

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FUJITA ZENCHIRO, ACCUSED-APPELLANT.

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.

On appeal is the Joint Decision[1] dated July 5, 2005 of the Regional Trial Court of Malolos, Bulacan, Branch 11 in Criminal Case Nos. 3261-M-2001 to 3264-M-2001 convicting the accused Fujita Zenchiro of the crime charged and sentencing him, as follows:

"WHEREFORE, in Criminal Case No. 3261-M-2001, this Court finds the accused Fujita Zenchiro GUILTY beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale defined and penalized under Article 38(b) in relation to Articles 34 and 39 of the Labor Code of the Philippines, P.D. No. 442, as amended and hereby sentences him to suffer the penalty of Life Imprisonment and a fine of P100,000.00. Accused is likewise ordered to pay the private complainants the following amounts as actual damages, to wit:

"1. P250,000.00 to Alberto Anatalio;

"2. P250,000.00 to Freddie Ocampo; and

"3. P250,000.00 to Alicia Diaz.

"In Criminal Case No. 3263-M-2001, this Court finds the accused Fujita Zenchiro GUILTY beyond reasonable doubt of Estafa under Art. 315, par 2(a) of the Revised Penal Code, as amended and hereby sentences him to a prison term ranging from four (4) months and Twenty (20) days of Arresto Mayor, as minimum, up to Two (2) years, Eleven (11) months and Ten (10) days of prision correccional, as maximum and to pay Alicia Diaz the amount of P10,000.00 as actual damages.

"In Criminal Case No. 3264-M-2001, this Court finds the accused Fujita Zenchiro GUILTY beyond reasonable doubt of Estafa under Art. 315, par. 2(a) of the Revised Penal Code, as amended and hereby sentences him to a prison term ranging from Four (4) Years, Nine (9) months and Eleven (11) days of Prision correccional, as minimum, up to Six (6) years, Eight (8) months and one (1) day of prision mayor as maximum and to pay Alicia Diaz the amount of P40,000.00 as actual damages.

"Criminal Case No. 3262-M-2001 is hereby DISMISSED.

"The cases against Eva Regino are hereby ARCHIVED.

"SO ORDERED." [2]

Evidence for the prosecution established the following facts:

Accused Fujita Zenchiro is a Japanese national whom private complainants Freddie Ocampo and Alberto M. Anatalio met through his co-accused Eva Regino (a.k.a. Vangie) at the latter's residence in Barangay Sto. Nino, Meycauayan, Bulacan.[3] Sometime in January 1999, said private complainants were promised employment in a

hanger factory supposedly owned by Regino's sibling in Japan. Accused demanded from each of them the amount of P250,000.00 for processing of their papers, travel expenses and placement fee.[4] On February 2, 1999, Ocampo and Anatolio each gave P50,000.00 to Regino in the presence of Zenchiro.[5] On June 24, 1999, the financier of private complainants, Florinda Cardona (Ocampo's sister and Anatolio's cousin), gave the balance of P200,000.00 each for the placement fee of Ocampo and Anatolio to Zenchiro in Baclaran, Paranaque, Metro Manila. Said payment in the total amount of P400,000.00 was covered by two (2) receipts signed by Zenchiro, who was then accompanied by Regino.[6]

On June 26, 1999, Ocampo and Anatolio escorted by Zenchiro arrived in Japan and was met at the airport by Regino. They stayed at the house of Regino's aunt in Tokyo where they remained idle for two (2) months. They tried to find a job but failed. Whenever they asked the accused, the latter just promised to work for their employment but nothing happened. Since their visas were good only for three (3) months, they returned to the Philippines in September 1999 before their expiry date.[7] Back in the country, private complainants again demanded from Regino and Zenchiro to return their money as they failed to give them work in Japan but said accused only kept promising they will just be sent to Japan a second time. They waited for one (1) year and when accused still failed to fulfill their promises, private complainants went to the Philippine Overseas Employment Authority (POEA) to file a complaint[8] against both accused. A Certification dated July 16, 2001 was issued by the POEA stating that accused are neither licensed nor authorized by said office to recruit workers for overseas employment.[9] Private complainants Ocampo and Anatolio also executed a "Sumbong-Salaysay" (Complaint-Affidavit) which led to the filing of separate Informations for Illegal Recruitment and Estafa against the same accused before the Regional Trial Court of Caloocan City (Criminal Case Nos. 63690 and 63691).[10]

On the part of private complainant Alicia Diaz, accused Regino and Zenchiro were introduced to her by a neighbor sometime in February 1999 also at the house of Regino at Barangay Sto. Nino, Meycauayan, Bulacan. They offered her a job in the hanger factory supposedly owned by Regino's sister in Japan but she was required to pay a placement fee of P250,000.00 which includes processing of travel documents. Private complainant paid the P250,000.00 placement fee as follows: P10,000.00 on March 10, 1999; P40,000.00 on March 12, 1999; and P200,000.00 on December 20, 1999 after they gave her the visa. Said payments are likewise covered by receipts issued to her and signed by Regino (P40,000.00 and 10,000.00) and Zenchiro (P100,000.00 and P100,000.00). The P50,000.00 was given to Regino at her house in Brgy. Sto Nino, Meycauayan, Bulacan while the P200,000.00 was received by Zenchiro at an apartment, where he and Regino were staying, located at Mabalacat Street, Caloocan City.[11]

Private complainant Diaz, likewise escorted by Zenchiro, left for Japan on January 12, 2000 and was met by Regino at the Narita Airport. Regino brought her to a place called Movara, along with Zenchiro and two (2) other Filipino recruits. After one (1) week, she transferred to Chiva but was not employed therein and so she called up Zenchiro but the latter did not comment on her predicament. It was Regino who came but she only got mad at private complainant and still did nothing to find a job for her. She went back to the Philippines on March 16, 2000 as her visa will expire in three (3) months; she also had a round-trip airline ticket. Thereafter, she talked to the accused as to why they did it to her. Accused asked for her forgiveness and told her they would let her leave again for Japan. Since accused failed to fulfill their promise, she asked for the return of her money. Accused, however, never returned her money and so she went to the National Bureau of Investigation (NBI) and filed this case against the accused.[12] Private complainant also filed a complaint against the accused before the POEA and executed an affidavit-complaint which led to the filing of Information for Estafa before the Regional Trial Court of Caloocan City (Criminal Case No. 62554).[13] As per a handwritten receipt dated January 3, 2002 which was admittedly signed by private complainant Diaz, accused made a partial payment to her of P50,000.00.[14]

On December 6, 2001, the present criminal cases were filed against accused Regino and Zenchiro under the following Informations, to wit:

Criminal Case No. 3261-M-2001For Illegal Recruitment in Large Scale

"That in or about the month of January 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, non-licensees or non-holders of authority from the Department of Labor and Employment to recruit and/or place workers in employment either locally or overseas, did then and there willfully, unlawfully and feloniously, with false pretenses, undertake illegal recruitment and placement for a fee of Alberto M. Anatalio, Freddie P. Ocampo and Alicia A. Diaz for overseas employment.

"Contrary to law." [15]

Criminal Case No. 3262-M-2001For Estafa

"That on or about the 2nd day of February, 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, with intent of gain, did then and there willfully, unlawfully and feloniously defraud Alberto M. Anatalio and Freddie P. Ocampo in the sum of P50,000.00 each, by then and there misrepresenting that they have the power and qualification to recruit and employ the said Alberto M. Anatalio and Freddie P. Ocampo as worker or assist them in securing employment abroad, more particularly in Japan, and could facilitate the processing and approval of the necessary papers in connection therewith, when in truth and in fact, as they well knew, they did not have such qualifications, that pursuant to such misrepresentation and defraudation, said accused demanded and received from Alberto M. Anatalio and Freddie P. Ocampo the sum of P50,000.00 each; that said accused failed and refused to comply with their afore-mentioned undertakings and instead, misappropriated the sum of P50,000.00 each, for their benefit, to the damage and prejudice of the said Alberto M. Anatalio and Freddie P. Ocampo in the total amount of P100,000.00.

"Contrary to law." [16]

Criminal Case No. 3263-M-2001For Estafa

"That on or about the 10th day of March, 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, with intent of gain, did then and there willfully, unlawfully and feloniously defraud one Alicia A. Diaz in the sum of P10,000.00, by then and there misrepresenting that they have the power and qualification to recruit and employ the said Alicia A. Diaz as worker or assist her in securing employment abroad, more particularly in Japan, and could facilitate the processing and approval of the necessary papers in connection therewith, when in truth and in fact, as they well knew, they did not have such qualifications; that pursuant to such misrepresentation and defraudation, said accused demanded and received from Alicia A. Diaz the sum of P10,000.00; that said accused failed and refused to comply with their aforementioned undertakings and instead, misappropriated the sum of P10,000.00 for their benefit, to the damage and prejudice of the said Alicia A. Diaz in the said amount of P10,000.00.

"Contrary to law." [17]

Criminal Case No. 3264-M-2001For Estafa

"That on or about the 12th day of March 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping

each other, with intent of gain, did then and there willfully, unlawfully and feloniously defraud one Alicia A. Diaz in the sum of P40,000.00, by then and there misrepresenting that they have the power and qualification to recruit and employ the said Alicia A. Diaz as worker or assist her in securing employment abroad, more particularly in Japan, and could facilitate the processing and approval of the necessary papers in connection therewith, when in truth and in fact, as they well knew they did not have such qualifications, that pursuant to such misrepresentation and defraudation, said accused demanded and received from Alicia A. Diaz the sum of P40,000.00; that said accused failed and refused to comply with their aforementioned undertakings and instead, misappropriated the sum of P40,000.00 for their benefit, to the damage and prejudice of the said Alicia A. Diaz in the said amount of P40,000.00.

"Contrary to law." [18]

Only accused Zenchiro was arrested while his co-accused Regino remained at large. [19] The four (4) criminal cases were consolidated and jointly heard. Counsel for the accused moved to quash the aforesaid criminal informations on the ground of double jeopardy in view of the earlier filing of similar criminal cases before the RTC of Caloocan City (Branch 126 - Criminal Case No. 63690; and Branch 131 -Criminal Case No. 62553). Counsel manifested that accused Zenchiro was already arraigned in the said cases. [20] The trial court, however, denied the said motion to quash in its Order dated April 10, 2002 holding that to give effect to the law defining and penalizing illegal recruitment in large scale, the appropriate criminal information should be filed as the facts constituting the graver offense becomes known or is discovered. Such finds support in Sec. 7, Rule 117 of the Revised Rules of Criminal Procedure, as amended, which in effect provides that the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information when the facts constituting the graver charge became known or were discovered only after the filing of the former complaint or information. The trial court pointed out that apparently the facts constituting the charge for illegal recruitment in large scale in this case came to the fore or became known only after Alicia Diaz together with Ocampo and Anatalio filed this case against the accused before the Office of the Provincial Prosecutor of Bulacan. [21]

Accused duly assisted by his counsel pleaded not guilty to the offenses charged in all the four (4) informations, after the same was read to him in the Filipino language which is known and understood by him. Thereafter, trial proceeded. [22]

The prosecution presented as its witnesses private complainants Alberto Anatalio, Freddie Ocampo and Alicia A. Diaz, and Florinda Cadorna. As stipulated between the defense and prosecution, the testimony of the representative from the POEA in the person of Hermogenese C. Mateo, was dispensed with for the reason that he will be testifying on the Certification he issued to the effect that both accused Regino and Zenchiro are not licensed to recruit workers for employment abroad. [23]

Accused Zenchiro in his defense testified that he met for the first time private complainants in this case while he was still in the place of his co-accused Regino in Brgy. Sto. Nino, Meycauayan, Bulacan. They sought his assistance in obtaining visa for them to go to Japan. He told them he had to verify with the Embassy of Japan as to the documents required and also the payment which has to be thru Vangie (Regino). After obtaining their individual visas, he immediately contacted Regino. He was told by Eva that he was going to escort private complainants in going to Japan because of the Filipino foods they were going to bring to Japan, and also the money which they might spend. Accused said he never told private complainants that he will look for a job for them. Private complainants Anatalio and Ocampo actually found employment in Japan and presented as proof certificate of employment which is written in Japanese characters with English translation and signed by the Chief Consul. However, he was in the Philippines during those periods and so he really did not know if private

complainants subsequently found another work in another company although he admitted having even escorted them to work to a company named Gaiza P.I. located at Minami Cusigaya City, Saitama, Japan. As to the receipts presented by Ocampo and Anatolio showing that accused was given P250,000.00 by each of them, accused claimed that the amount he actually received was in the form of a check and that such amount collected included expenses for visa and other travel documents, round-trip ticket to Japan. He spent P2,000.00 for Romy and P4,000.00 for Freddie. It was the same in the case of private complainant Diaz, he explained that the P160,000.00 received from her was spent for her visa (P2,000.00 to P4,000.00). But he insisted that he did not receive anything as he gave the money to Regino who was his friend and used to help him in his store in Japan. He denied they were live-in partners because he has a wife. He understands some of the words in the Tagalog dialect but could not speak it fluently.[24] A certificate of employment from the Japanese Embassy (in Japanese characters) showed that private complainants Ocampo and Anatolio worked for the period August 1, 1999 to September 3, 1999. Back in the Philippines, he talked to private complainant several times as they were telling him they want to go back to Japan again to work. Before going to Japan, he advised them that employment in Japan was quite strict and they had to have more vigor, but denied they had any contract for him to find work for private complainants in Japan. It was Vangie who is looking for the jobs for them in Japan. The only assistance he extended to them is only for the visa and to escort them if there are some problems here in Manila airport.[25]

On cross-examination, accused said that before meeting the private complainants in this case, he had been staying in the Philippines for three (3) months; the purpose of his visit here was to sell the "karaoke" equipments. He brought five (5) units of "karaoke" sets during that time and he was trying to sell these to someone in Malolos but since that person was not there, he left these to Vangie. He had actually been going back and forth to Japan, and also stayed in Bacolod City. As to Freddie, he met him together with his wife in February 1999 at the house of Vangie in Sto. Nino, Meycauayan, Bulacan because he was renting one (1) room of her house. He learned from Vangie that the reason they went to Vangie's house was to pay their debt to Vangie's sister and so in order to pay said debt, they wanted to go back to Japan again since before it was the mother of Vangie who assisted them for their employment in Japan. That is the case of Romy but for Freddie, it is the first time he will be going to Japan. In April 1999, he met private complainant Diaz together with an old woman who is a friend of Vangie's mother. On several occasions, he met Diaz and found out that she was interested in going to Japan; the three (3) private complainants all wanted to go to Japan but the problem is they do not have visas. He assisted them in securing visas for Japan but denied demanding huge amounts for the purpose, explaining that for the three (3) of them, it will only need P9,000.00 although it will actually cost more if you include other expenses (P120,000.00 or more). Because private complainants were asking for his assistance, he just helped them and there was no arrangement entered into between them. He was also asked to escort them in going to Japan which he did and he was also instructed to transfer the money to Japan.[26]

Still on cross-examination, accused said that he escorted Anatolio and Ocampo to Japan sometime in June 1999 and they stayed in Saitama in the house of Vangie's auntie (named Naty). He stayed with them for about two (2) weeks because he was working for the processing of the passport/visa extension. Private complainants did not ask him when they can work because Vangie and her husband introduced a place somewhere in Miami Koshigaya where they can work right after the arrival. He denied there was any agreement between him and Vangie who was the one (1) who brought them to the workplace. He likewise denied having talked with Vangie before their departure to Japan. What he received (P4,000.00 from Anatolio and P6,000.00 from Ocampo) was not a placement fee; he admitted his signature appearing in the receipts they presented (Exhibits "C-1" and "D-1"). When confronted with the Certification dated September 3, 2002 presented to the court by his lawyer, purportedly issued by a certain Kiyoshi Takeuchi, Chief Consul, Consulate General of Japan in the Philippines, accused explained it was furnished by his friend who went to the Japanese Embassy to secure it, around October 2002.

The court asked if accused was aware that the Chief Consul of the Japanese Embassy in the Philippines is not Mr. Kiyosho Takeuchi, and he replied he was then in Malolos so he does not know. [27]

On re-direct examination, accused claimed that it was Cardona's sister who asked him to sign the receipts for P200,000.00 each for Anatalio and Ocampo. The total amount included airline tickets and other expenses; he did not receive it directly though.[28] On re-cross examination, he admitted receiving from Cardona but not the whole amount. Thus, out of the P40,000.00 payment, the amount he received is P20,000.00 for the round trip airline ticket, (P24,000.00) documents translation fee (P6,000.0) and telephone bills (P4,000.00). As to the difference of P364,000.00, it went to stock of Philippine goods (75 kilos of Filipino foods which were brought to three [3] persons). Said amount was returned to private complainants to be used in bringing food stocks to Japan and also includes the cash that was given to Vangie.[29]

On July 5, 2005, the trial court rendered a Joint Decision[30] convicting the accused in the offenses charged except for one (1), with the following findings and conclusions:

"The following circumstances as established by the evidence adduced by the prosecution, both testimonial and documentary, strongly indicate the complicity of Zenchiro in the recruitment of the three (3) complainants for an inexistent employment in Japan, to wit:

"1. When the three (3) complainants went to the residence of the Regino's at Sto. Nino, Meycauayan on different occasions, in the early part of January 1999, and the matter of their supposed employment in Japan was taken up Zenchiro was personally present. Regino did much of the talking but as testified to by the complainants, she talked with Zenchiro in Nippongo, every now and then ostensibly to apprise him of what was being talked about. Foremost was the representation by Regino, which Zenchiro appears to have acquiesced into, that he was in a position to find work for the complainants in Japan. On this point, Zenchiro's own admission that he offered his own services to work for complainants' Japanese visa was a dead giveaway on his part of his active involvement in the illicit recruitment of the latter to work in Japan. From his own mouth accused supplied a credible proof of his deep immersion into the recruitment racket for employment in the land of the rising sun. This coupled with the uncontrovertible fact that he even escorted the complainants in going to Japan in the months of June 1999 and January 2000 even living under the same house with Anatolio and Ocampo therein make a strong case against him for the offense charged.

"2. That the complainants were duped into shelling large amounts for fictitious employment in Japan has been convincingly shown. All three (3) were categorical in their assertion that the accused demanded, and received, from each of them the amount of P250,000.00 as placement fee, adducing receipts in substantiation of these exactions. In the case of Anatalio and Ocampo, the two (2) were uncontradicted in their claim that on February 2, 1999, both gave P50,000.00 each to Regino as initial payment of their supposed placement fee in the presence of Zenchiro, and on this occasion, the latter told them that he would take care of their papers. Two days before their departure to Japan or on June 24, 1999, Florinda 'Bong' Cardona handed over to Zechiro P400,000.00 duly receipted by the latter (Exhs. 'C' and 'D') who even signed his name in Japanese characters.

"The same situation holds true with Diaz. In her case on March 10, 1999, she gave Regino the initial amount of P10,000.00 in her place at Sto. Nino, Meycauayan, Bulacan and two (2) days later or on March 12, 1999, she gave her the additional amount of P40,000.00 as down payment for her replacement [sic] fee. After her visa was issued, on December 20, 1999 she gave the amount of P100,000.00 in cash and a check worth P100,000.00 to Zenchiro personally at Mabalacat, 6th Avenue, Caloocan City, to complete her employment fee. It would appear that the accused at the time had moved or transferred residence from Meycauayan, Bulacan to the above address. Concerning the check, she had to encash the check herself because the two (2) refused to accept the same. This

transaction between Diaz and the accused is fully substantiated by the receipt dated December 20, 1999 signed by Zenchiro again in Japanese characters (Exhs. 'E'). Although, Zechiro made it appear in said receipt that the payment was for visa assistance, the enormity of the amount does not warrant belief to such a pretension.

"Zenchiro's attempt to show that complainants worked in different firms in Japan is futile. All that he has to show to prove his point are purported certifications from dubious Japanese firms attesting to their supposed employment which from the mere fact that these are written in Japanese characters without any official translation in English hardly deserve any evidentiary value.

"With the Certification from the POEA (Exh. 'B') that the accused are not licensed to recruit workers for local or foreign employment, both stand liable for qualified illegal recruitment in large scale under the provisions of the Labor Code, the same having been committed against three (3) persons.

"Article 38(b) of the Labor Code as amended by PD 1818 provides that illegal recruitment shall be considered an offense involving economic sabotage if any of the qualifying circumstances exist, namely:

'x x x x x

(b)' When illegal recruitment is committed in large scale i.e. if it is committed against three (3) or more persons individually or as a group.'

"From the above elucidation, it is quite clear that the two (2) accused acted in concert, animated by a common design to entice complainants to work in Japan for non-existing jobs and defraud them as a consequence of their money in the form of placement fees.

"Thus, the illicit recruitment perpetrated by the accused also constitutes Estafa under Art. 315, par. 2(a) of the Revised Penal Code, quoted hereunder:

'By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, agency, business or imaginary transactions, or by means of other similar deceits.'

"Anent the complaint for Estafa filed by Anatalio and Ocampo, it appearing that an earlier case for Estafa they filed against Zericho in Caloocan City based on their recruitment for employment in Japan has been dismissed by the RTC of Caloocan City, Branch 126 (Exh. 13) this Court is of the view that the rule on double jeopardy stands in the way of resolving Criminal case No. 3262-M-2001 against the accused.

"x x x" [31] [UNDERSCORING SUPPLIED]

Accused appealed to this Court raising the following errors allegedly committed by the court a quo:

"I.

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF LARGE SCALE ILLEGAL RECRUITMENT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE BEYOND REASONABLE DOUBT THAT HIS ACT OF SECURING COMPLAINANTS' JAPANESE VISAS IS UNDER THE TERM 'RECRUITMENT AND PLACEMENT.'

"II.

"THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY FOR THE CRIME OF ESTAFA DESPITE FAILURE OF THE PROSECUTION TO PROVE BEYOND REASONABLE DOUBT THAT THERE WAS DECEPTION ON HIS PART." [32]

The appeal lacks merit.

Illegal recruitment is defined as any recruitment activities, including the prohibited practices enumerated under Article 34 of the Labor Code, to be undertaken by non-licensees or non-holders of authority.[33] Illegal recruitment is thus committed when two elements concur, namely: (1) the offender has no valid license or authority required by law to enable one to lawfully engage in recruitment and placement of workers; and (2) he undertakes either any activity within the meaning of "recruitment and placement" defined under Article 13 (b), or any of the prohibited practices enumerated under Art. 34 of the Labor Code.[34] In case of illegal recruitment in large scale, a third element is added: that the accused commits the acts against three or more persons, individually or as a group.[35]

"Non-licensee or nonholder of authority" means any person, corporation or entity without a valid license or authority to engage in recruitment or placement from the Secretary of Labor,[36] or whose license or authority has been suspended, revoked or cancelled by the Philippine Overseas Employment Administration or the Secretary of Labor. It is not required that a person charged with illegal recruitment wrongfully represented himself as a licensed recruiter.[37] There is no dispute that this element is present in this case considering the Certification dated July 16, 2001 (Exhibit "B") issued by the POEA that accused-appellant Fujita Zenchiro and his co-accused Eva Regino are neither licensed nor authorized by said office to recruit workers for overseas employment.[38]

As to the second element of the crime, it is well settled that to prove illegal recruitment, it must be shown that appellant gave the distinct impression that he had the power or ability to send complainants abroad for work such that the latter were convinced to part with their money in order to be employed.[39] To be engaged in the practice and placement, it is plain that there must at least be a promise or offer of an employment from the person posing as a recruiter whether locally or abroad.[40] The witness must testify as to the facts that would prove recruitment.[41]

Appellant argues that the trial court gravely erred in convicting him for he crime of illegal recruitment in large scale despite the failure of the prosecution to prove beyond reasonable doubt that his act of securing private complainants' Japanese visas falls under the term "recruitment and placement." He asserts that he never enlisted, contracted, transported, utilized, hired nor procured private complainants for employment. He denies having promised to them any employment as he only assisted in securing their Japanese visas, and that he gave them any distinct impression of having the authority to recruit workers for deployment abroad.[42]

Appellant contends that there is no evidence presented by the prosecution during the trial that he represented himself as a recruiter or one (1) capable of deploying workers abroad. The testimony of private complainant Alberto Anatalio was cited to show the absence of such representation on his part. Thus, when Anatolio was asked what appellant told him after the introduction of co-accused Regino, the said witness replied that appellant "told me that he will take care of everything because he knows of many persons who could work for our papers x x x" [43] There being no promise of employment at all made by appellant to the private complainants, it is contended that he cannot be considered to have engaged in recruitment and placement within the meaning of Article 13 (b) of the Labor Code. On the contrary, it was his co-accused Eva Regino who made promises to them for employment in Japan and not appellant, as can be gleaned from the testimony of private complainant Alicia Diaz on direct examination when she declared that it was Regino who offered her a work in Japan. Appellant submits that the mere fact he was present during those conversations between private complainants and his co-accused does not mean that he acted in conspiracy with her.[44]

We do not agree.

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

"Any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not. Provided, that any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement." [UNDERSCORING SUPPLIED]

Appellant together with his co-accused Regino promised employment to private complainants as factory workers in Japan, supposedly in a hanger factory owned by Regino's sister there. Their acts of collecting P250,000.00 from each of private complainants as placement fee, processing their travel documents, particularly obtaining their individual visa from the Embassy of Japan, with appellant actually escorting them during their flight to Japan while Regino met them at the airport upon their arrival in Japan despite their lack of a valid license or authority from government authorities in the Philippines to recruit Filipino workers for overseas employment, without doubt constitute illegal recruitment.

Appellant's attempt to exculpate himself from any criminal liability by claiming that his acts were limited to assisting the private complainants in processing and securing their visas from the Japanese Embassy, appears lame and contradicted by the categorical declarations of private complainants that both appellant and his co-accused Regino promised them non-existent jobs as factory workers in Japan. Both appellant and co-accused Regino assured them that upon payment of the P250,000.00 placement fee, their travel papers will be immediately processed, their visas issued and jobs await them in Japan where a sister of Regino purportedly owns a hanger factory. The trial court enumerated all the relevant circumstances clearly showing that appellant and Regino acted in conspiracy, particularly since appellant himself received the more substantial amounts of the placement fees paid by private complainants as evidenced by receipts which he signed and gave to them.

Contrary to appellant's asseverations, the testimonies of private complainant plainly reveal his direct participation and cooperation with co-accused Regino in the illegal recruitment activities which unfortunately victimized private complainants, enticed by their simultaneous assurances and promises that made them scrounge for the exorbitant P250,000.00 "placement fee" demanded by appellant and Regino. In fact, appellant's being a Japanese national and willingness to personally escort the private complainants in going to Japan all the more convinced private complainants that the promised employment was not just a scam, as most often happens to many Filipino workers dreaming of better opportunities abroad. Thus, even assuming for the sake only of argument that it was Regino alone who verbally promised the jobs in the imaginary hanger factory owned by her sister in Japan, appellant's role as the one (1) who takes charge of procuring visas and other travel documents, collecting the placement fees, escorting the private complainants in their sojourn to Japan demonstrate his indispensable cooperation in the commission of the offense. His acts not only bespeak of full concurrence with the recruitment activities of Regino but further lent credence and semblance of truth to her false representation that they can secure jobs as factory workers for private complainants once they are already in Japan.

As shown by the following excerpts from the testimonies of the private complainants herein reproduced, taken together with documentary evidence on record, the trial court was correct in ruling that the prosecution has adequately proved that appellant committed acts constituting illegal recruitment, in conspiracy with his co-accused Regino:

DIRECT EXAMINATION -- ALBERTO ANATALIO

"Public Pros.:

"Q Mr. Witness, do you know the accused in this case Fujita Zenchiro?

"A Yes, sir.

"Q When for the first time did you come to know accused Fujita Zenchiro?

"A Through Eva. sir.

"Q In what particular place did you come to know Fujita Zenchiro?

"A In their house in Meycauayan, Bulacan, sir. In the house of Eva Regino's mother, sir.

"Q When was that when you met Fujita Zenchiro in the house of Eva Regino's mother in Meycauayan, Bulacan?

"A In January, 1999, sir.

"Q And, how come that you were in the house of Eva Regino's mother at that time?

"A Because I am an acquaintance of the mother of Eva Regino because the mother was a former recruiter, she was already old and Eva took her place, sir.

"Q Why were you there at the house of the mother of Eva Regino on January, 1999?

"A Eva told us that she knows a Japanese national who can send us to work abroad and it was accused Fujita Zenchiro, sir.

"Q And, that was the time that you were introduced to Fujita Zenchiro by Eva Regino and introducing him to you as the one who can recruit you to Japan?

"A Yes, sir.

x x x

"Court:

Anyway, I will just ask. . .

Q How were you introduced by Eva Regino to Fujita Zenchiro, the accused?

"A Eva Regino told me that it was Fujita Zenchiro can work for my papers, sir.

"Q Did the accused tell you anything after the introduction of Eva Regino?

"A Yes, Your Honor.

"Q What did he say?

"A Fujita Zenchiro told me that he will take care of everything because he knows of many persons who could work for our papers, Your Honor.

"Q In what way did he say that, in Tagalog, in Japanese, in English, in Ilokano, what?

"A In Filipino, in a broken tagalog, Your Honor.

"x x x

"Public Pros.:

"Q What did Fujita Zenchiro and Eva Regino tell you in connection with their commitment to find work for you in Japan?

"A They told me to give them P250,000.00 then we made a downpayment of P100,000.00 for the processing of

papers.

"Q When did you make that downpayment, on that particular date or in the other date?

"A When they told me about the placement fee, sir, we started looking for the money and when we were able to accumulate the amount, we went back and gave them the money, sir. That was February 2, 1999.

"Q To whom did you give the P50,000.00?

"A Eva Regino, sir.

"Q Was Fujita Zenchiro present when you gave he amount of P50,000.00 to Eva Regino?

"A Yes, sir, he was around.

"Q Did he see you gave the money to Eva Regino?

"A No, Your Honor, because he was outside.

"Q Did he say anything when you went there on February 2, 1999?

"A Yes, sir, he told me that he will take care of the papers.

"Q Were you able to go to Japan as promised to you by Fujta Zenchiro and Eva Regino?

"A Yes, sir.

"x x x"[45]

CROSS-EXAMINATION -- ALBERTO ANATALIO

"Atty. Avena:

"Q When you talked to the accused, Eva Regino and Fujita Zenchiro at the house of the mother of Eva Regino in Meycauayan, Bulacan, you were made to understand that you will be working in Japan?

"A Yes, sir.

"Q And that you will be working in the company of Recy Regino, the sister of Eva Regino?

"A Yes, sir.

"Q And that the accused Fujita Zenchiro has no hand or does not have any hand in looking for a work in Japan because you will be working already in the company of Recy Regino, is that correct?

"Public Pros.:

Misleading, Your Honor, as per testimony of this witness, it was Eva Regino and Fujita Zenchiro. . .

"Atty. Avena:

Precisely . . .

"Court:

He is on cross.

Witness:

"A Both of them told me that we are going to work in the factory of Recy regino, sir.

"x x x[46]

"Q Did you not tell her of her promise for you and your companions to work while you were in Japan?

"A No more, sir because of our excitement.

"Q You mean to say that you waited for two (2) months and never demanded for Eva Regino of her promise for you to work on her sister's factory?

"A She told us that they will look for a work for us, so we did not insist. She did not tell us that we were going to work to the company of her sister.

"Q But, you did not tell her of that plan before when you were still in the Philippines that you will be working in the factory of her sister?

"A We asked her why up to now we have not yet brought to the company where we (were) supposed to work, sir.

"Q In Japan, where was accused Fujita Zenchiro,? When you arrived in Japan, where did Fujita Zenchiro go?

"A We were together in the house of the relative of Eva, sir.

"Q After that, did you ever see again Fujita Zenchiro in Japan?

"A After one (1) month, he returned back to the Philippines, sir.

"x x x

"Q You did not ask him that you were still jobless when you met him in Japan after one month?

"A We asked them why up to that time we were not yet employed in Japan, sir. Eva Regino and Fujita Zenchiro conversed with each other in Japanese language which we cannot understand, sir.

"Q By the way, who spent for your transportation in Japan?

"A Sir, sabi ho, pagbigay ho ng pera sama-sama na hong lahat.

"Q So, the money that you paid to Eva Regino was part of the transportation expenses?

"A Yes, sir.

"Q And in coming back from Japan to the Philippines, who paid for the airline ticket?

"A Back and forth po 'yong ticket namin.

"Q And, is it not a fact Mr. Witness that what was promised by accused Fujita Zenchiro is for him to accompany you to Japan and for you to reach Japan?

"A No, sir, he told me that he will look for a job for us because he has many acquaintances in Japan, sir.

"Q However, earlier you said before you left for Japan, you were already made to understand that you will be working in the factory of the sister of Eva Regino?

Public Pros.:

Already answered, your Honor.

"x x x"[47]

RE-DIRECT EXAMINATION -- ALBERTO ANATALIO

"Fiscal:

"Q Who recruited you for work to Japan, Eva Regino or Fujita Zenchiro or both?

"A Both of them, sir.

"x x x" [48]

DIRECT EXAMINATION -- ALICIA DIAZ

"x x x

"Q Will you please tell the Honorable Court the purpose of your neighbor Estelita Mendoza in introducing you to accused Eva regino and Fujita Zenchiro?

"A My neighbor Estelita Mendoza brought me to the house of Eva Regino and Informed Eva Regino and Fujita Zenchiro were recruiting workers for employment in Japan and it was so happened that I brought along with me my passport during that time, sir.

"Q Now, when you met Eva Regino and Fujita Zenchiro, what transpired next if any?

"A Eva Regino offered me a work in Japan, sir.

"Q And what was your reply?

"A I asked her what kind of job she offering, sir.

"Q What did she tell you if any?

"A As factory worker in a hanger factory owned by his sister by the name of Recy, sir.

"Q And did she tell you of any terms or placement fee in connection with the propose employee?

"A Yes, sir.

"Q And what were the terms mentioned by accused Regino?

"A According to them I will pay P250,000.00 as placement fee, sir.

"Q How about Fujita Zenchiro did he talk to you?

"Atty. Avena:

Leading, Your Honor.

:"Court:

Why leading?

"Atty. Avena:

Because according to the witness she only talk Eva Regino.

"Fiscal

Fujta Zenchiro was present, Your Honor.

"Court:

Just reform the question.

"Fiscal:

(to the witness)

"Q Now, about Fujita Zenchiro did he tell you anything about this propose employment if any?

"A They were beside each other while they were simultaneously talking to me, sir.

"Q And what did Fujita Zenchiro tell you if any in connection with this propose employment?

"A It was Eva Rgino who was explaining it to me after Fujita Zenchiro talk to Eva Regino, in Japanese, sir.

x x x

"Q How about the travel paper, what did they tell you about the documents?

"A That they will take of them the processing of travel document, sir.

"x x x" [49]

CROSS-EXAMINATION -- ALICIA DIAZ

"x x x

"Q Who worked for your visa in going to Japan?

"A Fujita Zenchiro, sir, because he was left here in the Philippines.

"Q You are aware that in applying for a visa, there is amount to be paid to Japan Embassy?

"A According to them, sir.

"Q Do you have any written agreement with the two accused regarding your proposed trip to Japan?

"A None, sir except the receipt issued by them.

"Q Was it a verbal agreement?

"A Yes, sir.

"Q What was that verbal agreement that you entered into with the two (2) accused?

"A That they will give us job in Japan including the board and lodging in consideration with the P250,000.00.

"Q However, the amount that you gave to the accused in this case has been paid back by Fujita Zenchiro and that his only balance is P75,000.00, is that correct?

"A It was only according to the agreement between Doctora Macapugay and myself, sir.

"Q That the only balance of Fujita Zenchiro , the accused in this case is P75,000.00, is that correct?

"A Yes, sir."

"x x x[50]

RE-DIRECT EXAMINATION -- ALICIA DIAZ

"Atty. Arandia:

"Q Madam Witness, will you tell the Honorable Court the principal consideration as to why you gave the amount of P250,000.00 to accused Fujita Zenchiro and Eva Regino?

"A For a job placement in Japan, sir.

"x x x

"Q Madam Witness, will you tell the court the reason why Mr. Fujita Zenchiro refunded to you this amount of P50,000.00 covered by these Exh. 'J and Exh. '4'?

"Atty. Avena:

The best evidence will be the receipt, Your Honor.

"Atty. Arandia:

There is no showing. . .

"Court:

The reason for the refund? Okay.

"A Because he admitted that I gave the money and they did not make good their promise.

"Atty. Arandia:

"Q What promise was that that both accused did not fulfill?

"A For me to land a job in Japan, sir.

"x x x" [51]

DIRECT EXAMINATION -- FREDDIE OCAMPO

"x x x

"Q How did you come to know Mr. Fujita Zenchiro?

"A A certain Bert introduced him to me, sir.

"Q Who is this Bert whom according to you introduced you to Mr. Zenchiro?

"A He is my cousin, sir.

"Q Is that Bert the same Alberto Anatalio who is also one of the complainants in these cases?

"A Yes, sir.

"Q Will you inform this Court the occasion why you were introduced by Mr. Aanatalio to accused Fujita Zenchiro?

"A Bert went to my place at Baclaran and he told me if I wanted to apply for a job abroad, sir.

"Q To whom will you go as informed by your cousin, Alberto Anatalio?

"A To both accused at Meycauayan, Bulacan, sir.

"x x x

"Q Upon your arrival in Sto. Nino, Meycauayan, Bulacan, what happened?

"A My cousin asked me if I wanted to go to Japan, sir.

"Q Who asked you to go to Japan?

A Fujita and Eva, sir.

Q Both accused?

"A Yes, sir.

"Q What was your reply?

"A I told them, yes, if it's better, sir.

"Q Now, in going to Japan, what was the condition if there is any imposed upon by the accused in these cases?

"A Both accused told me to give Fifty Thousand Pesos (P50,000.00) first for the processing of my papers, sir.

"Q Who in particular from the accused who told you that, that you first have to give P50,000.00 for the processing of papers in going to Japan?

"A Vangie and Fujita, sir. Both of them, sir.

"Q Did you agree on the condition imposed to you by both accused in giving P50,000.00?

"A Yes, in return of the job they will give me, sir.

"Q What did they tell you as to what kind of job you will be handling in Japan?

"A The accused told us that she has a brother with a hanger factory and we are going to be employed there, sir.

"Court:

Who of the accused told you that?

"A Both of them, Your Honor.

"Atty. Arandia:

Eva Regino and Fujita Zenchiro?

"A Yes, sir.

"Q What about the salary, what did they tell you in connection with the salary?

"A They told me I will be receiving thirty (30) lapad per month, sir.

"Q What is that lapad?

"A Yes, sir.

"Q In Philippine Peso, how much is one lapad?

"A Three Thousand Five Hundred (P3,500.00) Pesos, sir.

"x x x"[52]

CROSS-EXAMINATION -- FREDDIE OCAMPO

"Atty. Avena:

"Q In connection with your work as promised to you in Japan, did you have any written contract with the accused in this case?

"A There was none, sir, he only promised to us that we can land a job in Japan, sir.

"x x x

"Q Are you sure you did not land a job in Japan?

"A Yes, sir.

"Q Are you sure?

"A Yes, sir.

"Q Is it not a fact that you worked with Saitama Ken Mimami Koshigaya City, P-I Corporation from the period July 2, 1999 to August 1, 1999 together with your co-complainant Alberto Manalo Anatalio?

"A No, sir we were only brought at that place, but we did not work there.

"Q Are you sure?

"A Yes, sir, we did not work there.

"x x x

"Q What can you say about this certification?

"A That is not true, sir.

"Q Also, there is another Certificate of Employment issued by another company in Japan wherein you worked, SWKIME Kagaku Kogyo Ltd., President Sekine Hirohisa and I quote, Your Honor. 'Certificate of Employment July 10, 2002, Freddie Patio Ocampo Alberto Manalo Anatalio

The above-mentioned persons, entered this company on August 5, 1999 and resigned on September 23, 1999. This certified that they worked in this company within this period.' What can you say regarding this certification that you worked from August 5 to September 23, 1999?

"A That is not true, sir.

x x x" [53]

[UNDERSCORING SUPPLIED]

Again, contrary to appellant's submission, it was not necessary for him and his co-accused Regino to expressly represent themselves as licensed recruiters capable of deploying workers for overseas employment.[54] It is enough that they gave the impression of having had the authority to recruit workers for deployment abroad. With

a Japanese national taking charge of procuring their visas and even escorting them in their flight to Japan, in case there comes up a problem with authorities at the Ninoy Aquino International Airport (NAIA), certainly, more than a distinct impression was created upon the private complainants that appellant and Regino indeed had the power or ability to send them abroad for work such that they were convinced to part with their money in order to be employed. Regino was to meet them upon arriving in Japan and the house of her relative therein had all been prepared as temporary abode of private complainants. When weeks passed without private complainants having been hired in the hanger factory as promised by appellant and Regino, the latter just continued to make promises and assurances that they will look for jobs for them. These repeated promises of employment, however, never materialized until their visas expired and they had to return to the Philippines without earning anything to recover at least their expenses during their three (3)-month stay in Japan. Undoubtedly, as narrated in a candid, straightforward and consistent manner by private complainants who testified during the trial, the acts of appellant showed unity of purpose with those of his co-accused Regino. All these acts establish a common criminal design mutually deliberated upon and accomplished through coordinated moves. There being conspiracy, appellant shall be equally liable for the acts of his co-accused.[55]

In light of the established facts, appellant is guilty beyond reasonable doubt of one (1) count of illegal recruitment in large scale. The appellant should suffer the penalty of life imprisonment and a fine of One Hundred Thousand Pesos (P100,000.00) for the crime of illegal recruitment in large-scale under Article 39(a) of the Labor Code.[56]

On his separate conviction for estafa under Article 315, paragraph 2(a) of the Revised Penal Code, appellant argues that it is indispensable that the element of deceit, consisting in the false statement or fraudulent representation of the accused, be made prior to, or, at least simultaneously with, the delivery of the thing by the complainant, it being essential that such false statement or fraudulent representation constitutes the very cause or the only motive which induces the complainant to part with the thing. If there be no such prior or simultaneous false statement or fraudulent representation, any subsequent act of the accused, however fraudulent and suspicious it may appear, cannot serve as a basis for prosecution for that class of estafa. Moreover, it was reiterated by the Supreme Court in *People vs. Calonzo* (G.R. No. 115150-55, 27 September 1996) that a person can be convicted for violation of the Revised Penal Code provisions on estafa, provided the elements of the crime are present. The elements of estafa are: (a) that the accused defrauded another by abuse of confidence or by means of deceit, and (b) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. Appellant submits that the first element has not been proven in this case considering that appellant merely promised to secure private complainants' Japanese visas (citing a portion of Alberto Anatolio's testimony). And since he has fulfilled that promise, there was no deception to speak of. Actually, it was proven by the testimony of private complainant Alicia Diaz who categorically testified that it was co-accused Regino who assured them of jobs in Japan. Such assurance made by Regino without the knowledge of appellant considering that he is a Japanese citizen and cannot fully understand the Filipino language, may therefore not be taken to support his conviction for estafa in conspiracy with Regino.

The contentions have no merit.

In the first place, appellant during his arraignment even assented to the reading of the information in Filipino because according to his counsel it is a language known and understood by him. And as testified to by the private complainants, appellant even spoke to them in broken Tagalog when he was promising them employment in Japan upon payment of placement fee to him and his co-accused Regino. Private complainant Diaz also testified that during their conversation regarding the proposed employment in Japan, while it was Regino who was explaining things to them, Regino would first talk to appellant in Japanese and hence appellant cannot feign ignorance of the dealings and undertakings by Regino with private complainants. Appellant knew and cooperated

in the misrepresentations and fraudulent scheme of Regino as they both duped private complainants into shelling substantial amounts of money for those promised jobs as factory workers in Japan. Although appellant fulfilled his promise of securing the visas and transporting private complainants to Japan, he nevertheless could not escape criminal responsibility for defrauding private complainants in misrepresenting to private complainants that they will have those jobs which he and Regino promised them before they left the Philippines for Japan.

The Court affirms the trial court's finding that appellant is guilty of estafa. It is well-settled that a person, for the same acts, may be charged and convicted separately of the crime of illegal recruitment under the Labor Code and estafa under paragraph 2(a) of Article 315 of the Revised Penal Code. Illegal 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 necessary for conviction. In other words, a person convicted under the Labor Code may also be convicted of offenses punishable by other laws for the same acts.[57] The very same evidence to prove commission of the crime of illegal recruitment in large scale may also establish the crime of estafa. [58]

In the case at bar, the prosecution proved beyond reasonable doubt that appellant and his co-accused Eva Regino deceived private complainants into believing that they had the authority and capability to deploy private complainants to Japan for employment. Because of the assurances given by appellant and his co-accused, private complainants parted with their hard-earned money in exchange for what they thought was a promising future abroad. The acts of appellant and his co-accused constitute estafa punishable under Article 315, paragraph 2(a) of the Revised Penal Code.[59] As it is, however, while appellant and his co-accused Regino proved they had the capability to physically transport private respondents to Japan, thru appellant's personal efforts using money given as placement fee by the private complainants, they still deceived them into believing that they had the power and ability to get them hired as factory workers in that country.

The Court thus also affirms appellant's conviction for estafa on two (2) counts only, considering that the previous dismissal of Criminal Case No. 3262-M-2001 by the RTC of Caloocan City would subject appellant to double jeopardy and bar to the present prosecution for that third estafa case filed in the court *quo* involving the same defrauded party and offense. The evidence is clear that in falsely pretending to possess the power to deploy persons for employment in Japan, appellant and his co-accused deceived private complainant Alicia Diaz into believing that the recruitment would give her a job as factory worker in Japan. Appellant and his co-accused Regino's assurance constrained the said private complainant to part with her hard-earned money in exchange for that overseas job in Japan. The elements of deceit and damage for this form of estafa are indisputably present.[60] The evidence for the prosecution shows that appellant, acting in concert with his co-accused Eva Regino, was able to make private complainant Alicia Diaz part with her hard-earned money upon his fraudulent misrepresentation that he can provide Alicia Diaz with work in Japan,[61]and not just bring her to that foreign land to remain idle for three (3) months, spending for her board and lodging, still jobless and earning nothing.

In fine, no reversible error was committed by the trial court in convicting appellant of illegal recruitment in large scale under the Labor Code and also estafa, on two (2) counts, under Article 315, paragraph 2(a) of the Revised Penal Code.

As to the penalties imposed by the trial court, We find them in accord with law and jurisprudence.

WHEREFORE, premises considered, the present appeal is hereby **DISMISSED** for lack of merit. The appealed Joint Decision dated July 5, 2005 of the Regional Trial Court of Malolos, Bulacan, Branch 11 in Criminal Case Nos. 3261-M-2001 to 3264-M-2001 is hereby **AFFIRMED** and **UPHELD**.

With costs against the accused-appellant.

SO ORDERED.

Bersamin and Arevalo, JJ., concur.

[1] Penned by Judge Basilio R. Gabo, Jr

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[2] Pages 5 -6 of Joint Decision, Records, pp. 311-312.

[3] TSN, April 25, 2002, p. 4; July 5, 2002, p. 4; September 13, 2002, pp. 3-4.

[4] TSN, April 25, 2002, pp. 6-7; July 5, 2002, pp. 4-6.

[5] TSN, April 25, 2002, pp. 7-8; July 5, 2002, pp. 5-6.

[6] Exhibits "C" and "D", Records, p. 89; TSN, May 2, 2002, pp. 28-30, 37-39.

[7] TSN, April 25, 2002, pp. 9-11; July 5, 2002, pp. 7-8.

[8] Exhibit "A", Records, p. 87.

[9] TSN, April 25, 2002, pp. 11-13; July 5, 2002, pp. 8-10; Exhibit "B", Records, p. 78.

[10] TSN, May 2, 2002, pp. 11-17; July 5, 2002, p. 10; Exhibits "1" to "3", Records, pp. 103-107.

[11] TSN, May 17, 2002, pp. 3-11; Exhibits "E" to "H", Records, p. 84.

[12] TSN, May 17, 2002, pp. 13-18.

[13] TSN, May 17, 2002, pp. 7-9; Exhibits "I", "5", "6" and "7", Records, pp. 92, 109-113.

[14] TSN, May 24, 2002, pp. 4-6, 15; Exhibit "4", Records, p. 108.

[15] Records, p. 2.

[16] Records, p. 481.

[17] Records, p. 482.

[18] Records, p. 483.

[19] Records, pp. 10-13.

[20] Records, pp. 14-16.

[21] Records, p. 44.

[22] Records, p. 45.

[23] Records, p. 67.

[24] TSN, September 13, 2002, pp. 3-10.

[25] TSN, December 13, 2002, pp. 1-3.

- [26] Ibid., pp. 4-8.
- [27] Ibid., February 21, 2003, pp. 3-9.
- [28] Ibid., pp. 10-11.
- [29] Ibid., pp. 12-13.
- [30] Records, pp. 307-312.
- [31] Ibid., pp. 310-312.
- [32] Rollo, pp. 54-55.
- [33] People vs. Hernandez, 378 SCRA 593
- [34] People vs. Gutierrez, 422 SCRA 32.
- [35] People vs. Baytic, 398 SCRA 18.
- [36] People vs. Navarra, 352 SCRA 84.
- [37] People vs. Pascua, 366 SCRA 508.
- [38] Records, p. 78.
- [39] People vs. Gasacao, 474 SCRA 812.
- [40] People vs. Gallardo, 388 SCRA 121.
- [41] People vs. Segun, 379 SCRA 673.
- [42] Rollo, pp. 63-65.
- [43] Rollo, p. 65.
- [44] Rollo, pp. 65-67.
- [45] TSN, April 25, 2002, pp. 4-8.
- [46] Ibid., pp. 14-15.
- [47] TSN, April 25, 2002, pp. 16-17..
- [48] TSN, May 2, 2002, p. 21
- [49] TSN, May 17, 2002, pp. 5-7.
- [50] TSN, May 24, 2002, p. 11.
- [51] TSN, May 24, 2002, pp. 12-13.
- [52] TSN, July 5, 2002, pp. 4-5.
- [53] TSN, July 19, 2002, pp. 2-3, 5.
- [54] Vide: People vs. Gallardo, 388 SCRA 121.
- [55] Ibid., at p. 132

[56] People vs. Ballesteros, 386 SCRA 193.

[57] People vs. Ballesteros, 386 SCRA 193.

[58] People vs. Alzona, 435 SCRA 461.

[59] Ibid., at pp. 470-471.

[60] Vide: People vs. Gallardo, 388 SCRA 121.

[61] Vide: People vs. Mercado, 304 SCRA 504.

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