</sup> *Records*, pp. 81-89.

<sup>63</sup> *Id.* at 26.

<sup>64</sup> 36 years old, single, a housekeeper from San Felipe East, San Nicolas, Pangasinan.

<sup>65</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Duiay, and Apolonio Dulay; *CA rollo*, pp. 110-111.

<sup>66</sup> Estafa under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo; *id.* at 125.

<sup>67</sup> San Felipe West, San Nicolas, Pangasinan.

<sup>68</sup> San Quintin, Pangasinan.

<sup>69</sup> *CA rollo*, p. 65.

<sup>70</sup> *Records*, pp. 93-99.

In her Complaint-Affidavit<sup>71</sup> dated September 13, 2006, Priscilla Tambo (*Priscilla*)<sup>72</sup> claimed to have paid a total of Php71,000.00 to Spouses Dulay for the latter's offer of employment in South Korea.<sup>73</sup>

In Crim. Case Nos. T-4200<sup>74</sup> and T-4223,<sup>75</sup> Priscilla testified that on June 21, 2006, Spouses Dulay recruited her for overseas employment in South Korea as factory worker. They then introduced her to Irene. After a week, she initially paid Php35,000.00 to Apolonio. For the second payment, she paid Php30,000.00 to Fely. Only a receipt for Php60,000.00 as processing fees was issued to her. Other payments to Irene and Fely such as Php5,000.00 as training fee, Php3,000.00 as medical fee, Php2,800.00 for passport, Php1,000.00 as OWWA fee, and Php350.00 for a jacket were not issued any receipt. She also went to Manila to attend a Pre-Departure Orientation Seminar.<sup>76</sup> Per her testimony, she paid Php77,150.00 for the processing of her application for overseas employment. She was never deployed overseas as promised.

In his Complaint-Affidavit<sup>77</sup> dated September 13, 2006, Nathaniel dela Cruz (*Nathaniel*)<sup>78</sup> claimed to have paid Php71,350.00<sup>79</sup> for the processing of his overseas employment in South Korea.

Nathaniel testified in Crim. Case Nos. T-4200<sup>80</sup> and T-4225<sup>81</sup> that Fely introduced him to Irene who, at that time, was recruiting for overseas work in South Korea. Irene then instructed him, together with 15 other applicants, to prepare a placement fee of Php60,000.00.

On April 6, 2006, while in Manila, Nathaniel paid Irene Php30,000.00. On April 23, 2006, this time in Pangasinan, he paid another Php30,000.00 to her. Aside from these, he also paid Php11,350.00 for Korean language training fees, medical fee, OWWA fee, and a jacket. He asked for a receipt but was not given any. Irene even took his passport and never returned it. Per his testimony, he paid Php71,350.00 for the processing of his application for overseas employment.

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<sup>71</sup> Id. at 14.

<sup>72</sup> 29 years old, a housekeeper from San Felipe East, San Nicolas, Pangasinan.

<sup>73</sup> *CA rollo*, p. 66.

<sup>74</sup> *Illegal Recruitment in Large Scale* under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; *CA rollo*, p. 110-111.

<sup>75</sup> *Estafa* under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; id. at 120.

<sup>76</sup> *Records*, pp. 124-132.

<sup>77</sup> Id. at 38.

<sup>78</sup> 39 years old, a resident of San Felipe West, San Nicolas, Pangasinan

<sup>79</sup> Php71,650 in the RTC's Ruling; *CA rollo*, p. 66.

<sup>80</sup> *Illegal Recruitment in Large Scale* under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; id. at 110-111.

<sup>81</sup> *Estafa* under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; id. at 122.

When Nathaniel discovered that he got defrauded, and that Spouses Marzan, Spouses Dulay, Marlon, and Alex were not actually authorized to conduct recruitment activities per DOLE Certification, he immediately filed a complaint before the NBI Dagupan.<sup>82</sup>

By his Complaint-Affidavit dated June 19, 2007, Remo Pontanos (*Remo*),<sup>83</sup> declared<sup>84</sup> that he paid Irene Php70,000.00 for prospective employment in South Korea.<sup>85</sup>

Remo also testified that he found out about Spouses Marzan through his friends who previously applied for jobs overseas.<sup>86</sup> Intent on seeking greener pastures, he went to Barangay Casantamaria-an some time in February 2006 and told Irene that he too wanted to work abroad.<sup>87</sup> Irene and Bal went to Barangay Cabangaran, San Quintin, Pangasinan and offered him work in South Korea.<sup>88</sup> Irene told him she would process his papers, such as his NBI Clearance and passport.<sup>89</sup> Irene will handle his training for Korean and his medical examination.<sup>90</sup>

Remo gave Spouses Marzan and Marlon a total of Php70,000.00 as placement fee.<sup>91</sup> As proof, he presented two (2) receipts issued by Irene for Php35,000.00 each, dated April 23, 2006 and July 31, 2006, respectively.<sup>92</sup> He delivered his second payment on July 31, 2006 based on Irene's representations that his flight will be on August 2006.<sup>93</sup>

On the day of his supposed departure, Remo found his companions crying because they were unable to go abroad<sup>94</sup> since Irene and her cohorts did not show up.<sup>95</sup> When he called Irene, she responded that she was in Urdaneta and that he should not panic. Afterwards, Irene went into hiding.<sup>96</sup> Per his testimony, he paid Php70,000.00 for his application for overseas employment.

<sup>82</sup> *Records*, pp. 132-138.

<sup>83</sup> 55-year-old farmer from Barangay Cabangaran, San Quintin, Pangasinan; *CA rollo*, p. 67.

<sup>84</sup> TSN dated March 24, 2008, p. 9.

<sup>85</sup> Criminal Case No. T-4401 *Records*, Vol. I, p. 15.

<sup>86</sup> TSN dated April 21, 2008, p. 8.

<sup>87</sup> *Id.* at 9-10.

<sup>88</sup> *Id.* at 7-8.

<sup>89</sup> *Id.* at 8.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> TSN dated March 24, 2008, pp. 1-11.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 11-12.

<sup>96</sup> *Id.* at 12.

By Joint Complaint-Affidavit dated June 19, 2007, Evita Tome (*Evita*)<sup>97</sup> declared<sup>98</sup> that she paid Irene Php45,000.00 for prospective employment in Korea.<sup>99</sup>

Evita also testified that Spouses Marzan and Marlon (whom Spouses Marzan introduced as their secretary),<sup>100</sup> went to her house sometime in February 2006 because Irene was recruiting persons who wished to work abroad.<sup>101</sup> Irene also went to her cousin and neighbors to recruit them.<sup>102</sup> When Spouses Marzan learned she was interested, they told her to prepare Php30,000.00 as initial payment and go to Manila for her medical examination.<sup>103</sup>

While they were all together in Ermita, Manila, Spouses Marzan told Evita to hand in the Php30,000.00 to Marlon<sup>104</sup> for her medical examination and seminar.<sup>105</sup> She also paid Php15,000.00 to Marlon in the presence of Spouses Marzan.<sup>106</sup>

Evita presented two receipts issued by Marlon, one for Php30,000.00 dated March 20, 2006 and another for Php15,000.00 dated April 23, 2006. As for the remaining Php25,000.00, Irene gave her a piece of paper, with the promise that she (Irene) would issue an official receipt.<sup>107</sup> But she was never given that receipt.<sup>108</sup> In total, she gave Spouses Marzan and Marlon Php70,000.00 for his supposed employment in South Korea.<sup>109</sup>

In her Complaint-Affidavit dated September 13, 2006, Cherry Lyn Doton (*Cherry*),<sup>110</sup> declared<sup>111</sup> that she paid Php75,150.00 to Spouses Marzan, Marlon, and Fely in consideration of her prospective employment in South Korea.<sup>112</sup>

Cherry testified that Fely introduced her to Spouses Marzan and Marlon who were supposedly recruiting for overseas employment.<sup>113</sup> Spouses Marzan told her that a placement fee of Php60,000.00 was needed to deploy her

<sup>97</sup> 43-year-old store owner from Barangay Mabini, San Quintin, Pangasinan; CA rollo, p. 67.

<sup>98</sup> TSN dated April 21, 2008, p. 13.

<sup>99</sup> Criminal Case No. T-4401 Records, Vol. 1, p. 15.

<sup>100</sup> TSN dated May 20, 2008, p. 8.

<sup>101</sup> Id. at 3 and 6.

<sup>102</sup> Id. at 3.

<sup>103</sup> TSN dated April 21, 2008, p. 16.

<sup>104</sup> Id. at 15-16.

<sup>105</sup> Id. at 15.

<sup>106</sup> TSN dated May 20, 2008, p. 8.

<sup>107</sup> TSN dated April 21, 2008, p. 19.

<sup>108</sup> Id. at 19-20.

<sup>109</sup> Id. at 14.

<sup>110</sup> 19-year-old student from Malibon, San Nicolas, Pangasinan; rollo, p. 67.

<sup>111</sup> TSN dated May 20, 2008, p. 9.

<sup>112</sup> Id. at 10; Criminal Case No. T-4221 Records, Vol. 1, p. 29.

<sup>113</sup> Id. at 11.



abroad.<sup>114</sup> Thus, she gave Php30,000.00 to Irene in the house of Fely. Subsequently, Marlon issued her a receipt dated May 20, 2006.<sup>115</sup> On a later date, she gave Spouses Marzan another Php30,000.00, but no receipt was issued because Marlon was not present.<sup>116</sup>

Cherry also testified that she paid Php5,000.00 as training fee, Php3,500.00 as medical fee, Php2,800.00 for her passport, Php2,000.00 for processing of her National Statistics Office (NSO) documents, and Php350.00 for her jacket, and an indefinite amount for Medicare.<sup>117</sup> Per her testimony, she paid a total of Php73,650.00 for the processing of her employment abroad.

Despite these payments, Chery's application for employment abroad proved futile because Spouses Marzan and Marlon absconded with her money.<sup>118</sup>

In his Complaint-Affidavit dated September 14, 2006, Mariano Miranda, Jr., (*Mariano*)<sup>119</sup> declared<sup>120</sup> that he paid Php100,000.00 for prospective employment in South Korea.<sup>121</sup>

Mariano testified that Irene recruited him for work in South Korea while he was in the house of Fely.<sup>122</sup> Irene told him to pay Php30,000.00 as down payment. He complied, and Marlon furnished him a receipt dated March 30, 2006.<sup>123</sup> Then, Irene told him to go to Manila for a Pre-Departure Orientation Seminar (PDOS).<sup>124</sup>

In Manila, Mariano gave Irene another Php30,000.00, covered by a receipt dated April 23, 2006, issued by Marlon.<sup>125</sup> While in Manila he also spent Php7,000.00 for two rounds of medical examinations.<sup>126</sup> He spent another Php5,000.00 for a seminar. He also testified that he spent an unspecified amount for his jacket and for transportation costs to Manila. As with the others, he was unable to go abroad.<sup>127</sup> Per his testimony, he paid Php72,000.00 for his application for employment abroad.

<sup>114</sup> TSN dated May 28, 2008, p. 3.

<sup>115</sup> TSN dated May 20, 2008, pp. 12-13.

<sup>116</sup> *Id.* at 13.

<sup>117</sup> *Id.* at 14-15.

<sup>118</sup> *Id.* at 15.

<sup>119</sup> 38-year-old farmer from San Felipe West, San Nicolas, Pangasinan; *collo*, p. 68.

<sup>120</sup> TSN dated May 28, 2008, p. 6.

<sup>121</sup> Criminal Case No. T-4227 Records, Vol. 1, p. 14.

<sup>122</sup> TSN dated May 28, 2008, p. 7.

<sup>123</sup> *Id.* at 8-9.

<sup>124</sup> *Id.* at 9.

<sup>125</sup> *Id.* at 10.

<sup>126</sup> *Id.* at 10-11.

<sup>127</sup> *Id.* at 11.

In his Complaint-Affidavit<sup>128</sup> dated September 4, 2006, Rene Alagano (*Rene*),<sup>129</sup> declared that he paid<sup>130</sup> a placement fee of Php75,000.00 for prospective employment as a factory worker in South Korea.<sup>131</sup>

Rene also testified that he applied for a job abroad because his mother wanted him to have a better life.<sup>132</sup> Consequently, he paid Php60,000.00 to Fely in consideration of prospective overseas employment.<sup>133</sup> Nevertheless, it was Irene who introduced him to Fely as a recruiter. It was also Fely who issued the temporary receipt dated June 20, 2008.<sup>134</sup>

Rene also claimed that he spent Php3,500.00 for his medical examination, Php2,500.00 for the OWWA and medicare, and Php3,500.00 for his jacket. These transactions, however, were not covered by receipts.<sup>135</sup> Despite his payments, he was not deployed abroad.<sup>136</sup> Per his testimony, he paid Php69,500.00 for his application for overseas employment.

In his Complaint-Affidavit<sup>137</sup> dated September 13, 2006, Joel Bartolome (*Joel*),<sup>138</sup> declared that he paid a placement fee of Php71,350.00 for prospective employment as a factory worker in South Korea.<sup>139</sup>

Joel also testified that in May 2006, his second cousin Fely went to his house and told him that Irene, a recruiter, “could easily send workers abroad.”<sup>140</sup> Fely then invited him to her house so that he could meet Irene.

Irene asked for his down payment of the placement fee.<sup>141</sup> He responded that he did not have any money, but that he had savings of Php10,000.00.<sup>142</sup> Fely then informed him that he could join her, Irene, and the other applicants in going to Manila, but that he should bring Php8,500.00 for his medical examination.<sup>143</sup>

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<sup>128</sup> Records, p. 128.

<sup>129</sup> 28-year-old farmer from Salpad, San Nicolas, Pangasinan; *rollo*, p. 68.

<sup>130</sup> TSN dated May 28, 2008, p. 12.

<sup>131</sup> Criminal Case No. T-4231 Records, Vol I, p. 32.

<sup>132</sup> TSN dated May 28, 2008, p. 17.

<sup>133</sup> *Id.* at 13–14.

<sup>134</sup> *Id.* at 14.

<sup>135</sup> *Id.* at 15.

<sup>136</sup> *Id.*

<sup>137</sup> *CA rollo*, p. 118.

<sup>138</sup> 28-year-old Barangay Record Keeper from San Felipe West, San Nicolas, Pangasinan; *Id.* at 68.

<sup>139</sup> Criminal Case No. T-4221 Records, Vol. I, p. 25.

<sup>140</sup> TSN dated August 13, 2008, pp. 5–6.

<sup>141</sup> *Id.* at 7.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.* at 8.

In Manila, and in the presence of Irene, Joel gave Fely Php3,500.00 for his medical examination and Php5,000.00 as training fee.<sup>144</sup> He asked for receipts but was told that these would be issued later.<sup>145</sup>

Eventually, Joel was able to produce the Php60,000.00 placement fee with the help of his mother.<sup>146</sup> He gave Php30,000.00 to Fely at the latter's house. He asked for a receipt, but Fely told him that one would be given once his placement fee is fully paid.<sup>147</sup> After a week, he gave the other Php35,000.00 to Fely in the presence of Irene.<sup>148</sup> Fely handed the money to Irene.<sup>149</sup> He again tried to ask for a receipt. This time, he was told that he could not be given one because Marlon was not around.<sup>150</sup>

Joel was advised to wait for his visa.<sup>151</sup> Eventually, however, Irene and Marlon no longer showed up.<sup>152</sup> Nothing happened with regard to his application.<sup>153</sup> Per his testimony, he paid Php68,500.00 for his employment in South Korea.

In his Complaint-Affidavit<sup>154</sup> dated September 13, 2006 Sofronio Luzano, Jr., (*Sofronio*)<sup>155</sup> declared that he paid Php70,650.00 as placement fees for prospective employment as a factory worker in South Korea.<sup>156</sup>

Sofronio testified that he learned from his brother that Fely was recruiting workers for South Korea in Pugo, San Felipe East, San Nicolas, Pangasinan.<sup>157</sup> His brother then sent him to Fely's house to inquire. When he arrived there, Fely convinced him to join the last batch of applicants going to South Korea.<sup>158</sup> He asked what the requirements were and was told that he could join the last batch if he could come up with Php35,000.00.<sup>159</sup>

Sofronio then gave the Php35,000.00 to Fely. He asked for a receipt, but was told it would be given only during the PDOS, or the briefing prior to departure.<sup>160</sup> After some time, Fely told him to meet Irene at Viron Transit, because the latter will accompany him to Manila for his medical

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<sup>144</sup> Id. at 9.

<sup>145</sup> Id.

<sup>146</sup> Id. at 10.

<sup>147</sup> Id.

<sup>148</sup> Id. at 11.

<sup>149</sup> Id.

<sup>150</sup> Id. at 11-12.

<sup>151</sup> Id. at 13.

<sup>152</sup> Id.

<sup>153</sup> Id. at 14.

<sup>154</sup> CA *rollo*, p. 122.

<sup>155</sup> Jobless 25-year-old, from San Isidro, San Nicolas, Pangasinan, id. at 69.

<sup>156</sup> Criminal Case No. T-4225 Records, Vol. 1, p. 44.

<sup>157</sup> TSN dated August 13, 2008, p. 15.

<sup>158</sup> Id.

<sup>159</sup> Id.

<sup>160</sup> Id.

examination.<sup>161</sup> There, he gave another Php35,000.00 to Irene,<sup>162</sup> Php30,000.00 as placement fee and Php5,000.00 for his medical examination.<sup>163</sup> He tried to ask for a receipt, but was once again told that it would be given at the PDOS.<sup>164</sup> Irene then told him that he need not go to Manila for his medical examination because she will take care of it.<sup>165</sup>

Aside from the Php70,000.00 he already paid, he also spent around Php7,000.00 more for OWWA, Medicare and his jacket.<sup>166</sup> This amount was paid to Fely. To date, however, he has not been deployed abroad.<sup>167</sup> Per his testimony, he paid Php77,000.00 for his overseas employment application.

In his Complaint-Affidavit dated September 4, 2006, Arnulfo Luga (*Arnulfo*),<sup>168</sup> claimed to have paid Php81,500.00 to Marlon and Spouses Marzan for employment in South Korea.

In Crim. Case No. T-4273,<sup>169</sup> Arnulfo testified that on July 14, 2006, he was playing basketball when he overheard Spouses Marzan recruiting Everlinda Layco for employment abroad. He also got interested. Spouses Marzan told him that there was an urgent need of factory workers for South Korea. The offer, however, came with a placement fee of Php65,000.00. He requested for a week to produce the placement fee. Irene told him not to delay so as not to miss the opportunity. Hopeful for a greener pasture, he contacted Spouses Marzan a week later and he was told to meet them at Viron Transit Cubao. Spouses Marzan even fetched him at the terminal and together, they proceeded to a McDonald's restaurant in Caloocan. There, he handed the placement fee of Php65,000.00 but he was told by the couple that the receipt would be issued at their house in Pangasinan.

Apart from the placement fee, Arnulfo also paid Php5,000.00 for Korean language lessons. He manifested to Spouses Marzan though that he had no passport yet. Spouses Marzan then ordered him to undergo medical examination on Malvar Street, Pangasinan. He paid another Php5,000.00 for his medical examination and Php5,000.00 for his passport. He paid a total of Php80,000.00 to Spouses Marzan.

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<sup>161</sup> Id. at 21.

<sup>162</sup> Id.

<sup>163</sup> TSN dated June 2, 2009, p. 8.

<sup>164</sup> TSN dated August 13, 2008, p. 24.

<sup>165</sup> TSN dated June 2, 2009, p. 8.

<sup>166</sup> Id.

<sup>167</sup> TSN dated August 13, 2008, pp. 24-25.

<sup>168</sup> 44 years old, construction worker from Barangay Agno, Tayug, Pangasinan; TSN dated June 3, 2009, pp. 4-19.

<sup>169</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo; CA *collo*, p. 128.

After another week, Arnulfo met again with Spouses Marzan at the house of Everlina Layco (*Everlina*). There, he asked for the receipt. But Spouses Marzan told him there was no more need for a receipt since he was already set to fly for Korea on the 23<sup>rd</sup> of August. Grateful for the gift of employment, he no longer insisted on the receipt. His joyful moment though was only momentary as Irene later on told him he would not be able to leave for Korea on August 23 because of a typhoon. Instead, he was promised a flight on the 27<sup>th</sup> of August. Just the same, he was not able to fly. Thereafter, he could no longer contact Spouses Marzan.

In her Complaint-Affidavit dated September 4, 2006, Everlina,<sup>170</sup> claimed to have paid Php50,000.00 to Marlon and Spouses Marzan for the processing of her papers bound for South Korea.

In Crim. Case No. T-4273,<sup>171</sup> Everlina testified that she came to know of Irene through the latter's parents-in-law who, like her, were vendors at the public market. Back in 2000, Irene's parents-in-law offered her employment abroad because they knew she worked in Dubai from 1997 to 2000 as a domestic helper. She respectfully declined the offer as she could not leave her children of young age. In 2006, Irene's parents-in-law reiterated their offer. She got interested in the offer but on the condition that she will not be a domestic helper. Irene's parents-in-law directed her to contact Irene.<sup>172</sup>

Upon learning of Everlina's situation, Irene offered her a chambermaid position in Dubai. Irene ordered her to undergo another medical examination somewhere in Mabini, Manila since the result of the first medical examination was not good – she was found to have an enlarged heart. Two months after her medical examination, Irene told her to apply for Korea instead, for a placement fee of Php65,000.00. She admitted she could only produce Php30,000.00. Irene offered to cover the remaining balance.<sup>173</sup>

Irene even accompanied Everlina for another medical examination on Galvar Street,<sup>174</sup> Caloocan. Thereafter, she handed Php30,000.00 as placement fee to Irene who promised to issue the receipt at her house in Pangasinan. As instructed by Irene, she handed her another Php5,000.00 at Cindy's in Tayug, Pangasinan for the processing of her papers. She reiterated her request for a receipt but Irene allegedly forgot it at home. Irene informed her of a briefing in Caloocan. It was during that briefing that she first came to meet Alejandro Navarro, Jr.

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<sup>170</sup> 35 years old, married, a vendor, and resident of Barangay Sobol, San Nicolas, Pangasinan; Id. at 71.

<sup>171</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., and Marlon Agoncillo; id. at 128.

<sup>172</sup> Id. at 71.

<sup>173</sup> Id.

<sup>174</sup> Sometimes referred to as Malvar Street in the records.

Irene also paid Everlina a visit to collect from her Php15,000.00 for her supposed Korean language lessons and official jacket. She paid a total of Php50,000.00 to Irene.

In her Complaint-Affidavit, Arleen Serquiña (*Arleen*)<sup>175</sup> claimed to have paid Php72,000.00 for her application for overseas employment. In Crim. Case No. T-4233, she testified that Fely introduced her to Spouses Marzan with a promise of employment in South Korea. In fact, Fely and Irene even accompanied her for medical examination in Manila.

In Crim. Case No. T-4229, Dante Alagano (*Dante*),<sup>176</sup> testified that Fely invited him to her house to personally meet Irene – the person who could provide him employment abroad. There, he also met Marlon. Spouses Marzan instructed him to prepare Php75,000.00 for an employment in South Korea. In compliance, he paid Php30,000.00 to Fely and another Php40,000.00 to Irene. Unfortunately, he lost the receipts issued him. He paid Php70,000.00 for the processing of his application for overseas employment.<sup>177</sup>

But Dante never set foot even outside of Pangasinan for his supposed work. Accompanied by his mother, he confronted Fely who told him that she herself was a victim of the Spouses Marzan. Fely even ordered him to file a case against Marlon, Irene, Bal, and Alex.

In her Complaint-Affidavit dated September 13, 2006, Mary Charmy Mariano (*Charmy*),<sup>178</sup> claimed to have paid Php68,000.00 to Spouses Dulay for the processing of her papers for employment in South Korea.

In Crim. Case No. T-4221<sup>179</sup> and Crim Case No. T-4200,<sup>180</sup> Charmy testified that she personally knew Spouses Dulay because their daughter, Catherine Dulay (*Dulay*), was her friend. In 2006, the latter urged her, including Cherry Lyn Doton (*Cherry*), Catherine Gatchalion (*Catherine*), Alexander Doton, Jr. (*Alex*), and others to apply in South Korea. She got interested in the offer since she also wanted to help her parents. Dulay referred her to her parents Spouses Dulay for further information on the expected salary and the terms of the contract.

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<sup>175</sup> 25 years old, married, unemployed, a resident of San Felipe, San Nicolas, Pangasinan. TSN dated August 13, 2009, pp. 1–10.

<sup>176</sup> 21 years old, married, a farmer, and a resident of Salpad, San Nicolas, Pangasinan; TSN dated August 13, 2009, pp. 10–17.

<sup>177</sup> CA *rollo*, p.72.

<sup>178</sup> 23 years old, single, unemployed, and a resident of Camangaan, San Nicolas, Pangasinan; TSN dated August 19, 2009, pp. 1–26.

<sup>179</sup> Estafa under Article 315, par. 2(a) of the Revised Penal Code (RPC) against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; CA *rollo*, p. 118.

<sup>180</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; Id. at 98.

Charmy then visited Spouses Dulay in their house where the latter confirmed that an employment in a garment factory was awaiting her in South Korea. Fely instructed her to prepare the initial placement fee of Php30,000.00. The terms of the contract, however, were supposedly to be discussed to her by Irene on their next meeting. Four days later, she paid Php30,000.00 to Irene who was then with Bal and Marlon. Marlon issued a receipt for the Php30,000.00 initial placement fee. Before they ended the meeting, Fely told her to prepare the balance of Php30,000.00. Two weeks thereafter, she paid the remaining Php30,000.00 to Fely. This time, the payment did not come with a receipt because it was Marlon who was supposedly tasked to issue a receipt.

Fely texted her to prepare Php3,500.00 for medical examination in Caloocan. Cherry, Catherine, and Alex were with her during the medical examination. As ordered, she paid Php3,500.00 for the medical examination but again, no receipt was issued. As Irene and Marlon were also there during the medical examination, she requested a receipt for the Php30,000.00 but Irene told her the same will be issued in San Nicolas, Pangasinan.

Charmy, together with the other applicants, returned to Manila for their Korean language lessons. But there were no Korean language lessons. Instead they got a thirty (30) minute orientation with Alex on what to expect in Korea. She paid Php5,000.00 to Fely for the supposed Korean language lessons. She also paid Php350.00 for a jacket. She paid a total of Php68,500.00.<sup>181</sup> Nothing happened in her application for employment in South Korea.<sup>182</sup>

In her Complaint-Affidavit dated September 13, 2006, Catherine<sup>183</sup> claimed to have paid Php74,150.00 to Spouses Dulay as placement fee for their promise of employment in South Korea.

In Criminal Case Nos. T-4200<sup>184</sup> and T-4219,<sup>185</sup> Catherine testified that like Charmy, she got to meet Spouses Dulay through their daughter, Dulay, who invited her and Cherry to work in Korea. Dulay invited her to their house so that Spouses Dulay could better explain the employment opportunity. They consequently visited Spouses Dulay who ordered them to prepare the partial placement fee of Php30,000.00 to be paid to Irene and Marlon. A week later, she paid the agreed initial placement fee to Irene at Fely's house. Marlon, on the other hand, issued a receipt. After another week, Spouses Dulay instructed her to prepare another Php30,000.00.

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<sup>181</sup> Charmy categorically testified the total amount of Php68,000.00 but the correct amount should be Php68,500.00.

<sup>182</sup> *Rollo*, p. 72-73.

<sup>183</sup> 23 years old, single, and a resident of Malilion, San Nicolas, Pangasinan; TSN dated August 20, 2009, pp. 1-29.

<sup>184</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; CA *rollo*, p.110-111.

<sup>185</sup> Estafa under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; *id.* at 116.

Catherine, together with Cherry and Alex, each paid another Php30,000.00 to Fely. According to Fely, the receipt will be issued on their next visit. The next day, Fely even accompanied them to their medical examination in Caloocan. She paid Php3,500.00 to Fely for the medical examination but no receipt was issued. She returned to Manila after a week for her Korean language lessons. She paid another Php5,000.00 for the same but what she got was only a thirty minute orientation on what to expect in Korea. Her expenses though did not end there.

Fely went to Catherine's house days later on to collect Php1,000.00 for Medicare and another Php1,500.00 for the OWWA processing fee. Just like before, Fely told her the receipts will follow. Fely then ordered her to pack her things because she would be flying to Korea soon. On the day they were supposed to fly, she received a text message from Fely that their flight will not push through until next week. But again, she was not able to fly. On their third attempt, Fely told her that only 30 of the 40 applicants will be flying, and she did not make it to the count. Her hopes for a better opportunity in Korea never materialized. She paid a total of Php71,000.00<sup>186</sup> for the supposed processing of her papers for Korea.

In his Complaint-Affidavit, Alex<sup>187</sup> claimed he paid Php76,800.00 to Spouses Dulay for the processing of his supposed employment in South Korea.

Alex testified in Crim. Case Nos. T-4200<sup>188</sup> and T-4219<sup>189</sup> that he personally met Spouses Dulay through his high school classmate and cousin, Dulay. They met at a wedding sometime in 2006 where Dulay offered him a job at a factory in South Korea. She added that the placement fee for Korea was around Php60,000.00 to Php70,000.00 and that he should prepare at least Php30,000.00 in time for the visit of Spouses Dulay's partners in business – Spouses Marzan. He was with Cherry and Catherine when he personally paid Php30,000.00 to his Aunt Fely during their visit to their house. It was then that he met Spouses Marzan. Fely issued a receipt but he lost it.

Two weeks later, Dulay texted Alex to prepare another Php30,000.00. Spouses Dulay personally paid him a visit for this purpose. As he was then in the farm, his mother personally paid the Php30,000.00 to Spouses Dulay. Spouses Dulay did not issue any receipt but his mother trusted them because they were cousins.

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<sup>186</sup> Php74,150 in her Complaint-Affidavit; *CA rollo*, p. 116.

<sup>187</sup> 23 years old, single, bagger, and a resident of Barangay Malilion, San Nicolas, Pangasinan. TSN dated September 23, 2009, pp. 1–18.

<sup>188</sup> Illegal Recruitment in Large Scale under Section 6 of RA 8042 against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay; *CA rollo*, p. 110–111.

<sup>189</sup> Estafa under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay: *id.* at 116.



A week later, Alex paid Fely Php5,000.00 for the medical examination in Caloocan. Two weeks passed and he was told to undergo training in Korean language for Php5,000.00. He paid the amount to Fely. Alex conducted the supposed training but he was only handed a book on Korean language. Per his testimony, he paid Php70,000.00 for his application for overseas employment.

Alex's mother Belinda Doton (*Belinda*),<sup>190</sup> testified that her father and Fely's grandfather were second cousins. She essentially corroborated Alex's testimony. She paid Php30,000.00 to Fely for his son's placement fee for South Korea. She also gave his son Php2,500.00 for the processing of his passport, Php5,000.00 for training, and Php250.00 for a jacket.<sup>191</sup>

### ***The Defense's Version***

Fely testified that a certain Virgie Pamintuan (*Virgie*) informed her that Irene was engaged in the recruitment of workers for overseas employment in South Korea. Together with Virgie, she went to Irene's residence in San Quintin, Pangasinan to inquire about the overseas employment. Irene, however, informed Fely that the recruiters were Alex and Marlon, not her.<sup>192</sup> Irene then called Marlon to ask for the application requirements for overseas employment. Marlon, in turn, instructed her that the applicants should submit their respective passports, NBI Clearances, birth certificates, and community tax certificates.<sup>193</sup>

Upon completion of the documents, the applicants returned to Irene. The latter called Marlon who directed the applicants to get ready with the following amounts: Php30,000.00 as initial placement fee, Php5,000.00 for Korean language training, and Php3,500.00 for medical examination fees.

Complainants, together with Fely and Spouses Marzan proceeded to St. James Medical Clinic in Malate, Manila for medical examination. Meanwhile, Fely's husband Apolonio, their daughter (Catherine) Dulay, and their daughter's friend Catherine, also applied for overseas employment in South Korea and paid the same fees.

Fely and her husband were merely implicated in the criminal cases because they were complainants' initial link to Marlon.<sup>194</sup> In reality, though, it was complainants themselves who initiated and pursued their interest to work abroad.

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<sup>190</sup> TSN dated October 6, 2009, pp. 1-11.

<sup>191</sup> *CA rollo*, p. 75.

<sup>192</sup> *Id.* at 428.

<sup>193</sup> *Id.* at 75.

<sup>194</sup> *Id.* at 428.



Irene, on the other hand, testified that she only met Fely in March 2006 when she, together with Virgie, went to her house and asked her if she knew Marlon.<sup>195</sup> She and her husband Bal were merely implicated in these cases upon the suggestion of an NBI agent.<sup>196</sup> Marlon was a regular customer in her *carinderia*. One time, he stayed in the eatery where she overheard him talking with complainants Armando, Evita, and Remo about processing fees and documents.

Marlon hired the tricycle of Bal for Php1,000.00, the reason she (Irene) went with them to Fely's house. There, Marlon talked to the complainants and collected money from them. From 10 o'clock in the morning up to 5 o'clock in the afternoon, Irene and her husband Bal were just waiting for Marlon in a corner far from him. The following day, Marlon returned to her *carinderia* to meet complainants for the requirements and processing fees. One time, some of the complainants who lived far, handed the fees to her as they could no longer wait for Marlon. She issued receipts, as complainants had requested.<sup>197</sup>

The son of Irene's sister-in-law was also an applicant and she accompanied them to Caloocan where Marlon and Alex were briefing the applicants.<sup>198</sup>

Carmela Bucao (*Carmela*) testified that she worked in the *carinderia* of Spouses Marzan. Marlon was a regular customer of the *carinderia* and many of the applicants came to meet him. She asked him if her son could also apply. Marlon then instructed her to submit her son's passport, medical examination, two I.D. pictures, and a placement fee of Php60,000.00. She first paid Marlon Php10,000.00, and then Php40,000.00. Marlon issued receipts for these amounts.<sup>199</sup>

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

By Decision<sup>200</sup> dated August 16, 2010, trial court ordained:

**WHEREFORE**, the Court hereby finds the following:

1. **In Criminal Case No. 4200**, accused Irene Marzan and Fely Dulay **GUILTY** of Illegal Recruitment in Large Scale and are accordingly sentenced to each suffer Life Imprisonment, and to pay a fine to the government in the amount of Php500,000.00;

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<sup>195</sup> Id.

<sup>196</sup> Id. at 76.

<sup>197</sup> Id. at 428.

<sup>198</sup> Id.

<sup>199</sup> Id.

<sup>200</sup> Id. at 58-87.

2. **In Criminal Case No. 4273**, accused Irene Marzan **GUILTY** of Illegal Recruitment in Large Scale, and is sentenced to suffer Life Imprisonment, and to pay a fine to the government in the amount of Php500,000.00;
3. **In Criminal Case Nos. 4373 and 4401**, accused Irene Marzan **GUILTY** of Simple Illegal Recruitment and is sentenced to suffer in each case a prison term of six (6) years and one (1) day of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum, and to pay a fine Php200,000.00. She is likewise ordered to pay Remo Pontanos the sum of Php70,000.00;
4. **In Criminal Case No. 4203**, accused Irene Marzan **GUILTY** as charged, and is sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years of *prision mayor*, as maximum, and to pay Armando Hidalgo the sum of Php30,000.00 plus legal interest from the time of the filing of the information until fully paid;
5. **In Criminal Case No. 4207**, accused Irene Marzan **GUILTY** as charged, and is sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years of *prision mayor*, as maximum, and to pay Cholin Pinto the sum of Php30,000.00 plus legal interest from the time of the filing of the Information until fully paid.
6. **In Criminal Case No. 4219**, accused Irene Marzan and Fely Dulay **GUILTY**, [sic] are sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years of *prision mayor*, as maximum, and to pay, jointly and severally, Php30,000.00 to Catherine Gatchalion with legal interest from the filing of information until completely paid.
7. **In Criminal Case No. 4221**, accused Irene Marzan and Fely Dulay **GUILTY**, [sic] are sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years of *prision mayor*, as maximum, and to pay, jointly and severally, Php30,000.00 to Mary Charmy Mariano with legal interest from the filing of [I]nformation until completely paid.
8. **In Criminal Case No. 4223**, accused Irene Marzan and Fely Dulay **GUILTY** as charged, and are sentenced to each suffer four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years and two (2) months of [*prision mayor*], as maximum, with respect to the complaint of Nelson Compay.

With respect to the complaints of Priscilla Tambo and Shielyn Framil, accused Marzan and Dulay are sentenced to two (2) prison terms of four (4) years and two (2) months of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum.

Accused are ordered to pay jointly and severally, Php60,000.00 each to Shielyn Framil and Priscilla Tambo, and Php30,000.00 to Nelson Compay, with legal interest from the time of the filing of the information until completely paid;

9. **In Criminal Case No. 4225**, accused Irene Marzan and Fely Dulay **GUILTY** as charged and are sentenced to two (2) prison terms of four (4) years and two (2) months of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum, and to pay, jointly and severally, Nathaniel dela Cruz the sum of Php60,000.00 with legal interest from the time of the filing of the [I]nformation until completely paid;

10. **In Criminal Case No. 4227**, accused Irene Marzan **GUILTY** of Estafa and is sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum, and to pay Mariano Miranda the sum of Php60,000.00 with legal interest from the time of the filing of the information until completely paid.

11. **In Criminal Case No. 4231**, accused Irene Marzan **GUILTY** of two counts of estafa and is sentenced to suffer four (4) years and two (2) months of *prision correccional*, as minimum, to nine (9) years and two (2) months of *prision mayor*, as maximum, with respect to the complain[ant] Vilma Serquiña, and to pay the latter the sum of Php30,000.00 with legal interest from the filing of the [I]nformation until fully paid;

With respect to the case of Rene Alagano, accused is sentenced to two (2) prison terms of four (4) and two (2) months of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum, and to pay Rene Alagano the sum of Php60,000.00 with legal interest from the filing of [I]nformation until fully paid.

Accused Irene Marzan is **ACQUITTED in Criminal Case Nos. 4201, 4229, 4233, 4272, 4372, and 4205.**

Accused Bal Marzan and Apolonio Dulay are **ACQUITTED** in all cases.

BJMP Tayug is directed to forthwith release Bal Marzan and Apolonio Dulay upon receipt of a copy of this [D]ecision.

The cases against Marlon Agoncillo and Alejandro Navarro[, Jr.] are ordered archived.

**SO ORDERED.**<sup>201</sup>

The trial court found the testimonies of the prosecution witnesses to be credible and positive, thus, deserving of full faith and credit.<sup>202</sup> Against their

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<sup>201</sup> Id. at 85–87.

<sup>202</sup> Id. at 82.

credible and positive testimonies, the denial of appellant must crumble.<sup>203</sup> The elements of illegal recruitment in large scale and the elements of estafa by false pretenses were duly established in these cases.<sup>204</sup> The trial court, however, acquitted Apolonio and Bal for the prosecution's failure to establish with clarity their participation in the recruitment of complainants.

The trial court awarded the following amounts to complainants as actual damages based on the receipts presented by the prosecution:

<b>Criminal Case No.</b>	<b>Complainant</b>	<b>Amount</b>
T-4203	Armando Hidalgo	Php30,000.00
T-4207	Cholin Pinto	Php 30,000.00
T-4219	Catherine Gatchalion	Php 30,000.00
T-4221	Mary Charmy Mariano	Php 30,000.00
T-4223	Nelson Compay Priscilla Tambo Shielyn Framil	Php 30,000.00 Php 60,000.00 Php 60,000.00
T-4225	Nathaniel dela Cruz	Php 60,000.00
T-4227	Mariano Miranda	Php 60,000.00
T-4231	Vilma Serquiña Rene Alagano	Php 30,000.00 Php 60,000.00

The trial court though, noted that there was a supposed duplicity of offenses in Criminal Case Nos. T-4223 and T-4231 which should have been a ground for the *quashal* of the Informations. Particularly, it observed that there were three complainants (Nelson, Priscilla, and Shielyn) in Crim. Case No. T-4223, and same number of complainants (Vilma, Rene, and Robert) in Crim. Case No. T-4231. Since the accused failed to timely object thereto, they were deemed to have waived the same, hence, the court could convict them for as many offenses as charged and proved.<sup>205</sup> Based on the evidence presented, therefore, the accused should be held liable for three counts (Nelson, Priscilla, and Shielyn) of estafa in Crim. Case No. T-4223, and two counts of estafa (Vilma and Rene) in Crim. Case No. T-4231.<sup>206</sup>

Meanwhile, in Criminal Case Nos. T-4373 and T-4401, appellant was only held liable for Simple Illegal Recruitment since according to the trial court, only Aristotle was the subject of recruitment in the first case; and only Remo and Evita in the second case.<sup>207</sup> It was also proved that Remo paid a total of Php70,000.00 to Irene, thus, the same amount should be paid back to him as actual damages.<sup>208</sup>

<sup>203</sup> Id.

<sup>204</sup> Id. at 83.

<sup>205</sup> Id. at 84.

<sup>206</sup> Id.

<sup>207</sup> Id. at 81.

<sup>208</sup> Id. at 80.

Finally, appellant was acquitted in Criminal Case Nos. T-4201, T-4205, T-4229, T-4233, T-4272, and T-4372 as the trial court found that the element of damage capable of pecuniary estimation caused to the offended parties was absent.<sup>209</sup>

### **Ruling of the Court of Appeals**

By Decision<sup>210</sup> dated October 26, 2015, the Court of Appeals affirmed in the main but increased the fine imposed in Crim. Case Nos. T-4200 and T-4273, thus:

**WHEREFORE**, the instant appeal of accused-appellants Irene Marzan and Fely Dulay is **DENIED**. The Decision dated August 16, 2010 of the RTC, Branch 52 of Tayug, Pangasinan in Criminal Case Nos. T-4200, T-4219, T-4221, T-4223, T-4225, T-4201, T-4203, T- 4205, T-4207, T-4227, T-4229, T-4231, T-4233, T-4272, T-4372, T- 4273, T-4373 and T-4401 is **AFFIRMED** with **MODIFICATIONS** to read as follows:

1. In **Criminal Case No. 4200**, accused Irene Marzan and Fely Dulay **GUILTY** of Illegal Recruitment in Large Scale and are accordingly sentenced to each suffer Life Imprisonment, and to pay a fine to the government in the amount of Php1,000,000.00;
2. In **Criminal Case No. 4273**, accused Irene Marzan **GUILTY** of Illegal Recruitment in Large Scale, and is sentenced to suffer Life Imprisonment, and to pay a fine to the government in the amount of Php1,000,000.00;
3. In **Criminal Case Nos. 4373 and 4401**, accused Irene Marzan **GUILTY** of Simple Illegal Recruitment and is sentenced to suffer in each case a prison term of six (6) years and one (1) day of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum, and to pay a fine Php200,000.00. She is likewise ordered to pay Remo Pontanos the sum of Php70,000.00;
4. In **Criminal Case No. 4203**, accused Irene Marzan **GUILTY** as charged, and is sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, and to pay Armando Hidalgo the sum of Php30,000.00 plus legal interest from the time of the filing of the Information until fully paid;
5. In **Criminal Case No. 4207**, accused Irene Marzan **GUILTY** as charged, and is sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor* as maximum, and to pay Cholin Pinto the sum of Php30,000.00 plus legal interest from the time of the filing of the Information until fully paid;

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<sup>209</sup> Id. at 85.

<sup>210</sup> Id. at 423–445. See also *rollo*, pp. 2–24.

6. In **Criminal Case No. 4219**, accused Irene Marzan and Fely Dulay **GUILTY**, and are sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, and to pay, jointly and severally, Php30,000.00 to Catherine Gatchalion with legal interest from the time of the filing of the Information until completely paid;

7. In **Criminal Case No. 4221**, accused Irene Marzan and Fely Dulay **GUILTY**, and are sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, and to pay, jointly and severally, Php30,000.00 to Mary Charmy Mariano with legal interest from the time of the filing of the Information until completely paid;

8. In **Criminal Case No. 4223**, accused Irene Marzan and Fely Dulay **GUILTY** as charged, and are sentenced to each suffer four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, with respect to the complaint of Nelson Compay.

With respect to the complaints of Priscilla Tambo and Shielyn Framil, accused Marzan and Dulay are sentenced to two (2) prison terms of four (4) years and two (2) months of *prision correccional*, as minimum, to eleven (11) years of *prision mayor*, as maximum. Accused are ordered to pay jointly and severally, Php60,000.00 each to Shielyn Framil and Priscilla Tambo and Php30,000.00 to Nelson Compay, with legal interest from the time of the filing of the Information until completely paid;

9. In **Criminal Case No. 4225**, accused Irene Marzan and Fely Dulay **GUILTY** as charged and are sentenced to two (2) prison terms of four (4) years and two (2) months of *prision correccional*, as minimum, to eleven (11) years of *prision mayor*, as maximum, and to pay, jointly and severally, Nathaniel dela Cruz the sum of Php60,000.00 with legal interest from the time of the filing of the Information until completely paid;

10. In **Criminal Case No. 4227**, accused Irene Marzan **GUILTY** of Estafa and is sentenced to four (4) years and two (2) months of *prision correccional*, as minimum, to eleven (11) years of *prision mayor*, as maximum, and to pay Mariano Miranda the sum of Php60,000.00 with legal interest from the time of the filing of the Information until completely paid;

11. In **Criminal Case No. 4231**, accused Irene Marzan **GUILTY** of two counts of estafa and is sentenced to suffer four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years of *prision mayor*, as maximum, with respect to the complaint of Vilma Serquiña, and to pay the latter the sum of Php30,000.00 with legal interest from the time of the filing of the Information until fully paid;

With respect to the case of Rene Alagano, accused is sentenced to two (2) prison terms of four (4) years and two (2) months of *prision correccional*, as minimum, to eleven (11) years of *prision mayor*, as

maximum, and to pay Rene Alagano the sum of Php60,000.00 with legal interest from the time of the filing of the Information until fully paid.

**SO ORDERED.** <sup>211</sup>

In the illegal recruitment cases, the appellate court affirmed the finding of the trial court that appellant gave the impression to complainants that she had the authority to recruit workers for overseas employment despite not being duly authorized by law.<sup>212</sup> It also sustained the credibility of the positive and categorical testimonies of the prosecution witnesses that: (1) they personally met appellant; and (2) appellant promised them an employment abroad, encouraged them to apply therefor, provided them copies of job orders, and received placement fees, training fees, medical examination fees and other fees from them.<sup>213</sup>

In the estafa cases, the appellate court ruled that the prosecution was able to establish that appellant acted in conspiracy with her co-accused Marlon and Alex to mislead complainants into believing that they, in exchange for payment of various fees, could deploy them for employment abroad. As a consequence of appellant's false pretenses, complainants suffered damages for their failed overseas employment and for the fees they paid and could no longer recover.<sup>214</sup> Appellant's bare denial cannot prevail over the positive testimonies of the prosecution witnesses.<sup>215</sup>

The Court of Appeals modified the imposed fine from Php500,000.00 to Php1,000,000.00 in Criminal Case Nos. T-4200 and T-4273 considering that appellant and her co-accused were non-licensees or non-holders of authority to engage in the recruitment of workers.<sup>216</sup>

By Certification dated October 26, 2015, the appellate court noted that Fely no longer filed reconsideration nor filed a petition to the Supreme Court.<sup>217</sup> The assailed Decision dated October 26, 2015, therefore, attained finality insofar as Fely was concerned.

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<sup>211</sup> Id.

<sup>212</sup> *CA Rollo*, p. 435.

<sup>213</sup> Id. at 438.

<sup>214</sup> Id. at 439.

<sup>215</sup> Id. at 438.

<sup>216</sup> Id. at 441.

<sup>217</sup> Id. at 451.



## The Present Appeal

Appellant now seeks affirmative relief from this Court and prays anew for her acquittal. In lieu of supplemental briefs, appellant<sup>218</sup> and the Office of the Solicitor General (*OSG*)<sup>219</sup> manifested that they were adopting their respective briefs before the Court of Appeals.

### Ruling

***In Criminal Case Nos. T-4200, T-4273, T-4373, and T-4401, appellant is guilty of illegal recruitment.***

Illegal recruitment, when undertaken by a non-licensee or non-holder of authority as contemplated under Article 13(f)<sup>220</sup> (now Article 38) of the Labor Code (Renumbered), shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers, and including referring, contract services, promising, or advertising for employment abroad, whether for profit or not.<sup>221</sup>

Illegal Recruitment in Large Scale, on the other hand, is defined under Section 6 of Republic Act (*RA*) No. 8042, thus:

**Section 6. Definition.** - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contact 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

<sup>218</sup> *Rollo*, p.38.

<sup>219</sup> *Id.* at 33.

<sup>220</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 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. (Labor Code of the Philippines, Presidential Decree No. 442 (Amended & Renumbered), July 21, 2015.

<sup>221</sup> See *People v. Vicente*, G.R. No. 249546, February 3, 2021.

Labor Code of the Philippines: *Provided*, that any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

xxx

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.** (Emphasis and underscoring supplied)

To sustain a conviction for illegal recruitment in large scale, the following elements must concur:

(a) the offender has no valid license or authority to enable him or her to lawfully engage in recruitment and placement of workers;

(b) he or she undertakes any of the activities within the meaning of "recruitment and placement" under Article 13(b) of the Labor Code or any prohibited practices enumerated under Article 34 of the Labor Code (now Section 6<sup>222</sup> of RA 8042); and

<sup>222</sup> Section 6 of RA 8042:

II. ILLEGAL RECRUITMENT

Sec. 6. DEFINITIONS. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-license 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 such non-license or non-holder, who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any persons, whether a non-licensee, non-holder, licensee or holder of authority.

- (a) To charge or accept directly or indirectly any amount greater than the 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 persons 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 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, remittances of foreign exchange earnings, separations from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;

(c) he or she commits the same against three or more persons, individually or as a group. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.<sup>223</sup>

As uniformly ruled by the trial court and the appellate court, these elements are all present in this case.

**First**, per DOLE Certification dated August 25, 2006, appellant was not authorized nor licensed to conduct recruitment activities for overseas employment.<sup>224</sup>

**Second**, despite lack of authority or license, appellant and Fely conducted recruitment and placement activities. They offered and promised to deploy complainants in South Korea for employment. In exchange, they collected placement, training fees, and other fees despite not being authorized to do so. Indubitably, these are prohibited activities within the purview of Article 13(b)<sup>225</sup> (now Article 38) of the Labor Code (Renumbered) and Section 6 of RA 8042.

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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 reasons as determined by the Department of Labor and Employment; and

(m) Failure to reimburse expenses incurred by the workers 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 as offense involving economic sabotage.

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.

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

<sup>223</sup> *People v. Racho*, 819 Phil. 137, 148 (2017).

<sup>224</sup> Fely Dulay, on the other hand, admitted she did not have any valid license to engage in the recruitment and placement of workers.

<sup>225</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 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

Appellant, nonetheless, insists she and her husband Bal were merely implicated in these cases upon the suggestion of an NBI agent. She manifested that Marlon was a regular customer in her *carinderia*. Apart from using her *carinderia* as a meet-up place for Marlon and the applicants, she only took favors from complainants who lived in far areas to hand over the fees to Marlon. She issued receipts, as complainants requested, but she never had a hand in the recruitment process.

The Court is not convinced.

The lower courts uniformly found that appellant conspired together with Fely, Alex, and Marlon to generate a systematic scheme to prey on innocent people like herein complainants who seek overseas employment, *viz.*:

**One**, Fely scouted for and recruited prospective applicants for supposed employment in South Korea;

**Two**, appellant collected placement and other fees from these applicants;

**Three**, Marlon acted as the *pseudo*-speaker who convinced the applicants to secure their services and provided them the supposed list of requirements, including the payment of placement and other fees. He also issued the receipts therefor; and

**Finally**, it was Alex who served as the “*boss*” of the group.

Evidently, these four accused were impelled by one common objective – to *milk out money* from innocent applicants by foisting lies to them regarding their supposed ability and authority to deploy them for overseas employment in South Korea in exchange for payment of certain amounts of money. In conspiracy, the act of one is the act of all. The precise extent or modality of participation of each of them becomes secondary since all the conspirators are principals.<sup>226</sup>

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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. (Labor Code of the Philippines, Presidential Decree No. 442 (Amended & Renumbered), July 21, 2015)

<sup>226</sup> *People v. Jesalva*, 811 Phil. 299, 308 (2017).

In *People v. Vicente*,<sup>227</sup> the Court found that Vicente's synchronized action with Minnie indubitably showed they acted in conspiracy with each other to obtain a common objective: to recruit complainants for employment abroad despite not being authorized to do so. There, Vicente was physically present in the agency's office when: (1) Minnie convinced therein complainants to apply for employment abroad; (2) complainants paid Minnie for the supposed employment; (3) Minnie issued receipts for the payments received from complainants; and (4) complainants signed their employment contracts. Vicente also conducted seminars for complainants' pre-deployment where he talked about the living conditions in Japan and answered questions from the applicants.

Like *Vicente*, appellant here was not an innocent bystander. Not only did she know about Marlon's repeated acts of recruitment, she herself participated therein by collecting placement fees and issuing receipts therefor.

**Third.** These prohibited practices were committed against three (3) or more persons. Specifically, there were more or less 30 complainants altogether, albeit only 22 of them testified.

Appellant is therefore guilty of Illegal Recruitment in Large Scale under Section 6, RA 8042 in Crim. Case Nos. T-4200 and T-4273.

In Crim. Case Nos. T-4373 and T-4401, however, appellant is only guilty of Simple Illegal Recruitment. While all the elements of Illegal Recruitment under Section 6 of RA 8042 are present in these cases, the offense was committed only against one complainant, Aristotle in Crim. Case No. T-4374; and against two complainants, Remo and Evita in Crim. Case No. T-4401.

***In Criminal Case Nos. T-4203, T-4207, T-4219, T-4221, T-4223, T-4225, T-4227, and T-4231, appellant is also guilty of estafa under Art. 315(2)(a).***

Appellant, for the same acts, may be convicted separately for illegal recruitment under RA 8042 and estafa under Article 315(2)(a) of Revised Penal Code (RPC).

*People v. Daud*<sup>228</sup> is *apropos*:

In this jurisdiction, it is settled that a person who commits illegal recruitment may be charged and convicted separately of illegal recruitment under the Labor Code and estafa under par. 2(a) of Art. 315 of the Revised Penal Code. The offense of illegal

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<sup>227</sup> Supra note 221.

<sup>228</sup> 734 Phil. 698, 719 (2014).

recruitment is *malum prohibitum* where the criminal intent of the accused is not necessary for conviction, while estafa is *malum in se* where the criminal intent of the accused is crucial for conviction. Conviction for offenses under the Labor Code does not bar conviction for offenses punishable by other laws. Conversely, conviction for estafa under par. 2(a) of Art. 315 of the Revised Penal Code does not bar a conviction for illegal recruitment under the Labor Code. It follows that one's acquittal of the crime of estafa will not necessarily result in his acquittal of the crime of illegal recruitment in large scale, and *vice versa*.<sup>229</sup>

More, Article 315, paragraph 2(a) of the RPC states:

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

xxx

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

(a) By using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business[,] or imaginary transactions; or by means of other similar deceits.

To sustain a conviction for *estafa* by means of false pretenses or deceit, the following elements must concur:

- (a) There must be a false pretense or fraudulent representation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions;
- (b) such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud;
- (c) 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) as a result thereof, the offended party suffered damage.<sup>230</sup>

Again, these elements are all present here. The same pieces of evidence which establish appellant's liability for illegal recruitment in large scale likewise confirm her culpability for estafa.<sup>231</sup>

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<sup>229</sup> Id.

<sup>230</sup> *People v. Espiritu, et al.*, G.R. No. 226140, February 26, 2020, citing *Sy v. People*, 632 Phil. 276, 284 (2010).

<sup>231</sup> See *People v. Chua*, 695 Phil.16 (2012).



**One**, appellant falsely and fraudulently represented that she, together with her co-conspirators, possessed the authority to engage in recruitment and placement activities. They promised complainants overseas employment in South Korea in exchange for the payment of placement and other fees. They did so knowing full well that they were not authorized or licensed to do so.

**Two**, such false pretense and fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud.

**Three**, it was appellant's and her co-conspirators' false and fraudulent representations which induced complainants to part with their hard-earned money as payment for the supposed placement and other fees. They believed appellants' deceit and held on to the latter's promise to deploy them for work abroad.

**Finally**, the victims were not able to leave for work abroad nor get back their money.

The Court, in *People v. Estrada*,<sup>232</sup> sustained Estrada's conviction for three counts of estafa under Article 315 par. 2(a) concurrent with her culpability for illegal recruitment in large scale. The Court ratiocinated – she falsely represented herself as possessing power to deploy persons for overseas placement. By these pretenses, Estrada deceived therein private complainants into believing that she would provide them their desired jobs in Dubai. This active representation of having the capacity to deploy the private complainants abroad despite not having the authority or license to do so from the POEA constituted deceit. More, because of her assurances, the private complainants parted with their money to pay Estrada the various fees which they thought were necessary for their deployment abroad resulting in damage to each of the private complainants.

So must it be.

In another vein, the Court notes that except for Crim Case Nos. T-4203<sup>233</sup> and T-4207,<sup>234</sup> each of the other Informations charged more than one count of estafa, viz.:

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<sup>232</sup> 826 Phil. 894, 910 (2018).

<sup>233</sup> Criminal Case No. T-4203; Estafa under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr. and Marlon Agoncillo. Complainant Armando Hidalgo; *CA rollo*, p. 112.

<sup>234</sup> Criminal Case No. T-4207; Estafa under Article 315, par. 2(a) of the Revised Penal Code against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr. and Marlon Agoncillo. Complainant Cholin T. Pinto; *id.* at 114.

<b>Crim Case No.</b>	<b>Complainant/s</b>	<b>Count/s</b>
<b>T-4203</b> <sup>235</sup> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, and Marlon Agoncillo	Armando Hidalgo	One
<b>T-4207</b> <sup>236</sup> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, and Marlon Agoncillo	Cholin T. Pinto	One
<b>T-4219</b> <sup>237</sup> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Marlon Agoncillo, Fely Dulay, and Apolonio Dulay	Marcus D. Gruspe	Did not testify
	Catherine Gatchalion Alex P. Doton, Jr.	Two
<b>T-4221</b> <sup>238</sup> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Marlon Agoncillo, Fely Dulay, and Apolonio Dulay	Juanito N. Sebastian	Did not testify
	Sherene A. Mensalvas	
	Mary Charmy C. Mariano	Three
	Joel C. Bartolome Cherry Lyn C. Doton	
<b>T-4223</b> <sup>239</sup> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Marlon Agoncillo, Fely Dulay, and Apolonio Dulay	Nelson S. Compay	Three
	Priscilla P. Tambo	
	Shielyn A. Framil	
<b>T-4225</b> <sup>240</sup> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Marlon	Romar R. Marzan	Did not testify
	Sofronio J. Luzano, Jr.	Two
	Nathaniel P. Dela Cruz	

<sup>235</sup> Id. at 112.

<sup>236</sup> Id. at 114.

<sup>237</sup> Id. at 116.

<sup>238</sup> Id. at 118.

<sup>239</sup> Id. at 120.

<sup>240</sup> Id. at 122.



Agoncillo, Fely Dulay, and Apolonio Dulay		
T-4227 <sup>241</sup>	Daisy S. Desisto, Jr.	Did not testify
	Romeo V. Miranda	
Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, and Marlon Agoncillo	Mariano V. Miranda	One
T-4231 <sup>242</sup>	Robert R. Nuñez	Did not testify
	Rene P. Alagano	Two
	Vilma R. Serquiña	
Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, and Marlon Agoncillo		

Appellant did not move to quash the aforesaid Informations on the ground of duplicity of offense pursuant to Section 9, Rule 117 of the Rules of Court, *viz.* :

**Sec. 9. Failure to Move to Quash or to Allege Any Ground Therefor.** — The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of Section 3 of this Rule.

Consequently, appellant is deemed to have waived the defect in the Informations and to have understood the acts imputed therein.<sup>243</sup>

Appellant, therefore, may be convicted of as many offenses as were charged and proved, and impose on her the penalty for each offense, setting out separately the findings of fact and law in each offense in accordance with Sec. 3, Rule 120 of the Rules of Court, *viz.* :

**Section 3. Judgment for two or more offenses.** — When two or more offenses are charged in a single complaint or information but the accused fails to object to it before trial, the court may convict him of as many offenses as are charged and proved, and impose on him the penalty for each offense, setting out separately the findings of fact and law in each offense. (3a)

<sup>241</sup> Id. at 124.

<sup>242</sup> Id. at 126.

<sup>243</sup> See *People v. Solar y Dumbrique*, G.R. No. 225595, August 6, 2019.

Suffice it to state that the series of acts committed against the complainants was not the product of a single criminal intent. The misrepresentation or deceit was employed against each complainant on different dates. Hence, they originated from separate criminal intents and consequently resulted in separate felonies.<sup>244</sup> Speaking through the esteemed then Associate Justice Florenz Regalado, the Court, in *Ilagan v. Court of Appeals*,<sup>245</sup> ratiocinated:

The series of acts committed against the seven lot buyers was not the product of a single criminal intent. The misrepresentation or deceit was employed against each lot buyer on different dates and in separate places, hence they originated from separate criminal intents and consequently resulted in separate felonies. Furthermore, even assuming *arguendo* that the defraudations were pursuant to an identical design, they were committed over a period of about one and a half years and at substantial intervals both in time and in distance of situs.

More conclusive is the fact that, after the commission of one estafa, the accused could not have had the foreknowledge as to when or whether they could replicate the same felony against another victim still necessarily unknown. This lack of prevision on their part definitely proves that the criminal intent entailed in a preceding swindle could not operate as the same criminal intent in *futuro* as regards another subsequent estafa. The inescapable conclusion is that, all told, a total of eight crimes of estafa were actually committed by the accused against different victims.<sup>246</sup>

So must it be.

### ***Penalties***

Appellant committed illegal recruitment in 2006. The applicable penalties, therefore, are those provided under RA 8042 prior to its amendment by RA 10022 in 2010.

In Criminal Case Nos. T-4200 and T-4273 for Illegal Recruitment in Large Scale, appellant, a non-licensee or non-holder of authority, who committed illegal recruitment constituting economic sabotage was properly sentenced to *life imprisonment* in accordance with Section 7(b) of RA 8042, *viz.:*

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<sup>244</sup> See *Ilagan v. Court of Appeals*, 309 Phil. 527, (1994).

<sup>245</sup> *Id.*

<sup>246</sup> *Id.*

**SECTION 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. (Emphasis supplied)

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.<sup>247</sup>

Considering the number of innocent victims that appellant and her cohorts preyed on, the appellate court correctly increased the imposed fine from Php500,000.00 to Php1,000,000.00 for each case. Notably though, both the trial court and the appellate court declined to indemnify complainants Dante and Arleen in Crim. Case No. T-4200; and Arnulfo and Everlina in Crim Case No. T-4273 on the ground that their respective payments were not covered by receipts.

We disagree.

The recruiter's failure to issue receipts should not be taken against complainants. The absence of receipts in a case for illegal recruitment is not fatal if the prosecution is able to establish through **credible testimonial evidence** that appellant has engaged in illegal recruitment. The case is proved not by the issuance or signing of receipts for placement fees, but by engagement in recruitment activities without the necessary license or authority.<sup>248</sup> *People v. Alvarez*<sup>249</sup> is instructive:

We disagree. The Court has already ruled that the absence of receipts in a case for illegal recruitment is not fatal, as long as the prosecution is able to establish through credible testimonial evidence that accused-appellant has engaged in illegal recruitment. Such case is made, not by the issuance or the signing of receipts for placement fees, but by engagement in recruitment activities without the necessary license or authority.

<sup>247</sup> Republic Act No. 8042, Migrant Workers and Overseas Filipinos Act of 1995 (1995).

<sup>248</sup> See *People v. Alvarez*, 436 Phil. 255, 274 (2002).

<sup>249</sup> *Id.*

In *People v. Pabalan*, the Court held that the absence of receipts for some of the amounts delivered to the accused did not mean that the appellant did not accept or receive such payments. Neither in the Statute of Frauds nor in the rules of evidence is presentation of receipts required in order to prove the existence of a recruitment agreement and the procurement of fees in illegal recruitment cases. Such proof may come from the testimonies of witnesses.<sup>250</sup>

Thus, in Crim. Case No. T-4200, actual damages of Php70,000.00 should be awarded as well to Dante; in Crim. Case No. T-4200, Php72,000.00 to Arlene; and in Crim. Case No. T-4273, Php80,000.00 to Arnulfo, and Php 50,000.00 to Everlina.

In *People v. Rios*,<sup>251</sup> the Court affirmed the conviction of Isabel Rios for large scale illegal recruitment and awarded actual damages representing the supposed placement fee paid by complainant despite the absence of receipts.

Notably, Article 2177<sup>252</sup> of the Civil Code proscribes a party from recovering twice for the act or omission of a defendant. The awards in favor of complainants Cholin T. Pinto, Catherine Gatchalion, Alex P. Doton, Jr., Mary Charmy Mariano, Joel C. Bartolome, Cherry Lyn Doton, Vilma R. Serquiña, Rene P. Alagano, Nelson S. Compay, Priscilla D. Tambo, Shielyn A. Framil, Sofornio J. Luzano, Jr., Nathaniel P. Dela Cruz in the estafa cases, therefore, preclude them from recovering the same amounts in the illegal recruitment cases.

In **Crim. Case Nos. 4373 and 4401** for Simple Illegal Recruitment, the appellate court correctly imposed the fine of Php500,000.00 pursuant Section 7 (a) of RA 8042.

SECTION 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 (Php200,000.00) nor more than Five hundred thousand pesos (Php500,000.00). xxxx

Now as for the penalty, following *People v. Vicente*,<sup>253</sup> appellant should be sentenced to an indeterminate sentence of ten (10) years and one (1) day, as minimum, to twelve (12) years, as maximum.

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<sup>250</sup> Id.

<sup>251</sup> G.R. No. 226140, February 26, 2020.

<sup>252</sup> **ARTICLE 2177.** Responsibility for fault or negligence under the preceding article is entirely separate and distinct from the civil liability arising from negligence under the Penal Code. But the plaintiff cannot recover damages twice for the same act or omission of the defendant. (n)

<sup>253</sup> Supra note 221.

In addition to the award of Php70,000.00 to Remo Pontanos in Crim. Case No. T-4401, the Court also awards Php70,000.00 to Evita Tome, and Php 74,850.00 to Aristotle De Vera in accordance with *People v. Rios*.<sup>254</sup> Since these complainants are only involved in the illegal recruitment cases in Crim. Case Nos. T-4373 and T-4401, and not in the estafa cases, there can be no double recovery of damages to speak of.

As for the crime of estafa in Crim. Case Nos. **T-4203, T-4207, T-4219, T-4221, T-4223, T-4225, T-4227, T-4231**, we reckon with the amended penalties in RA 10951,<sup>255</sup> viz.:

**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 herein below shall be punished by:

xxx

**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 (Php40,000) but does not exceed One million two hundred thousand pesos (Php1,200,000). (Emphases supplied)**

xxx

Considering that the amount of fraud in each estafa case here does not exceed Php1,200,000.00, the imposable penalty is *arresto mayor* in its maximum period to *prision correccional* in its minimum period, which has a range of four (4) months and one (1) day to two (2) years and four (4) months.

Applying the Indeterminate Sentence Law, the minimum penalty shall be within the range of the penalty next lower to that prescribed for the offense. Since the penalty prescribed by law for the crime of estafa against appellant is *arresto mayor* in its maximum period to *prision correccional* in its minimum period, the penalty next lower would then be *arresto mayor* in its minimum to medium periods. Thus, the minimum term of the indeterminate sentence should be taken anywhere from one (1) month and one (1) day to four (4) months. The penalty that may be imposed for the crime of estafa in this case, therefore, is anywhere from one (1) month and one (1) day to four

<sup>254</sup> Supra note 251.

<sup>255</sup> AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS "THE REVISED PENAL CODE", AS AMENDED.

(4) months, for the minimum period, and ranging from six (6) months and one (1) day to two (2) years and four (4) months for the maximum period.<sup>256</sup>

In *Rosero v. People*<sup>257</sup> where the amount of fraud involved was also below the threshold of Php1,200,000.00 (Php274,020.00), the Court sentenced therein appellant to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum.

We impose the same penalty on appellant for each estafa case charged and proved. We also award the following actual damages to the complainants concerned:

<b>Crim Case No.</b>	<b>Complainant/s</b>	<b>Amount Paid</b>
<b>Crim. Case Nos. T-4373<sup>258</sup> and T-4401<sup>259</sup></b>	Aristotle De Vera	<b>Php74,850.00</b>  Itemized:  Php25,000.00–initial placement fee Php45,000.00–balance of placement fee Php3,500.00-medical fee Php350.00- jacket Php1,000.00 - membership fee
<b>T-4203<sup>260</sup></b>  Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr. and Marlon Agoncillo	Armando Hidalgo	<b>Php180,000.00</b>  Itemized:  Php10,000.00 – initial payment Php20,000.00 – second payment Php60,000.00 – third payment Php90,000.00 – balance, last payment
<b>T-4207<sup>261</sup></b>  Estafa under Article 315, par. 2(a) of the RPC against Irene	Cholin T. Pinto	<b>Php75,000.00</b>  Itemized:  Php30,000.00 -Initial placement fee

<sup>256</sup> See G.R. No. 235721 (Notice), April 2, 2018.

<sup>257</sup> Id.

<sup>258</sup> *Rollo*, p. 128.

<sup>259</sup> Id. at 130.

<sup>260</sup> Id. at 112.

<sup>261</sup> Id. at 114.

Marzan, Bal Marzan, Alejandro Navarro, Jr. and Marlon Agoncillo		Php45,000.00 – balance placement fee
<b>T-4219</b> <sup>262</sup>  Estafa under Article 315, par. 2 (a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay	Marcus D. Gruspe	
	Catherine Gatchalion	<b>Php71,000.00</b>  Itemized:  Php30,000.00 – initial placement fee Php30,000.00 – second placement fee Php3,500.00 – medical examination Php5,000.00 – training Php1,000.00 for medicare Php1,500.00 – OWWA processing fee.
	Alex P. Doton, Jr.	<b>Php70,000.00</b>  Itemized:  Php30,000.00 – initial placement fee Php30,000.00 – second payment placement fee Php5,000.00 – medical examination Php5,000.00 – training
	Juanito N. Sebastian	
<b>T-4221</b> <sup>263</sup>  Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay	Mary Charmy C. Mariano	<b>Php68,500.00</b>  Itemized:  Php30,000.00 – initial placement fee Php30,000.00 – second payment placement fee Php3,500.00 – medical examination Php5,000.00 – training
	Sherene A. Mensalvas	
	Joel C. Bartolome	<b>Php68,500.00</b>

<sup>262</sup> Id. at 116.

<sup>263</sup> Id. at 118.

		<p>Itemized:</p> <p>Php30,000.00 – initial placement fee          Php30,000.00 – second placement fee          Php3,500.00 – medical examination and          Php5,000.00 – training fee.</p>
	Cherry Lyn C. Doton	<p><b>Php73,650.00</b></p> <p>Itemized:</p> <p>Php30,000.00 – initial placement fee          Php30,000.00 – second placement fee          Php5,000.00 – training fee          Php3,500.00 – medical fee          Php2,800.00 – passport          ₱2,000.00 – processing of her National Statistics Office documents          Php350.00 – jacket/uniform</p>
<p><b>T-4223<sup>264</sup></b></p> <p>Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay</p>	Nelson S. Compay	<p><b>Php69,850.00</b></p> <p>Itemized:</p> <p>Php30,000.00 – initial placement fee          Php30,000.00 – balance placement fee          Php3,500.00 – medical fee          Php1,000.00 – insurance          Php5,000.00 – training fee          Php350.00 – uniform.</p>
	Priscilla P. Tambo	<p><b>Php77,150.00</b></p> <p>Itemized:</p> <p>Php35,000.00 – initial payment          Php30,000.00 – second payment placement fee          Php5,000.00 – training fees          Php3,000.00 – medical fees          Php2,800.00 – passport          Php1,000.00 – OWWA fees          Php350.00 – jacket</p>
	Shielyn A. Framil	<p><b>Php70,450.00</b></p>

<sup>264</sup> Id. at 120.



		<p>Itemized:</p> <p>Php30,000.00 – initial placement fee          Php30,000.00 – balance placement fee          Php5,000.00 – training fee          Php2,600.00 – medical fees          Php350.00 – jacket          Php1,500.00 – OWWA fees          Php1,000.00 – insurance</p>
<p><b>T-4225</b><sup>265</sup>          Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dula, and Apolonio Dula</p>	<p>Sofronio J. Luzano, Jr.</p>	<p><b>Php77,000.00</b></p> <p>Itemized:</p> <p>Php35,000.00 – initial placement fee          Php30,000.00 – placement fee          Php5,000.00 – medical examination          Php7,000.00 – OWWA Medicare and jacket/uniform.</p>
	<p>Romar R. Marzan          Nathaniel P. Dela Cruz</p>	<p><b>Php71,350.00</b></p> <p>Itemized:</p> <p>Php30,000.00 – initial placement fee          Php30,000.00 – second payment          Php11,350.00 - Korean language training, medical examination, OWWA, and jacket</p>
	<p>Daisy S. Desisto, Jr.          Mariano V. Miranda</p>	<p><b>Php72,000.00</b></p> <p>Itemized:</p> <p>Php30,000.00 – initial placement fee          Php30,000.00 – second placement fee          Php7,000.00 – two rounds of medical examination          Php5,000.00 – seminar.</p>
	<p>Romeo V. Miranda          Vilma R. Serquiña</p>	<p><b>Php116,000.00</b></p>

<sup>265</sup> Id. at 122.

<sup>266</sup> Id. at 124.

<b>T-4231<sup>267</sup></b> Estafa under Article 315, par. 2(a) of the RPC against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr. and Marlon Agoncillo		Itemized:  Php20,000.00 – initial placement fee Php30,000.00 – balance placement fee Php40,000.00 – medical examination Php26,000.00 – training fee
	Rene P. Alagano	<p style="text-align: center;"><b>Php69,500.00</b></p> Itemized:  Php60,000.00 – placement fee Php3,500.00 – medical examination Php2,500.00 – OWWA and Medicare Php3,500.00 – jacket/uniform.
	Robert R. Nuñez	
<b>Criminal Case No. T-4401</b> (Illegal Recruitment in Large Scale under Section 6 of RA 8042) against Irene Marzan, Bal Marzan, and Marlon Agoncillo	Remo Pontanos	<p style="text-align: center;"><b>Php70,000.00</b></p> Itemized:  Php35,000.00 – initial placement fee Php35,000.00 – second payment
	Evita Tome	<p style="text-align: center;"><b>Php70,000.00</b></p> Itemized: Php30,000.00 – initial placement fee Php15,000.00 – second placement fee Php25,000.00 – final payment placement fee
<b>Criminal Case No. T-4273</b> <u>(Illegal Recruitment in Large Scale under Section 6 of RA 8042) against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr. and</u>	Arnulfo Luga	<p style="text-align: center;"><b>Php80,000.00</b></p> Itemized:  Php65,000.00 – placement fee Php5,000.00 – Korean language lessons Php5,000.00 – medical examination Php5,000.00 – passport.

<sup>267</sup> Id. at 126.

<u>Marlon Agoncillo</u>	Everlina Layco	<b>Php50,000.00</b>  Itemized:  Php30,000.00 – placement fee Php5,000.00 – second placement fee Php15,000.00 – Korean language lesson and official jacket.
<b><u>Criminal Case No. T-4200 (Illegal Recruitment in Large Scale under Section 6 of RA 8042) against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay</u></b>	Arleen Serquiña	<b>Php72,000.00</b>
<b>Criminal Case No.T- 4200 (Illegal Recruitment in Large Scale under Section 6 of RA 8042) against Irene Marzan, Bal Marzan, Alejandro Navarro, Jr., Marlon Agoncillo, Fely Dulay, and Apolonio Dulay</b>	Dante Alagano	<b>Php70,000.00</b>  Itemized:  Php30,000.00 – initial placement fee Php40,000.00 – second placement fee

Finally, the monetary awards shall earn legal interest of 12% *per annum* from the filing of the Informations until June 30, 2013 and 6% *per annum* from July 1, 2013 until the finality of this Decision.

**ACCORDINGLY**, the appeal is **DENIED** and the assailed Decision dated October 26, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 04682, is **AFFIRMED with MODIFICATIONS**:

1. In **Criminal Case No. T-4200**, **Irene Marzan** is found **GUILTY** of **Illegal Recruitment in Large Scale** and sentenced to *life imprisonment*. She is ordered to **PAY** a **FINE** of Php1,000,000.00; and actual damages to Dante Alagano in the amount of Php70,000.00 and Arleen Serquiña in the amount of Php 72,000.00;

2. In **Criminal Case No. T-4273**, **Irene Marzan** is found **GUILTY** of **Illegal Recruitment in Large Scale** and sentenced to *life imprisonment*. She is ordered to **PAY** a **FINE** of Php1,000,000.00; and actual damages to Arnulfo Luga in the amount of Php80,000.00 and Everlina Layco in the amount of Php50,000.00.

3. In **Criminal Case Nos. T-4373 and T-4401**, **Irene Marzan** is found **GUILTY** of **Simple Illegal Recruitment** and sentenced to ten (10) years and one (1) day, as minimum, to twelve (12) years, as maximum for each case. She is ordered to **PAY** a **FINE** in the amount of Php500,000.00 for each case. She is further **ORDERED** to **PAY**:

- a) Aristotle De Vera Php74,850.00
- b) Remo Pontanos Php70,000.00; and
- c) Evita Tome Php70,000.00.

4. In **Criminal Case No. T-4203**, **Irene Marzan** is found **GUILTY** of **Estafa** under Article 315, paragraph 2(a) of the Revised Penal Code and sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum. She is **ORDERED** to **PAY** Armando Hidalgo Php180,000.00;

5. In **Criminal Case No. T-4207**, **Irene Marzan** is found **GUILTY** of **Estafa** under Article 315, paragraph 2(a) of the Revised Penal Code and sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum. She is **ORDERED** to **PAY** Cholin Pinto Php75,000.00;

6. In **Criminal Case No. T-4219, Irene Marzan** is found GUILTY of two counts of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code committed against Catherine Gatchalion and Alex P. Doton, Jr.. She is sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum for each count.

In addition to the appellate court's award of Php30,000.00 to Catherine Gatchalion for which Irene Marzan was held jointly and severally liable with Fely Dulay, Irene Marzan is further **ORDERED to PAY** Catherine Gatchalion Php 20,500.00 and Alex P. Doton, Jr. Php 70,000.00;

7. In **Criminal Case No. T-4221, Irene Marzan** is found GUILTY of three counts of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code committed against Mary Charmy Mariano, Joel C. Bartolome, and Cherry Lyn Doton. She is sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum for each count;

In addition to the appellate court's award of Php30,000.00 to Mary Charmy Mariano, for which appellant was held jointly and severally liable with Fely Dulay, Irene Marzan is further **ORDERED to PAY:**

- a) Mary Charmy Mariano Php19,250.00;
- b) Joel C. Bartolome Php68,500.00; and
- c) Cherry Lyn Doton Php73,650.00;

8. In **Criminal Case No. 4223, Irene Marzan** is found GUILTY of three counts of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code committed against Nelson S. Compay, Priscilla Tambo, and Shielyn A. Framil. **Irene Marzan** is sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum for each count.

In addition to the appellate court's awards of Php30,000.00 to Nelson S. Compay, Php60,000.00 to Priscilla Tambo, and Php60,000.00 to Shielyn A. Framil, for which appellant was held jointly and severally liable with Fely Dulay,

Irene Marzan is further **ORDERED** to **PAY** Nelson S. Compay Php19,925.00; Priscilla P. Tambo Php8,575.00; and Shielyn A. Framil Php5,225.00;

9. In **Criminal Case No. T-4225**, Irene Marzan is found **GUILTY** of two counts of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code committed against Nathaniel P. dela Cruz and Sofronio J. Luzano, Jr.. She is sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum for each count.

In addition to the appellate court's award of Php60,000.00 to Nathaniel dela Cruz for which appellant was held jointly and severally liable with Fely Dulay, Irene Marzan is further **ORDERED** to **PAY** Nathaniel P. dela Cruz Php5,675.00; and Sofronio J. Luzano, Jr. Php 77,000.00;

10. In **Criminal Case No. T-4227**, Irene Marzan is found **GUILTY** of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code. She is sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum. She is further **ORDERED** to **PAY** Mariano Miranda the amount of Php72,000.00 as actual damages;

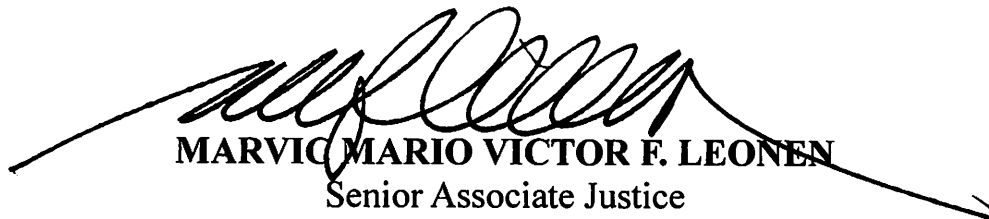
11. In **Criminal Case No. T-4231**, Irene Marzan is found **GUILTY** of two counts of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code committed against Vilma R. Serquiña and Rene P. Alagano. She is sentenced to two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum for each count. She is further **ORDERED** to **PAY** Vilma R. Serquiña Php 116,000.00; and Rene P. Alagano Php 69,500.00.

The monetary awards shall earn legal interest of 12% *per annum* from the filing of the corresponding Informations until June 30, 2013 and 6% *per annum* from July 1, 2013 until the finality of this Decision, and the total amount of the foregoing shall, in turn, earn interest at the rate of 6% per annum from finality of the Decision until full payment thereof.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**




**MARVIC MARIO VICTOR F. LEONEN**  
Senior Associate Justice  
Chairperson

(on official business)  
**MARIO V. LOPEZ**  
Associate Justice




**JHOSEP Y. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
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.



**MARVIC MARIO VICTOR F. LEONEN**  
Acting Chief Justice

