

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 5, 2019** which reads as follows:

“G.R. No. 244379 - People of the Philippines v. Nancy Leoño y Sebanes

This is an appeal from the August 24, 2018 Decision¹ of the Court of Appeals in CA-G.R. CR-H.C. No. 09579 which affirmed with modification the July 29, 2016 Decision² of the Regional Trial Court, Branch 36, Calamba City, Laguna (RTC) in Criminal Cases Nos. 16422-2009-C, 16421-2009-C, 16845-2009-C and 17138-2010-C finding accused-appellant Nancy Leoño y Sebanes guilty beyond reasonable doubt of Illegal Recruitment in Large Scale under Republic Act (R.A.) No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, and three counts of Estafa, as defined and penalized under Article 315, paragraph (par.) 2(a) of the Revised Penal Code (RPC).

The Facts

Accused-appellant and Concepcion Loyola were charged with Illegal Recruitment in Large Scale and Estafa under five separate Information, the averments of which read:

Criminal Case No. 16422-2009-C

That sometime in August up to September 2008 at Calamba City and within the jurisdiction of this Honorable Court, the above named accused conspiring, confederating and mutually helping one another, representing themselves to have the capacity to contract, enlist and transport Filipino workers for employment

- over – ten (10) pages ...

136-A

¹ Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Sesinando E. Villon and Marie Christine Azcarraga-Jacob, concurring; *rollo*, pp. 3-17.

² Penned by Presiding Judge Glenda R. Mendoza-Ramos; *CA rollo*; pp. 87-100.

abroad, did then and there wilfully, unlawfully and feloniously for a fee, recruit and promise employment to ERNALDO ALORIA, DANTE PIMENTEL AND RAYMOND MENDOZA without first having secured the required license or authority from the Philippine Overseas Employment Administration (POEA)[.]

*CONTRARY TO LAW.*³

Criminal Case No. 16421-2009-C

That sometime in September 2008 at Calamba City and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another by means of false pretenses and fraudulent acts executed prior to the commission of fraud did [then] and there wilfully, unlawfully and feloniously defraud [one] DANTE PIMENTEL in the amount of [P]27,000.00 that they charged and collected as placement/processing fees, by falsely pretending that they [are] duly authorized to engage in recruitment activities when they are not in fact so authorized, to the damage and prejudice of DANTE PIMENTEL in the aforesaid amount.

*CONTRARY TO LAW.*⁴

Criminal Case No. 16845-2009-C

That on or about August 23, 2008, immediately before or subsequently thereafter, in Calamba City, Laguna, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to gain, by means of false pretenses and/or fraudulent acts executed prior to or simultaneously with the commission of fraud, did, then and there wilfully, unlawfully and feloniously defraud one Resie Fabian Araza, in the following manner[.] to wit[:] on the date and in the place aforementioned, [accused falsely pretended to the offended party] that she had connection and capacity to deploy workers for overseas employment and that she could secure employment/placement for said Resie Fabian Araza and believing said misrepresentations, the offended party was later induced to give accused, as in fact she did give [the] total amount of FIFTY EIGHT THOUSAND FIVE HUNDRED PESOS ([P]58,500.00) Philippine Currency, and once in possession of the said amount and far from complying with her commitment and despite repeated demands made upon her to return said amount[.] did, then and there wilfully, unlawfully and feloniously and with intent to defraud, misappropriate, misapply and convert the same to her own [personal use] and with intent to defraud, misappropriate, misapply and to convert the same to her own personal use and benefit, to the damage and prejudice of the said offended party in the aforementioned amount and in such amount as may be awarded under the provisions of the Civil Code.

- over -

136-A

³ Id. at 87-88.

⁴ Id. at 88.

*CONTRARY TO LAW.*⁵Criminal Case No. 16847-2009-C

That on or about August 23, 2008, immediately before [or] subsequently thereafter, in Calamba City, Laguna, Philippines, and within the jurisdiction of the Honorable Court, the above named accused, with intent of gain, by means of false pretenses and/or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did, then and there wilfully, unlawfully and feloniously defraud one Bernardita A. Petallana, in the following manner, to wit: on the date and in the place aforementioned, accused falsely pretended to the offended that she had connection and capacity to deploy workers for overseas employment and that she could secure employment/placement for said Bernardita A. Petallana and believing said misrepresentations, the offended party was later induced to give accused, as in fact she did, then and there wilfully, unlawfully and feloniously and with intent to defraud, misappropriate, misapply and convert the same to her own personal use and benefit, to the damage and prejudice of said offended party in the aforementioned amount and in such amount as may be awarded under the provision of [the] Civil Code.

*CONTRARY TO LAW.*⁶Criminal Case No. 17138-2010-C

That on or about June 23, 2008 in the City of Calamba, Laguna and within the jurisdiction of this Honorable Court, the above[-]named accused by means of false pretenses and fraudulent acts executed prior to the commission of the fraud did then and there wilfully, unlawfully and feloniously defraud [one] Ramon Cruz in the amount of [Php] 35,000.00 and \$500 equivalent to Php 24,000.00 that she charged and collected as processing and [placement] fees, by falsely pretending that she is duly authorized to [engage] in recruitment activities when she is not in fact so authorized, to the damage and prejudice of said Ramon Cruz in the total amount of Php 59,000.00.

*CONTRARY TO LAW.*⁷

The case proceeded only against accused-appellant as co-accused Concepcion Loyola was at-large. During arraignment, accused-appellant entered a plea of not guilty to all the charges. Thereafter, trial on the merits ensued.

Version of the Prosecution

- over -

136-A

⁵ Id. at 88-89.

⁶ Id. at 89.

⁷ Id. at 89-90.

Private complainant Dante Pimentel (Pimentel) claimed that sometime between the months of August and September 2008, he went to accused-appellant's agency, La Corte Travel and General Agency (La Corte), in Calamba City, Laguna to apply as a grape picker in Germany with a monthly salary of ₱60,000.00. He paid accused-appellant ₱27,000.00 as processing and placement fees. Pimentel, however, was never deployed and accused-appellant failed to return his money.⁸

Private complainant Resie Fabian Araza alleged that she applied with accused-appellant for employment as a caregiver in London for a monthly salary of ₱200,000.00. She gave accused-appellant ₱58,500.00 as processing fee. Despite paying the said amount, accused-appellant failed to deploy her and refused to return her money.⁹

Private complaint Ramon Cruz averred that accused-appellant offered him a job as a caregiver in London conditioned upon payment of processing fees, which he did as follows: US \$500, ₱27,650.00 and ₱7,850.00, which amounts were all duly receipted. Despite paying the necessary fees, his employment in London never materialized and he never recovered the money he paid to accused-appellant despite repeated demands.¹⁰

Meanwhile, Eraldo Aloria testified that Concepcion Loyola attended to him when he went to La Corte. In the presence of accused-appellant, he was offered to work as a grape picker in Germany. He paid ₱30,000.00, but he was never deployed to Germany.¹¹

Raymond Cruz corroborated the testimony of his brother, Ramon Cruz. He stated that accused-appellant offered them to work abroad for a processing fee of ₱35,000.00 from each of them. She assured them that they would leave the country on July 27, 2008 but two days prior to their scheduled flight, accused-appellant told them that their employer could no longer meet them. The promised employment abroad did not happen and the money they gave to accused-appellant was never returned.¹²

- over -

136-A

⁸ Id. at 91.

⁹ Id. at 91-92.

¹⁰ Id. at 92.

¹¹ Id. at 90-91.

¹² Id. at 92-93.

Johnson Bolivar, a Senior Labor and Employment Officer of the Philippine Overseas Employment Administration (POEA), presented in court a Certification dated July 27, 2010 stating that La Corte is not licensed to recruit workers for overseas employment.¹³

Version of the Defense

Accused-appellant admitted that she is the sole owner of La Corte with branches in Calamba City, Makati and Batangas. She denied knowing the private complainants. She averred that certain agents in the Makati and Calamba branches entered into illegal recruitment transactions without her knowledge and consent. When she discovered about their illegal recruitment activities, she immediately ordered the closure of the Calamba branch. Her staff therein left without her knowledge and she could not locate them anymore.¹⁴

The Regional Trial Court's Ruling

In a Decision dated July 29, 2016, the RTC found accused-appellant guilty of illegal recruitment in large scale. It held that accused-appellant, in connivance with Concepcion Loyola, represented herself to have the capacity to contract, enlist and transport Filipino workers for employment abroad for a fee, undertook recruitment activities without the license therefor, and failed to deploy those she recruited.

The trial court also found accused-appellant guilty of three counts of estafa under Article 315, par. 2(a) of the RPC. The private complainants paid accused-appellant and her employees the amounts they asked on account of their representations which turned out to be false. As a result, the private complainants suffered damages when accused-appellant failed to return the amounts they paid despite demand. The *fallo* reads:

WHEREFORE, in Criminal Case No. 16422-2009-C, this Court finds the accused NANCY LEÑO y SEBANES GUILTY beyond reasonable doubt of violation of Large Scale Illegal Recruitment and hereby sentences her to suffer the penalty of LIFE IMPRISONMENT and pay a fine of [P]500,000.00 pursuant to Section 7(b) of Republic Act 8042 with subsidiary imprisonment in case of insolvency.

- over -

136-A

¹³ Id. at 93.

¹⁴ Id. at 93-94.

In Criminal Case No. 16421-2009-C for *Estafa*, this Court finds the accused NANCY LEÑO y SEBANES GUILTY beyond reasonable doubt of *Estafa* under Article 315 par. 2(a) of the Revised Penal Code and hereby sentences her to a prison term ranging from SIX (6) months and ONE (1) day of *prision correccional* as minimum up to SIX (6) years EIGHT (8) months and TWENTY-ONE (21) days of *prision mayor* as maximum and to pay civil indemnity to DANTE PIMENTEL in the amount of Twenty-Seven Thousand Pesos ([P]27,000.00).

In Criminal Case No. 16845-2009-C, this Court finds the accused NANCY LEÑO GUILTY beyond reasonable doubt of *Estafa* under Article 315 par. 2(a) of the Revised Penal Code and hereby sentences her to a prison term ranging from Six (6) Years and One (1) day of *prision correccional* as minimum up to Twenty (20) years, Four (4) months and One (1) day of *reclusion perpetua* as maximum and to pay civil indemnity to RESIE FABIAN ARAZA in the amount of Fifty-Eight Thousand Five Hundred Pesos ([P]58,500.00).

In Criminal Case No. 17138-2009-C, this Court finds the accused NANCY "ANNA" LEÑO GUILTY beyond reasonable doubt of *Estafa* under Article 315 par. 2(a) of the Revised Penal Code and hereby sentences her to a prison term ranging from SIX (6) years and ONE (1) day of *prision correccional* as minimum up to TWENTY (20) years, FOUR (4) months and ONE (1) day of *reclusion perpetua* as maximum and to pay civil indemnity to RAMON CRUZ in the amount of Fifty-Nine Thousand Pesos ([P]59,000.00)).

In Criminal Case No. 16847-2010, accused NANCY LEÑO is hereby ACQUITTED for lack of evidence.

The cases filed against CONCEPCION LOYOLA are ARCHIVED pending her arrest. The Alias Warrant issued against the accused stands.

SO ORDERED.¹⁵

Aggrieved, accused-appellant elevated an appeal before the CA.

The Court of Appeals' Ruling

In a Decision dated August 24, 2018, the CA affirmed the conviction of accused-appellant. It opined that accused-appellant's act of promising the three private complainants employment abroad provided that they pay the required processing fees, is clearly an act of recruitment. The certification from the POEA showed that accused-

- over -

136-A

¹⁵ Id. at 99-100.

appellant neither had a license nor authority to recruit workers for overseas employment. Thus, the recruitment activities are illegal.

The appellate court added that the totality of evidence shows that it was accused-appellant who purported to have the ability to send workers abroad for employment although without the authority or license to do so. On account of accused-appellant's misrepresentations, false assurances and deceit, the private complainants incurred damages as they were not deployed and the money they paid were never returned. The CA, however, modified the penalties imposed upon accused-appellant as regards her conviction for three counts of estafa pursuant to the provisions of R.A. No. 10951. Thus, it disposed the case in this wise:

WHEREFORE, the appeal is **PARTLY GRANTED**. The July 29, 2016 Decision of the Regional Trial Court (RTC) of Calamba City, Laguna, Branch 36, is hereby **AFFIRMED with Modifications**:

1. Accused-appellant Nancy Leoño y Sebanes is found **GUILTY** of Illegal Recruitment in Large Scale in *Criminal Case Nos. 16422-2009-C* and, accordingly, **SENTENCED** to suffer the penalty of life imprisonment and **ORDERED** to pay a fine of [P]500,000.00 therefor;
2. Accused-appellant Nancy Leoño y Sebanes is likewise found **GUILTY** of three (3) counts of *Estafa*. Accordingly, she is sentenced to suffer the penalty of imprisonment as follows:
 - a. In *Criminal Case No. 16421-2009-C*, six (6) months of *arresto mayor*;
 - b. In *Criminal Case No. 16845-2009-C*, four (4) months of *arresto mayor*, as minimum, to one (1) year and one (1) month of *prision correccional*, as maximum; and
 - c. In *Criminal Case No. 17138-2010-C*, four (4) months of *arresto mayor*, as minimum, to one (1) year and one (1) month of *prision correccional*, as maximum.
3. Finally, accused-appellant Nancy Leoño y Sebanes is **ORDERED** to pay actual damages

- over -

136-A



in these amounts: (a) [P]27,000.00 to Dante Pimentel; (b) [P]58,500.00 to Resie Fabian Araza; and (c) [P]59,000.00 to Ramon Cruz, which monetary awards are subject to interest at the rate of twelve percent (12%) [per annum] from the filing of the Informations on May 13, 2009, December 10, 2009 and April 20, 2010, respectively, until June 30, 2013, and six percent (6%) [per annum] from July 1, 2013 until full payment.

SO ORDERED.¹⁶

Hence, this appeal.

The Issue

Whether the CA erred in ruling that accused-appellant is guilty beyond reasonable doubt of the crime of illegal recruitment in large scale and estafa.

Accused-appellant asserts that she did not receive any money from the private complainants; that the acts complained of were committed by her agents without her knowledge and consent; and that she did not engage in recruitment activities since her agency is an entity doing travel documentation, visa assistance and ticketing for tourists.

The Court's Ruling

The appeal is denied.

The offense of illegal recruitment in large scale has the following elements: (1) the person charged undertook any recruitment activity as defined under Section 6 of R.A. No. 8042; (2) accused did not have the license or the authority to lawfully engage in the recruitment of workers; and, (3) accused committed the same against three or more persons individually or as a group.¹⁷ These elements are obtaining in this case.

First, the RTC found accused-appellant to have undertaken a recruitment activity when she promised the private complainants employment abroad for a fee. This factual finding was affirmed by the

- over -

136-A

¹⁶ *Rollo*, pp. 15-16.

¹⁷ *People v. Temporada*, 594 Phil. 680, 710 (2008).

CA. The time-tested doctrine is that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge.¹⁸ And when his findings have been affirmed by the Court of Appeals, these are generally binding and conclusive upon the Supreme Court.¹⁹ *Second*, the Certification issued by the POEA unmistakably reveals that accused-appellant neither had a license nor authority to recruit workers for overseas employment. *Third*, it was established that there were at least three (3) complainants. Clearly, the existence of the offense of illegal recruitment in large scale was duly proved by the prosecution.

Accused-appellant's defense of denial cannot overcome the positive testimonies of the witnesses presented by the prosecution. "As is well-settled in this jurisdiction, greater weight is given to the positive identification of the accused by the prosecution witnesses than the accused's denial and explanation concerning the commission of the crime."²⁰

Further, accused-appellant's argument that there was no proof that she received money from the private complainants deserves no credence. Suffice it to say that money is not material to a prosecution for illegal recruitment considering that the definition of illegal recruitment under the law includes the phrase "whether for profit or not."²¹ "It is sufficient that the accused promises or offers for a fee employment to warrant conviction for illegal recruitment."²² Further, even if there is no receipt for the money given by the private complainants to accused-appellant, the former's respective testimonies and affidavits clearly narrate the latter's involvement in the prohibited recruitment.²³

Anent the charge for *estafa*, "[w]ell-settled is the rule that a person convicted for illegal recruitment under the [law] may, for the same acts, be separately convicted for *estafa* under Article 315, par. 2(a) of the RPC. The elements of *estafa* are: (1) the accused defrauded another by abuse of confidence or by means of deceit; and (2) the offended party or a third party suffered damage or prejudice capable of pecuniary estimation."²⁴ All these elements are likewise present in

- over -

136-A

¹⁸ *People v. Rivera*, 613 Phil. 660, 667 (2009).

¹⁹ *Id.* at 668.

²⁰ *People v. Gharbia*, 369 Phil. 942, 953 (1999), citing *People v. Alvarado*, 341 Phil. 725, 726 (1997).

²¹ *People v. Valenciano*, 594 Phil. 235, 244 (2008).

²² *People v. Jamilosa*, 541 Phil. 326, 337 (2007), citing *People v. Dela Piedra*, 403 Phil. 31, 57 (2001).

²³ *Romero v. People*, 677 Phil. 151, 164 (2011).

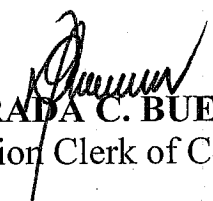
²⁴ *Supra* note 17, at 713.

this case. As aptly found by the RTC and affirmed by the CA, accused-appellant defrauded the private complainants into believing that she had the authority and capability to send them for overseas employment and because of such assurances, private complainants parted with their money in exchange for said promise of future work abroad. Still, accused-appellant's promise never materialized, thus, private complainants suffered damages to the extent of the sum of money that they had delivered to accused-appellant.

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. Accordingly, the August 24, 2018 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 09579 is hereby **AFFIRMED**.

SO ORDERED.” *Inting, J., additional member per Special Order 2726 dated October 25, 2019.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court, *CA-G.R. CR-H.C. No. 09579*
136-A

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 09579)

The Hon. Presiding Judge
Regional Trial Court, Branch 36
Calamba City, 4027 Laguna
(Crim. Case Nos. 16422-2009-C, etc.)

The Superintendent
Correctional Institution for Women
1550 Mandaluyong City

PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Building
Diliman, 1101 Quezon City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Ms. Nancy S. Leofo
Accused-Appellant
c/o The Superintendent
Correctional Institution for Women
1550 Mandaluyong City

Judgment Division (x)
Supreme Court

UR

NAF