

ROBERTO C. PETRALBA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, FERNANDO S. TALAVERA, JR., ADORA H. AMADO AND RUFO F. BALDEMOR, JR., RESPONDENTS.*CR No. 32117, November 17, 2010*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8e57c1c3b698/>

Proof beyond reasonable doubt as a precondition for the conviction of the accused of the offense charged is at the heart of this appeal from the Decision dated September 29, 2008 rendered by the Regional Trial Court (RTC) of Manila in Criminal Case Nos. 08-261032-34,[1] the dispositive portion of which states:

"WHEREFORE, finding the consolidated decision dated 04 January 2008 of the Metropolitan Trial Court, Branch 7, Manila convicting, among other matters, accused Roberto Petralba, alias 'Brother Tsong' or 'Brod Pete' of three (3) counts of the crime of Estafa defined and penalized under Article 315, paragraph 2 (a) of the Revised Penal Code to be in accordance with law and the evidence, the same is hereby affirmed with modification as to the penalty imposed in that said accused is hereby sentenced to suffer the indeterminate penalty of Two (2) Years, Eleven (11) Months and Twenty (20) Days of Prison Correccional Medium as the maximum for each of the three (3) counts of estafa the same to be served successively, and to indemnify complainant Rufo Baldemor, Jr. in the amount of Six Thousand and Eight Hundred (P6,800.00) Pesos, complainant Adora Amado in "the amount of Eight Thousand and Fifty (P8,050.00) Pesos, and complainant Fernando Talavera, Jr. in the amount of Eight Thousand and Fifty (P8,050.00) Pesos.

SO ORDERED.[2]

The Facts

Alongside Celeste Pascua,[3] Alexander Pascua,[4] Josephine Amado,[5] Zoilo Talavera,[6] Melanie Reyes,[7] Jay-R Hernandez,[8] Reynaldo De Vera,[9] Olga Espiras[10] and Dennis Melgarejo,[11] complainants Rufo Baldemor, Jr.,[12] Adora Amado,[13] and Fernando Talavera, Jr.[14] all filed applications for various personnel positions for a hotel in Brunei, Darusalam, which were processed and/or coursed through by accused Lysol Ivan Acedillo, a.k.a. "Nurul Xans" with the Lidros Service Contractors, Inc. (Lidros)[15] and, later, the Stockhaus International Manpower Service Inc (Stockhaus).[16] In view of their non-deployment despite interviews undergone, their submission of required documents and attendance of various seminars, said applicants filed complaints against accused Acedillo and those who allegedly participated in the perpetration of his illegal scheme namely, accused Archie De Guzman, accused Alexander Fermin and accused-appellant Roberto Petralba a.k.a., "Brother Tsong" and "Brod Pete".[17] As a consequence, criminal informations were filed on May 6, 2005 by Assistant City Prosecutor Maria Gene Julianda-Sarmiento before the Metropolitan Trial Court of Manila MeTC, indicting all of said accused for Estafa under Article 315, par. 2(a), upon the following common allegations:

"That in or about and during the period covered from August 2003 to December 2003, inclusive, in the City of Manila, Philippines the said accused, conspiring, confederating together and helping one another, did then and there willfully, unlawfully, and feloniously defraud [COMPLAINANT] in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which they made to said [COMPLAINANT], prior to and even simultaneous with the commission of the fraud to the effect that they had the power and capacity to recruit and deploy him/her in Brunei as [Front Desk Officer/ Room

Noy/Housekeeping Supervisor/Housekeeping Staff/Bell Boy/Bell Service Staff/Bell Captain/ Chamber Maid/Room Attendant] and could facilitate the processing of pertinent papers if given the necessary amount to meet the requirements thereof, induced and succeeded in inducing said [COMPLAINANT] to give and deliver, as in fact he gave and delivered to the said accused the total amount of [P8,050.00/P6,800.00/P3,000.00]p on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and was made solely for the purpose of obtaining, as in fact they did obtain the said amount of [P8,050.00/P6,800.00/P3,000.00], which amount once in their possession, with intent to defraud, wilfully, unlawfully and feloniously misappropriated, misapplied and converted the same to their own personal use and benefit, to the damage and prejudice of said [COMPLAINANT] in the aforesaid amount of [P8.050.00/P6,800.00/ P3,000.00], Philippine Currency.

Contrary to law."[18]

The complaints as aforesaid were docketed as Criminal Case Nos. 418509-20-CR before Branch 7 of the MeTC of Manila which issued the warrant of arrest by which appellant was arrested and later posed bail on June 15, 2005.[19] While accused De Guzman and Fermin remain at large,[20] accused Acedillo was then already committed at the Leyte Regional Prison, where he was serving two sentences of Life Imprisonment for Illegal Recruitment on a Large Scale.[21] With the entry of plea of not guilty by appellant and accused Acedillo upon being respectively arraigned on June 29, 2005 and December 7, 2006,[22] the MeTC proceeded to the pre-trial stage where, of the twelve original complainants. Dennis Melgarejo, Celeste Pascua, Alexander Pascua subsequently executed a Compromise Agreement on appellant's civil liabilities.[23] By the time the case reached trial on the merits, however, only complainants Fernando Talavera, Jr., Adora Amado and Rufo Baldemor, Jr. were available to testify.

To prove the charge against all of the accused, the prosecution presented the testimonies of complainants Fernando Talavera, Jr., Adora Amado and Rufo Baldemor, Jr., together with the pieces of documentary evidence marked in the course thereof. Complainant Talavera testified that sometime in August 2003 and within the premises of Lidros, he encountered appellant who promised to deploy him to Brunei as a Bell Captain, with an expected monthly salary of around P50,000.00. In addition to conducting a series of meetings, briefings and seminars, appellant is supposed to have verbally ordered applicants to undergo skills training for the positions they were ostensibly going to be deployed. Having undergone physical/ medical examinations, for which he paid the sum of P3,000.00 to accused De Guzman, complainant Talavera claimed that appellant repeatedly promised him deployment which, despite his compliance with the requirements imposed by all of the accused, never materialized.[24] Although subsequently found out to be neither an employee nor an officer of Lidros, it was allegedly appellant who not only introduced accused Acedillo as "Nurul Xanz" but also facilitated a meeting with the later and the applicants at the New Bilibid Prison (NBP) in Muntinlupa sometime in December 2003. In all, complainant Talavera claimed to have paid accused De Guzman the sum of P8,050.00 for his medical and training expenses which all came to naught.[25]

In corroboration of the foregoing testimony, complainant Adora Amado also testified that it was in August 2003 and at the Lidros where she met appellant who introduced himself as the representative of Nurul Xanz, the person who was supposed to provide employment in Brunei and/or to be in contact with the Brunei employer. Representing himself and accused Fe Guzman and Fermin to be "the ones responsible for recruiting overseas workers for Brunei", appellant and his co-accused supposedly promised her deployment within 45 days as hotel staff, with a salary of P70,000.00, plus tips and entitlement to two months' advance salary. Interviewed by accused De Guzman who later gave her Nurul Xanz' phone number, complainant Amado claimed to have talked with the latter many times about her salaries and information regarding Brunei. In the company of her co-applicants, she was allegedly brought by appellant and accused De Guzman in December 2003 to the NBP

where they met accused Acedilio, an inmate thereat, who admitted that he was Nurul Xanz. Despite undergoing medical examination and some training, the transfer of her application from Lidros to Stockhaus as well as her payment of P8,050.00 to accused De Guzman for her physical examination (P3,000.00), training (P4,750.00) and "despedida" party contribution (P300.00), complainant maintained that she was not deployed as promised.[26]

As the prosecution's final witness, complainant Rufo Baldemor, Jr. also testified that, having applied with Lidros sometime in July or August 2003 for the position of bell boy or hotel staff in Brunei, he paid the following sums to accused De Guzman, viz.: P3,000.00 as training fee; P650.00 for handouts; P500.00 for visa processing; and, P300.00 as contribution for the "despedida" party. Complainant Baldemor claimed that he first encountered appellant who usually led the prayer before the start of the training and fellowship sessions conducted at Lidros. During said sessions, appellant and accused De Guzman purportedly placed cellphone calls to one "Xans Nurul" with whom the applicants were able to converse with the help of a speaker. Although he claimed to have talked with "Xans Nurul" who told him about his potential employment as a bell boy, complainant Baldemor admitted that he was not able to meet him in person and that it was only thru his co-applicants that he subsequently learned the former was actually imprisoned at the NBP. His non-deployment reportedly impelled him to claim refunds of the sums he expended from "Xans Nurul" whose referral of his claim to Stockhaus yielded negative result.[27]

In refutation of the testimonies proffered by the above-named prosecution witnesses, appellant took the witness stand and asseverated that, as a religious volunteer who provided renewal seminars for inmates at the NBP, he met accused Acedillo sometime in July 2003. Informed by the latter that he was looking for a recruitment agency and a clinic for his job placements, appellant claimed that he subsequently signified his desire to work abroad and submitted his resume to the accused Acedillo who assured him that he was qualified for a supervisory or managerial position. Upon accused Acedillo's instructions, he reported to Lidros to attend orientation meetings presided over the former via cellphone and, amplified through a cassette player speaker, duly recorded on tape by accused De Guzman. Having paid accused Acedillo the unreceipted sum of P30,000.00 as placement fee and undergone the required hotel and restaurant management training, appellant further claimed that he subsequently recovered the sum he paid from the former upon learning the Lidros' license as a recruitment agency had been suspended September 17, 2003. With the transfer of his application to Stockhaus whose license was likewise suspended in February 2004, appellant admitted that he did not make any further payments to accused Acedillo who was supposed to have further facilitated the other applicants' entry to the NBP where he saw them in December 2003.[28]

For his part, accused Acedillo asserted that, despite his then incarceration at the NBP, he had been requested by one Datu Paduka to look for a placement agency to process the job requirements for his hotel in Brunei, the Centrepont Hotel, where he used to work as hotel operations manager. Having negotiated with Lidros for said purpose, he asked accused De Guzman to do errand jobs for said agency which eventually received the applications and, thru accused De Guzman, collected the money to be expended for the applicants' training and medical expenses. Although he was the one who evaluated the applications, accused Acedillo also claimed to have employed accused Fermin as his personal representative to relay Datu Paduka's instructions to the management of Lidros and to transact business with the latter on his behalf. As inmate at the NBP, accused Acedillo admitted that met appellant, a religious volunteer who, in the course of their acquaintance, signified his intention and subsequently submitted his application for a job abroad together with the other required documents as well as the required placement fee. It was supposedly in the company of appellant that some of the applicants met him at the NBP on December 31, 2003 for the purpose of meeting him personally and talking about their then impending deployment abroad.[29]

Giving credence to the testimonies of the witnesses for the prosecution, the MeTC went on to render the January

4, 2008 decision,[30] finding accused Acedillo and appellant guilty of three counts of the offense charged, imposing upon each of them the indeterminate penalty of six (6) months of Arresto Mayor as minimum to four (4) years, two (2) months of Prision Correccional as maximum, and ordering them to pay civil indemnities to complainants Baldemor, Amado and Talavera, together with the costs.[31] With the denial of his motion for reconsideration of the foregoing decision[32] in the MeTC's order dated April 11, 2008,[33] appellant appealed to the RTC[34] which rendered the herein appealed September 29, 2008 decision,[35] upon the following findings and conclusions, to wit:

* * * * *

"Without doubt, herein accused-appellant had committed false pretense and fraudulent acts when he introduced himself as the representative of one Nurul Xanz, a Brunei-sounding alias name for accused Acedillo obviously designed to created (sic) an impression that the latter is in a position to hire workers for a Brunei Hotel at very attractive salaries. Complainants, at the outset, had readily believed these representations as, in fact, they followed accused-appellant's instructions to undergo medical examination and seminar in hotel chores, as well as to attend the weekly meetings and briefings.

It is undenied that complainants have paid certain amounts of money to the group, through accused de Guzman, in connection with their doomed application. Certainly, without the deceitful representations and false assurances of herein accused-appellant and his co-accused of supposed high paying positions as hotel staff in Brunei, complainants would not have given their hard-earned money to the group nor expended other amounts for seminar fees, medical examinations, "despedida" party, and the like. For one thing, organizing a "despedida" party for the unsuspecting complainants - whom all the accuseds know will not really be deployed - betrays a deception and knavery of extreme proportions; and, worse, making them spend for the sham affair all the more render accused's act blatantly inhuman and unforgivable.

It is worthy to note in the appealed Decision that the trial court "finds no reason to doubt the complainant's candor, credence, and honesty of their narration." They have shown that the accused conspired and confederated together in making false representations that they have the capacity to deploy workers in Brunei. In fact, they were one in saying that they came to know of accused Acedillo through Petraiba. They also similarly testified that Petraiba actively participated in their training either as trainor or organizer. In this regard, the well-entrenched rule in (sic) that the factual findings of the trial court are entitled to the highest respect and will not be disturbed on appeal.

Indeed, the claim of the accused-appellant that he was also a victim of the illegal recruitment activities - in the same way as complainants were - is rejected for not being credible. This is precisely belied by the affirmative testimonies of complainants that herein accused-appellant had actually enticed them to apply for the Brunei - based positions, had introduced himself as representative of one Nurul Xanz who will deploy them to Brunei, had personally conducted the briefings of the applicants and introduced Nurul Xanz who would then communicate via cellphone thru a radio speaker."[36]

* * * * *

Appellant's motion for reconsideration of the foregoing decision[37] was denied for lack of merit in the RTC's November 17, 2008 order,[38] hence, this appeal.

The Issues

Appellant urges the reversal and setting aside of the appealed decision on the following grounds, viz.:

"First Reason

THE REGIONAL TRIAL COURT OF MANILA, BRANCH 54 ERRED AND, WHEN IT DID, IT RULED

CONTRARY TO THE FACTS SUPPORTED BY TESTIMONIES OF THE COMPLAINANTS THEMSELVES AND BY SUFFICIENT EVIDENCE SUBMITTED BY [APPELLANT].

Second Reason

THE REGIONAL TRIAL COURT OF MANILA, BRANCH 54 ERRED AND, WHEN IT DID, IT AFFIRMED [APPELLANTS] CONVICTION OF THE CRIME CHARGED DESPITE THE ABSENCE OF EVIDENCE SHOWING THAT [APPELLANT] PARTICIPATED IN AND/OR COMMITTED THE ACTS CONSTITUTIVE OF THE ELEMENTS OF THE CRIME CHARGED.

Third Reason

THE REGIONAL TRIAL COURT OF MANILA, BRANCH 54 ERRED AND, WHEN IT DID, IT GAVE CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANTS THAT THEY CAME TO KNOW OF ACCUSED ACEDILLO THROUGH THE APPELLANT] AND THAT THE LATTER PARTICIPATED EITHER AS TRAINOR OR ORGANIZER DESPITE OVERWHELMING COUNTERVAILING EVIDENCE SHOWING THAT [APPELLANT] DID NOT AND COULD NOT HAVE COMMITTED THE CRIME CHARGED BECAUSE HE HIMSELF WAS ALSO A MERE APPLICANT INTERESTED TO BE DEPLOYED FOR EMPLOYMENT ABROAD."[39]

The Court's Ruling

We find the appeal impressed with merit.

Consistent with the cardinal postulate that he accused shall be presumed innocent until the charged is proved, [40] it is a basic evidentiary rule in criminal law that the Prosecution has the burden of proving the guilt of the accused beyond reasonable doubt. [41] Corollary to the foregoing rule, it has been held that the prosecution's evidence must stand or fail on its own merit and cannot be allowed to draw strength from the weakness of the evidence adduced by the defense. [42] Although absolute guarantee of guilt is concededly not demanded by law to convict a person of a criminal charge, there must, however, be at least moral certainty on each of the essential element to constitute the offense and on the responsibility of the offender. In addition to the fact that proof beyond reasonable doubt is meant to be that all things given, the mind of the judge can rest at ease concerning its verdict,[43] the moral conviction that may serve as basis for a finding of guilt in a criminal case should be that which is the logical and inevitable result of the evidence on record, exclusive of any other consideration.[44]

Alongside accused Acedillo, De Guzman and Fermin, appellant was charged with estafa under Article 315 par. 2(a) of the Revised Penal Code. For a person to be convicted of said crime, the following elements must concur:

(a)

that there must be false pretense, fraudulent act or fraudulent means by (1) using fictitious name; (2) falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions; or (3) means of other similar deceptions;

(b)

that such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud;

(c)

that the offended party must have relied on the false pretense, fraudulent act, or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act, or fraudulent means; and

(d)

that as a result thereof, the offended party suffered damage.[45]

Our perusal of the record shows that appellant's participation in the fraud determined to have been perpetrated against complainants Talavera, Amado and Baldemor was not proved beyond reasonable doubt by the evidence of the prosecution presented a quo. As correctly pointed out by appellant, the various job placements for Brunei applied for by complainants were processed by accused Acedillo thru Lidros and, thru Stockhaus, both licensed overseas recruitment agency prior to the suspension of their respective licenses on September 17, 2003 and in February 2004. Altogether disregarded without justifiable reason by both the MeTC and the RTC, the unrefuted testimony of accused Acedillo is to the effect, among matters, that he was charged with filling-up the manpower requirements of one Datu Paduka, his former employer in Brunei; and, that considering his incarceration at the NDP, he negotiated a tie up with Lidros for the purpose of processing the applications filed in the premise.[46] In point of fact, it was in view of the foregoing considerations that rather than thru appellant's enticements or misrepresentations, complainants Talavera,[47] Amado[48] and Baldemor[49] all admitted that they all applied with Lidros which they either knew or were told to be a duly licensed overseas recruitment agency.

Corroborated by the October 4, 2004 Certification issued by the POEA which shows that he was Lidros' Interviewer from August 18, 2003 to December 11, 2003,[50] accused De Guzman was, moreover, the one named by accused Acedillo as his personnel he assigned he said agency for the purpose of processing the applications in connection with Datu Paduka's manpower requirements.[51] While not certified by the POEA as a legitimate employee of Lidros, on the other hand, accused Fermin[52] was identified by accused Acedillo as the one who represented him in the tie-up with said agency. Claiming that all the documents intended for and coming from Datu Paduka were coursed through him and that he was one who evaluated the same,[53] accused Acedillo significantly made no mention of appellant's participation in the recruitment scheme except to say that the latter also applied for employment in Brunei as a housekeeping manager[54] and accompanied some of the applicants to the NBI for the purpose of talking about their deployment and/or meeting him personally sometime in December 2003.[55]

During his direct examination, complainant Talavera had, of course, identified appellant as the one who: (a) offered and promised him deployment to Brunei sometime in August 2003;[56] (b) informed him that he would be receiving an approximate salary of P50,000.00 per month;[57] and, (c) required him to undergo physical examination and training on hotel management[58] and to attend weekly meeting at Lidros.[59] When queried by appellant's counsel on cross-examination, however, complainant Talavera admitted, among others, that he simply encountered appellant alongside accused De Guzman and Fermin at the seminar conducted at Lidros;[60] that the promise of deployment was made by appellant through said seminars attended by him and the other applicants;[61] and, that he actually made the payments to accused De Guzman for the medical examination and training he underwent.[62] During the additional direct examination conducted by the public prosecutor, complainant Talavera moreover clarified that it was accused Acedillo, then known to him as Nurul Xanz, who lead the weekly conferences at Lidros August to December 2003[63] and repeatedly promised them deployment to Brunei by telephone conferences.[64] On further cross-examination by appellant's counsel, complainant Talavera likewise admitted that it was respondent De Guzman who required him to undergo "training, seminar and physical exams" and that he actually learned his supposed salary for the position it was from accused

Acedillo/ Nurul Xanz.[65]

Quite significantly, the inconsistencies in complainant Talavera's testimony lend credence to the declarations in his Sinumpaang Salaysay which did not sufficiently make out a probable cause for the fraud imputed against appellant. Granted that affidavits are generally subordinated in importance to declarations made in open court,[66] we cannot simply close our eyes to said confluence between complainant Talavera's testimony and the Sinumpaang Salaysay he submitted during the preliminary investigation conducted in the case. Echoed by the those executed by complainants Amado[67] and Baldemor,[68] complainant Talavera's April 28, 2004 Sinumpaang Salaysay[69] attests to appellant's lack of participation in the recruitment of workers for the job orders supposedly being processed by accused Acedillo, to wit:

* * * * *

"1.

Na humigit-kumulang noong Agosto 2003 sa Lidros Service Contractors na may tanggapan sa 1253 Penafancia St., cor. P. Quirino Ave., Ext., Paco Manila, isang nagngangalang MR. ALEX FERMIN ay nagpakilala sa akin na may kakayahan na mangalap sa mga manggagawa para sa ibang bansa;

2.

Na ako ay binigyan ni MR. ALEX FERMIN ng contact number ni MR. IVAN ACEDELLO aka NURUL XANZ na siyang mag-iinterview sa akin para sa trabaho sa ibang bansa.

3.

Na ako, sa buong pagtitiwala ay nag-apply sa taong naturan para magtrabaho sa ibang bansa sa Brunei bilang isang Bell Captain ng isang Hotel.

4.

Na ang taong nabanggit ay pinangakuan ako ng trabaho sa ibang bansa at bilang kapalit ako ay pinabigay na akin naming binigay ang mga sumusunod:

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P4.750 (training) noong September, 2003 sa Lidros, Paco, Manila;

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P3.000.00 (medical) noong Agosto, 2003 sa Lidros, Paco, Manila;

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P300.00 (despedida party) noonq December 2003

sa Stockhaus, Malate, Manila; at

-

NBI Clearance, noong August 2003 sa Lidros Service Contractors, Paco, Manila.

5.

Na ang mga nasabing halaga at bigay ay tinanggap ni MR. ALEX FERMIN at MR ARCHIE DE GUZMAN, at ang mga nasabing tao ay hindi nagbigay ng resibo;

6.

Na pagkatapos naming magbayad kay MR ALEX FERMIN at MR. ARCHIE DE GUZMAN ay mi-schedule ako ni MR. ALEX FERMIN para magpa-medical.

7.

Na noong September, 2003 ay nagkaroon ng Orientation Briefing tungkol sa magiging trabaho ko sa Brunei na ibinigay ni IVAN ACEDILLO aka NURUL XANZ at ROBERTO PETRALBA aka BROTHER TSONG/BROD PETE;

8.

Na ang mga taong nabangit ay nabigo na maipadala ako sa Brunei;

9.

Na ang mga taong nabanggit ay nabigo at ayaw ibalik ang aking (g) pera at mga dokumento sa kabila ng aking paulit-ulit na kahilingan;

10.

Na aking natuklasan na ang mga taong naturan ay walang lisensiya o karapatan na mangalap at magpadala ng mga manggagawa sa ibang bansa."

* * * * *

If it is true, however, that promises of deployment were made by appellant at the seminars/conferences conducted at Lidros, the veracity of complainant Talavera's claim is cast in dubious light when viewed in the context of the testimony subsequently given by complainant Baldemor. Anent the circumstances surrounding his own application, the latter asserted that it was accused De Guzman who told him about the requirements[70] and to whom he submitted the same[71] as well as paid the expenses for his medical examination, training and visa processing. Simply told by employees of the Lidros that appellant was a representative of Nurul Xanz,[72] complainant Baldemor initially claimed that it was appellant who organized the training and the fellowship meetings he attended at Lidros.[73] When queried on cross-examination about the particulars at said trainings/meetings, however, complainant Baldemor admitted that he only thought appellant was the one in-charge and was involved in the recruitment process because he was the one who led the prayers at the start thereof.[74]

On closer examination, the record further shows that the inconsistencies which permeated complainant Talavera's testimony also plagued that elicited from complainant Amado. In her direct examination, complainant Amado asseverated that appellant introduced himself as a representative of Nurul Xanz[75] and claimed to be responsible for the recruitment of workers to Brunei alongside accused De Guzman and Fermin.[76] When asked about the recruitment process she underwent, however, complainant Amado stated that it was accused De Guzman who interviewed her and gave her the supposed telephone numbers of accused Acedillo/Nurul Xanz who, in turn, told her about her salary and gave the applicants briefings about Brunei.[77] Even more indicative of appellant's apparent lack of participation in complainants' recruitment were the following admissions complainant Amado made on cross examination, to wit:

* * * * *

"ATTY. AGBAYANI:

Who among the accused did you first meet at LIDROS Agency?

WITNESS:

Mr. Archie De Guzman, Sir.

ATTY. DE GUZMAN:

Is Mr. Archie De Guzman anyway related to this Lidros Agency?

WITNESS:

Yes, Sir.

ATTY. AGBAYANI:

What position does he hold?

WITNESS:

Marketing Staff, Sir.

* * * * *

ATTY. AGBAYANI:

During your first meeting with accused De Guzman, what conversation or conversations did you have?

WITNESS:

I was interviewed by Archie De Guzman and gave the telephone number of a certain Nurul Xanz who will give us our position.

ATTY. AGBAYANI:

During your conversation with Archie De Guzman, did you ask him if where you will be employed?

WITNESS:

No Sir.

* * * * *

ATTY. AGBAYANI:

How about the first time you met Alex Fermin, what was the conversation did (sic) you have?

WITNESS:

He told me that he was the one who will schedule our medical examination and on how much we will pay for it, Sir.

* * * * *

ATTY. AGBAYANI:

Ok. You said that you were able to talk to Nurul Xanz and your conversations were done through cellphone?

WITNESS:

Yes, sir.

ATTY. AGBAYANI:

And you were able to talk to him because Archie De Guzman gave you many numbers, Right?

WITNESS:

Yes, sir." [78]

* * * * *

To our mind, both the MeTC and RTC reversibly erred in simply brushing aside the above-discussed discrepancies which permeated the testimonies elicited from the prosecution witnesses and cast serious doubts anent appellant's participation in the fraud perpetrated against them. To secure a conviction, after all, it is not enough that the prosecution evidence establishes a strong suspicion or even a probability of guilt-moral certainty that the accused committed the crime is required.[79] To overcome the presumption of innocence, proof beyond reasonable doubt of every fact essential to constitute the offense with which the accused is charged must be clearly established by the prosecution.[80] In addition, all doubts must be resolved in favor of the accused[81] such that when the guilt of the accused has not been proven with moral certainty, it is a policy of long standing that the presumption of innocence of the accused must be favoured and his exoneration be granted as a matter of right.[82] This is in consonance with the fact that the presumption of innocence of an accused is a substantial part of the law founded upon a great principle of justice that cannot be balanced out merely by conjecture or probability[83]

Much had likewise been made of the fact that appellant was the one who accompanied/ facilitated the meeting for some of the applicants-among them complainants Talavera and Amado - to talk with accused Acedillo/Nurul Xanz at the NBP sometime in December 2003. In their testimonies, complainants Talavera[84] and Amado[85] both stated that they were brought by accused Acedillo to the NBP where appellant's facilitation of their entrance enabled them to talk to Nurul Xanz who admitted that he was, in fact, accused Acedillo. If it is true, however, that he was, indeed, part of the deceit perpetrated against complainants, we fail to see why appellant even facilitated the applicants' entrance to the NBP and thereby cast the validity of their recruitment in dubious light. At any rate,

complainant Amado testified that, while at the NBP, it was accused Acedillo/Nurul Xanz who told them alibis about their non-deployment and the supposed fact that they were still waiting for the job order from the employer.[86]

Concededly, all of the prosecution witnesses testified seeing appellant's dealings with his co-accused at the Lidros, Stockhaus and the NBP in the course of their pursuit of their job applications. Having met accused Acedilio as an inmate at the NBP where, as a religious volunteer, he conducted Catholic Life in the Spirit Seminars,[87] however, appellant testified that he was informed by accused Fermin about the former's search for a licensed recruitment agency and medical clinic for the purpose of processing job orders; that he subsequently expressed his intention to apply for work abroad and submitted his job application to accused Acedillo who told him about the possibility of being hired for a supervisory or managerial position; and, that as a consequence, he attended the orientation meetings held at the Lidros,[88] paid a recruitment fee in the sum of P30,000.00[89] and attended a training program for hotel and restaurant management.[90] No less than accused Acedillo confirmed appellant's application for work abroad in the following wise:

* * * * *

"ATTY. DE LOS SANTOS:

A while ago you also said that the individual complainants visited you on December 31, 2003 they were in the company of Mr. Petralba, correct?

WITNESS:

Yes ma'am.

ATTY. DE LOS SANTOS:

Would you tell us why were these individual complainants in the company of accused Petralba on December 31, 2003?

WITNESS:

Since I was in prison and Mr. Petralba was doing some religious activity and to the fact that Mr. Petralba is also an applicant, I asked him to let these girls introduce in particular to come and see me doing charismatic in the New Bilibid Prisons.

* * * * *

ATTY. DE LOS SANTOS:

You just mentioned that Mr. Petralba is also an applicant, what position did he apply for?

WITNESS:

He applied for a housekeeping manager.

ATTY. DE LOS SANTOS:

He applied to you. Why did he apply to you?

WITNESS:

Because I have (been) given the full authority of my employer to finalize everything to classify applications through various interviews.

* * * * *

ATTY. DELOS SANTOS:

You said earlier that Mr. Petralba applied as a housekeeping manager, where?

WITNESS:

For Centrepont Hotel in Brunei, Darusalam

ATTY. DE LOS SANTOS:

And as an applicant did accused Petralba likewise submit any document?

WITNESS:

He submitted all the necessary documents.

ATTY. DE LOS SANTOS:

When you say necessary documents, what documents were these?

WITNESS:

It was the NBI, the medical, passport, resume, parental consent.

ATTY. DE LOS SANTOS:

Were all these necessary documents passed by you?

WITNESS:

Submitted in the agency."[91]

* * * * *

In brushing aside appellant's claim that he was also a victim of accused Acedillo's illegal recruitment activities, the RTC simply made a sweeping statement that the same was not credible in light of the prosecution witnesses' testimonies regarding his involvement in the recruitment process they underwent.[92] Aside from erroneously disregarding the above-quoted admissions, however, the RTC failed to take into consideration the fact that said defense is buttressed by the certification issued by Seel Hoteliers Manpower Training Consultancy which shows that appellant attended a Seminar on Hotel Housekeeping/ Food and Beverage Service from December 1-6, 2003.[93] Collectively, the foregoing oral and documentary evidence ineluctably show that, like complainants Talavera, Amado and Baldemor, appellant was himself also an applicant to one of the positions accused Acedillo was supposedly processing for his foreign principal, Datu Paduka.

Considered in light of the substantial discrepancies in the prosecution witnesses' testimonies, we find that appellant's established status as an applicant for overseas employment casts reasonable doubt as to his culpability for the offense charged. If the evidence, as in the case at bench, is susceptible of two interpretations, one consistent with the innocence of the accused and the other consistent with his guilt, the rule is settled that the accused must be acquitted.[94] At the risk of redundancy, it cannot be over emphasized that our legal culture demands the presentation of proof beyond reasonable doubt before any person may be convicted of any crime and deprived of his life, liberty or property.[95] Inasmuch as proof beyond reasonable doubt is

indispensable to overcome the same,[96] the presumption of innocence in favor of the accused should be applied where the State does not succeed in proving his guilt.[97]

WHEREFORE, premises considered, the appealed decision is modified to acquit appellant of the crime charged and absolve him of the civil liability arising therefrom.

SO ORDERED.

Villon and Lazaro-Javier, JJ., concur.

[*] Court of Appeals Reports Annotated, Vol. 49.

[1] RTC Records, pp. 61-67.

[2] Id., at 66-67.

[3] MeTC Records, p. at 3

[4] Id., at 4.

[5] Id., at 7.

[6] Id., at 8.

[7] Id., at 9.

[8] Id., at 10.

[9] Id., at 11.

[10] Id., at 13.

[11] Id., at 14.

[12] Id., at 5.

[13] Id., at 6.

[14] Id., at 12.

[15] TSN, October 25, 2007, pp. 9-13

[16] TSN, November 22, 2007, p. 13-14

[17] MeTC Records, pp. 87-89; 95-103

[18] Id., at 2-14

[19] Id., at 186

[20] Id., at 174, 179, 564

[21] Id., at 192

[22] Id., at 198, 373

[23] Id., at 229

[24] TSN, December 19, 2005, pp. 3-11; Exhibits "L" and "M".

[25] TSN, February 6, 2006, pp. 6-7, 14; TSN, January 25, 2007, pp. 5-22; Exhibit "R".

[27] TSN, February 15, 2007, pp. 3-17, Exhibits "P" and "Q"

[27] April 26, 2007, pp. 4-23; Exhibits "S" and "T"

[28] TSN, November 22, 2007, pp. 3-23; Exhibit "4".

[29] TSN, October 25, 2007, pp. 2-34

[30] MTC Records, pp. 550-564

[31] "Wherefore, premises considered, the Court finds that the prosecution has proved that the accused Ivan J. Acedillo alias "Nunul Xanz" also known as 'Lysol Ivan J. Acedillo" and Roberto Petraiba alias "Brother Tsong", "Brod Pete" GUILTY beyond reasonable doubt of the crime of Estafa as defined under Article 315 (a) of the Revised Penal Code (three counts) and hereby imposes upon each of them an indeterminate penalty of Six (6) months of Arresto Mayor as minimum to Four (4) Years Two (2) Months of Prision Correccional as maximum for each case, to be served simultaneously, to pay private complainants Rufo F. Baldemor, Jr. the amount of P6,800.00, Adora H. Amado P8,050.00 and Fernando S. Talavera P8,050.00 and to pay the costs.

Let these cases be sent to the archives with respect to accused Archie de Guzman and Alexander Fermin without prejudice to their revival as soon as they arrested. Let alias warrants of arrest be issued against the.

SO ORDERED."

[32] MTC Records, pp. 581-610

[33] Id., at 623

[34] Id., at 627

[35] RTC Records, pp. 61-67

[36] Id., at 64-65.

[37] Id., at 70-97

[38] Id., 102-103

[39] Rollo, p. 18.

[40] People vs. Canete, 425 SCRA 353

[41] People vs. Cachola, 420 SCRA 520

[42] People vs. Relox, 428 SCRA 164

[43] People vs. Lumibao, 421 SCRA 65

[44] People vs. Baro, 383 SCRA 75

[45] Preferred Home Specialties, Inc. vs. Court of Appeals, G.R. No. 163503, December 16, 2005.

[46] TSN, October 25, 2007, pp. 9-13

[47] TSN, December 19, 2005, pp. 3-4; TSN, January 25, 2007, p. 17.

- [48] TSN, February 15, 2007, pp. 18-19.
- [49] TSN, April 26, 2007, pp. 4-5.
- [50] Exhibit "R", MeTC Records, p. 431.
- [51] TSN, October 25, 2007.
- [52] Supra, at Note 44.
- [53] Id., at 24-25.
- [54] Id., at 19-20.
- [55] Id., at 6-7.
- [56] TSN, December 19, 2005, p. 4.
- [57] Id., at 6.
- [58] Id., at 7.
- [59] Id., at 9.
- [60] TSN, February 6, 2006, pp. 2-3.
- [61] Id., at 4.
- [62] Id., at 9-10.
- [63] TSN, January 25, 2007, p. 6.
- [64] Id., at 12.
- [65] Id., at 18-20.
- [66] People vs. Soan, G.R. No. 112087, April 21,. 1995
- [67] Exhibit "B", MeTC Records, p. 99.
- [68] Exhibit "I", Id., at 106.
- [69] Exhibit "J", Id., at 107.
- [70] TSN, April 26, 2007, p. 5.
- [71] Id., p. 6.
- [72] Id., at 7-9.
- [73] Id., at 11.
- [74] Id., at 20.
- [75] TSN, February 15, 2007, p. 3.
- [76] Id., at 4.
- [77] Id., at 5.
- [78] Id., at 19-24.

- [79] People vs. Silvano, 381 SCRA 607.
- [80] Melayo vs. People, 392 SCRA 203
- [81] Li vs. People, 427 SCRA 217.
- [82] Arce vs. People, 379 SCRA 583.
- [83] People vs. Painitan, 349 SCRA 266.
- [84] TSN, January 25, 2007, p. 7.
- [85] TSN, February 15, 2006, p. 6
- [86] Id., at 15
- [87] Exhibit "V", MTC Record, p. 537; TSN, November 22, 2007, p. 3.
- [88] TSN, November 22, 2007, pp. 5-6.
- [89] Id., at 9-10.
- [90] Id., at 11
- [91] TSN, October 25, 2007, pp. 19-21.
- [92] RTC Record, p. 65.
- [93] Exhibit "4", MTC Records, p. 539.
- [94] People vs. Canete, 425 SCRA 353.
- [95] People vs. Robles, 349 SCRA 569
- [96] People vs. Montenegro, 436 SCRA 33
- [97] People vs. Calica, 427 SCRA 36

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