

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEPHINE FAJARDO, ACCUSED-APPELLANT.

G.R. No. 128583. November 22, 2000

Ponente: BUENA, J.

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BUENA, J.:

Appellant Josephine Fajardo, together with her sister Virgie Lanchita, was charged with illegal recruitment before the Regional Trial Court of Pasay City, Branch 114 based on an Information which reads:

"That on or about and sometime during the period from March 1993 to July 1993 in Pasay, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused JOSEPHINE FAJARDO and VIRGIE LANCHITA, conspiring and confederating together and mutually helping one another, by falsely representing themselves to have the capacity to contract, enlist and employ and recruit workers for employment abroad, did then and there wilfully, unlawfully and feloniously for fee, recruit RANDY BALSOMO, LAMBERTO BALASA, RUBEN PORRAS, EDUARDO AMISCUA, DOMINGO LEQUILLO, BENEDICTO DARIA and ARTHUR APOSAGA, without first securing the required license or authority from the Philippine Overseas Employment Administration." [1]

Appellant was likewise charged with seven (7) counts of estafa for inducing Randy Balsomo, Lamberto Balasa, Ruben Porras, Eduardo Amiscua, Domingo Lequillo, Benedicto Daria and Arthur Aposaga, herein private complainants, to pay sums of money of varying amount to her, on account of her fraudulent representations that she can facilitate their employment abroad. Except for the name of the offended party, date and amount, the seven information for estafa were couched in similar language in this wise -

"That on or about and sometime during the period from March 1993 to July 1993, in Pasay, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, JOSEPHINE FAJARDO and VIRGIE LANCHITA, conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously defraud ARTHUR APOSAGA y ARIOLA, in the following manner, to wit: that said accused, pretending to have authority, power and capacity to employ complainant abroad, facilitate his travel documents and send abroad as soon thereafter as he gives the accused the amount of P56,000.00, said accused, did by means of such and other deceits, induced and succeeded in inducing said complainant into delivering the said sum of P56,000.00, the said accused well knowing that the aforesaid representations are false and fraudulent as they were made to obtain thru fraud the above-stated sum of money from the complainant who, without knowledge of such falsity, did give and deliver unto the accused the said money, and once in possession of the same the said accused with intent to gain, did then and there wilfully, unlawfully and feloniously misapply, misappropriate and convert to her own personal use and benefit and advantage the aforestated amount to the damage and prejudice of the said complainant in the said amount of P56,000.00." [2]

Upon arraignment, appellant Fajardo pleaded not guilty to all the charges. Her sister Virgie Lanchita remains at large. Thereafter, trial proceeded with respect to appellant Fajardo.

The prosecution's case as summarized by the Solicitor General reveal the following facts:[3]

"Between February and March 1993, private complainants Lamberto Balasa, Arthur Aposaga, Ruben Porras, Benedicto Daria and Eduardo Amiscua separately went on different occasions to L.A. Worldwide Manpower and Management Services, a recruitment agency at 2814 Violeta Court, F. B. Harrison, Pasay City, to apply for work abroad. They came upon appellant Josephine Fajardo and her sister Virgie Lanchita who recruited workers for Japan. The sisters told them the requirements for applying for work abroad, among them, the P5,000.00 processing fee and P60,000.00 placement fee.

"Thus, on different dates, all five men paid the P5,000.00 processing fee. Thereafter, each of them paid varying amounts to complete the P60,000.00 placement fee, either directly to appellant or to Virgie Lanchita in the presence of appellant. Balasa paid P20,000.00 on March 14, 1993 and P15,000.00 on March 29, 1993. Aposaga paid P22,000.00 on March 14; P14,000.00 on March 29; NS P15,000.00 on May 10, 1993. Porras paid P25,000.00 on March 15 and P15,000.00 on April 5, 1993. Daria paid P25,000.00 on March 2, 1993. Amiscua paid P25,000.00 on the first week of March 1993 and P30,000.00 on the third week.

"Appellant and her sister told the men to wait for their papers to be processed so that they could leave for abroad. But months passed and the men were never deployed. Each man then demanded from the sisters the refund of the money paid but they never did.

"A verification of the record with the Licensing Division of the Philippine Overseas Employment Administration (POEA) revealed that neither Josephine Fajardo nor Virgie Lanchita was ever licensed to recruit workers. Their names were not even included in the list of personnel submitted to the POEA by L.A. Worldwide Manpower and Management Services, a duly authorized agency."

Appellant on the other hand professed her innocence, claiming that in dealing with the private complainants, she was merely acting under the authority of her employer, Mr. Ishwar Pamani, the Overseas Marketing Director of L.A. Worldwide Manpower and Manager Services - a duly licensed overseas recruitment agency - and owner of the Satellite Travel Agency, where she was employed. She allegedly received the processing and placement fees from private complainants in behalf of Mr. Pamani.

On January 22, 1997, the trial court found appellant guilty beyond reasonable doubt of the crime charged and sentenced her as follows:

"WHEREFORE, the Court finds accused JOSEPHINE FAJARDO y LANCHITA GUILTY beyond reasonable doubt as principal, in Criminal Case No. 94-5202 for Illegal Recruitment, and Estafa in five (5) counts under Criminal Cases Nos. 94-5203, 94-5206, 94-5207 and 94-5209 and sentences her as follows:

`For Crim. Case No. 94-5202:

To suffer the penalty of Life Imprisonment and to pay a fine of P100,000.00;

`For Crim. Case No. 94-5203:

To suffer the penalty of imprisonment of Fifteen (15) years of prision mayor and to indemnify the complainant, Arthur Aposaga the amount of P56,000.00 pesos.

`For Crim. Case No. 94-5204:

To suffer the penalty of Imprisonment of Twelve (12) years of prision mayor and to indemnify the complainant Benedicto Daria the amount of P30,000.00 pesos.

`For Crim. Case No. 94-5206:

To suffer the penalty of imprisonment of Fifteen (15) years of prision mayor and to indemnify the complainant Eduardo Amiscua the amount of P60,000.00 pesos.

`For Crim. Case No. 94-5207:

To suffer the penalty of imprisonment of Fourteen (14) years of prision mayor and to indemnify the complainant Ruben Porras the amount of P45,000.00 pesos.

`For Crim. Case No. 94-5209:

To suffer the penalty of imprisonment of Fourteen (14) years of prision mayor and to indemnify the complainant Lamberto Balasa the amount of P45,000.00 pesos (should be P40,000.00),

and to pay Attorney's fees in the amount of Seventy Five Thousand (P75,000.00) pesos.

"She is ACQUITTED in Criminal Cases Nos. 94-5205 and 94-5208 for lack of evidence.

"SO ORDERED."[4]

Appellant now comes to this Court, pleading us to set aside her conviction and arguing that the trial court erred:

- IN CONVICTING ACCUSED-APPELLANT FOR ILLEGAL RECRUITMENT WHEN FROM THE EVIDENCE, SHE WAS MERELY PERFORMING HER DUTIES AS AN EMPLOYEE OF ISHWAR PAMANI WHO WAS THEN THE AUTHORIZED OVERSEAS MARKETING DIRECTOR OF L.A. WORLDWIDE MANPOWER AND MANAGEMENT SERVICES, A DULY LICENSED AND AUTHORIZED ENTITY TO RECRUIT.

- ...IN FAILING TO CONSIDER THAT APPELLANT ACTED IN GOOD FAITH IN DOING AND PERFORMING ACTS UPON INSTRUCTIONS OF HER EMPLOYER WITHOUT KNOWING THAT SHE HAS TO BE REGISTERED WITH THE POEA AS EMPLOYEE OF THE RECRUITMENT AGENCY BEFORE SHE COULD WORK FOR HER EMPLOYER, MR. ISHWAR PAMANI.

- ...IN CONVICTING ACCUSED-APPELLANT IN THE FIVE (5) CASES OF ESTAFA WHEN FROM THE EVIDENCE, THE AMOUNT PAID BY THE COMPLAINING WITNESSES WERE RECEIVED BY ISHWAR PAMANI AS OVERSEAS MARKETING DIRECTOR OF L.A. WORLDWIDE MANPOWER AND MANAGEMENT SERVICES, A DULY LICENSED RECRUITMENT AGENCY.

- ...IN FAILING TO APPLY TO ACCUSED-APPELLANT THE PRESUMPTION OF INNOCENCE GUARANTEED BY THE CONSTITUTION.

We affirm the conviction.

The crime of illegal recruitment in large scale is committed when the following elements concur, namely: (1) that the accused is engaged in acts of recruitment and placement of workers as defined under Article 13(b), or in any prohibited activities under Article 34 (Prohibited Practices) of the Labor Code; (2) that the accused had not complied with the guidelines issued by the Secretary of Labor and Employment, particularly with respect to the requirement to secure a license or an authority to recruit and deploy workers, either locally or overseas; and (3) that the accused committed the unlawful acts against three or more persons, individually or as a group.[5]

The foregoing elements were duly established in the case at bar. Appellant committed acts of recruitment defined under Article 13(b) of the Labor Code which states that:

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

The testimonies of the complaining witnesses, Lamberto Balasa, Arthur Aposaga, Ruben Porras, Benedicto Daria and Eduardo Amiscua, who corroborated each other's account, showed that appellant entertained applicants for

overseas employment who came to L.A. Worldwide Manpower and Management Services, promised them jobs abroad, and received placement and processing fees.

Thus, complaining witness Lamberto Balasa testified:

"Q

Now, how did you come to know this Josephine Fajardo y Lanchita?

"A

When we proceed to the office at L.A. Lewman's Worldwide Manpower and Management Services, sir.

"Q

Where is this office located?

"A

At Violeta Court, F.B. Harrison, St., Pasay City, sir.

"x x x x x x x x

"COURT:

Wait, when did you go there?

"A

Month of March 1993, sir.

"ATTY. DIAZ:

"Q

Did you go there on your own?

"A

With my friends, sir.

"Q

What was the purpose in going to that office of Josephine Fajardo?

"A

Because, we were looking for a job abroad, sir.

"x x x x x x x x

"COURT:

What happened when you went to Lewman's Worldwide Manpower Services on March 1993?

"A

They said, they are recruiting men for job abroad, sir.

"Q

Who are these `they', that you're referring to?

"A

Virgie Lanchita and Josephine Fajardo, sir.

"Q

What particular country did these two (2), Josephine Fajardo and Virgie Lanchita did they offer you?

"A

Japan, sir.

"x x x x x x x x

"ATTY. DIAZ:

"Q

While inside the office of Josephine and Virgie, what did you do, or what did these two (2) person (sic) really told (sic) you?

"A

They said, the placement fee is P60,000.00, sir.

"Q

Who, in particular told you that?

"A

Josephine, sir.

"x x x x x x x x

"ATTY. DIAZ:

Upon mentioning the amount of P60,000.00 for placement fee, what happened next?

"A

I gave the amount of P5,000.00 as processing fee, that was during the first week of March 1993, sir.

"x x x x x x x x

"Q

After giving the amount, what were you told, if any?

A

After giving the amount of P5,000.00 I was told that we could leave after 15 days, after we have paid the amount of P60,000.00.

""Q

Were you able to give additional amount to cover the P60,000.00 placement fee?

"A

Yes, sir, on March 14."[6]

For his part, private complainant Eduardo Amiscua narrated:

"Q

When for the first time did you see the sisters, Josephine Fajardo and Virgie Lanchita?

"A

On the second week of February 1993.

"Q

Where did you see them?

"A

They were in the office of LAMWWS.

"Q

After knowing them on the second week of February, what did you do, if any?

"A

I went to their office to verify whether there are really positions/jobs in Japan.

"Q

Who, in particular did you approach?

"A

I first approached Virgie Lanchita who informed me that they are authorized to recruit job seekers to Japan and then she introduced me to Josephine Fajardo who was also in the office.

"Q

What was the reply of the sisters when you asked them whether they have really job openings in Japan.

"A

They confirm that they really have opening for overseas employment particularly in Japan as factory workers.

"Q

Were you told how much a factory worker in Japan will receive?

"A

1,500 dollars a month.

"Q

What dollars?

"A

U.S. dollars.

"Q

Were you told of anything else as to the requirements in applying for overseas job in Japan?

"A

Yes, sir.

"X X X X X X X X

"Q

What are the requirements you were told?

"A

Certification of previous service.

"COURT:

"Q

Who told you?

"A

Josephine Fajardo told me to submit a document like certification of service, seaman's passport, ID pictures, birth certificate, diploma.

"Q

What other requirements were you asked, if any, aside from the documents required?

"A

They told me that there is also a placement fee and processing fee.

"Q

How much were you told?

"A

P5,000.00 for processing fee and P60,000.00 for placement fee.

"Q

All these things transpired on the first day that you met the accused Josephine Fajardo and Virgie Lanchita, which you said on the second week of February?

"A

Yes, sir.

"Q

After you were told of the document requirements, as well as the monetary requirements, what did you do next?

"A

I bade them goodbye, I was told that I should be able to submit the processing fee at the earliest possible time exclusive of March.

"Q

What do you mean by exclusive?

"A

I was told by Josephine Fajardo that if I could come up with P25,000.00 I can be included in the batch that will be leaving in the middle of March."[7]

Private complainant Arthur Aposaga likewise testified:

"Q

Do you know persons by the names of JOSEPHINE FAJARDO Y LANCHITA and VIRGIE LANCHITA Y DIASCE?

"A

Yes, sir.

"x x x x x x x x

"Q

How did you come to know these two (2) accused Virgie Lanchita and Josephine Fajardo?

"A

They were introduced to me by Lamberto Balasa, sir.

"Q

Who is this Lamberto Balasa?

"A

He is a friend of mine.

"x x x x x x x x

"Q

When was that, when you were introduced by Lamberto Balasa to both of the accused?

"A

During the first week of March, 1993.

"Q

Where were you introduced by Lamberto Balasa to the two accused?

"A

I was introduced by Balasa to the two (2) accused at LA Worldwide Manpower Management Services located at Violeta Court, Harrison St., Pasay City.

"x x x x x x x x

"Q

After you were introduced to the two what happened next?

"A

They asked me to submit papers.

"Q

What papers exactly did they request you to submit?

"A

My bio-data, passport, birth certificate and diploma.

"COURT:

You mean to say, you were just asked to submit those papers without telling them what you want?

"x x x x x x x x

"A

I told them that I was interested in job abroad."[8]

On the other hand, private complainant Ruben Porras recounted meeting appellant in this wise:

"Q

How did you come to know the accused Josephine Fajardo and Virgie Lanchita?

"A

During the last week of February 1993, I met a province mate of mine who was also applying for a job. And, then, we were told that there's a job opening abroad at L. A. Worldwide Management Services located at Violeta Court, sir.

"Q

When did you come to know the accused in this case?

"A

The day after I met my province mate, sir.

"Q

When?

"A

When we went to that office, it was there when we met Josephine Fajardo inside the office of L.A. Worldwide Management Services.

"x x x x x x x x

"Q

When you went to L.A. Worldwide Management Services, and you said you met the accused Josephine Fajardo and Virgie Lanchita, can you recall what happened?

"A

What date?

"Q

On the day that you went to the office?

"A

We were able to talked (sic) to the sister and, it was there when we confirmed that there was a job opening for abroad, sir.

"Q

What did you do after knowing that there really a job opening for abroad, as stated by the accused' Josephine Fajardo and Virgie Lanchita?

"A

We were told about the requirements if we were really interested in applying for a job, sir.

"Q

May we know the requirements that you were told?

"A

Certificate of employment, Birth Certificate and passport, sir.

"Q

Any other documents other than the documents?

"A

The placement fee, sir.

"Q

How much?

"A

Sixty Thousand (P60,000.00), sir.

"x x x x x x x x

"Q

Were you able to submit the said documentary requirements?

"A

Yes, sir.

"x x x x x x x x

"Q

In submitting the documentary requirements, you personally go (sic) to Josephine Fajardo and Virgie

Lanchita's office?

"A

Yes, sir.

"X X X X X X X X

"Q

Who, in particular received this (sic) documentary requirements?

"A

Josephine Fajardo and Virgie Lanchita, sir.

"Q

What about the monetary requirement, were you able to produce the same?

"A

Yes, sir. Five Thousand (P5,000.00) for processing fee.

"X X X X X X X X

"Q

To whom, in particular did you give the amount of P5,000.00?

"A

To Josephine Fajardo, sir."[9]

Private complainant Benedicto Daria also narrated:

"Q

Do you know a person by the names of Josephine Fajardo and Virgie Lanchita?

"A

Yes, sir, I know them.

"X X X X X X X X

"Q

How did you come to know these two persons?

"A

Sometime in February 1993, I was then looking for a job when I met my close friend named Domingo Nikilio. This close friend of mine mentioned to me that sisters Virgie Lanchita and Josephine Fajardo were accepting applicants for Japan.

"Q

Did this friend of yours Domingo Nikilio give you any address of accused Josephine Fajardo and Virgie Lanchita?

"A

Yes, sir.

"Q

And what did you do upon knowing that these two sisters were accepting applicants for work in Japan and also knowing their address?

"A

I immediately referred to the given address.

"x x x x x x x x

"Q

Upon reaching the said office which you said is L.A. Manpower Management Services which is located along F.B. Harrison St. Pasay City, whom did you meet at said office?

"A

I asked for the sisters Virgie Lanchita and Josephine Fajardo and introduced myself to them that I was the one referred to them by Domingo Nikilio, who is also one of the applicant (sic) and informed them that I am interested in applying for a job in Japan.

"Q

What was the reply of the accused Josephine Fajardo and Virgie Lanchita when informed about what you want?

"A

I was assured by the sisters that I could leave for abroad if I meet the requirements such as paying the amount of P5,000.00 as processing fee and P60,000.00 placement fee and if I could submit the following document: (sic) birth certificate, pictures for the passport and certification from previous employment.

"Q

Was there anything specific that you need aside from being informed of the monetary and documentary requirements?

"A

Yes, sir, they asked me to fill up an application form."^[10]

From the said testimonies, it is clear that appellant gave the impression that she had the authority to send them abroad for work which convinced the latter to part with their hard earned money.^[11] Appellant has no license or authority to engage in the recruitment and placement of workers abroad, as evidenced by the Certification^[12] issued by the Philippine Overseas Employment Administration (POEA).

Appellant, however, argues that in recruiting private complainants, she merely acted under the authority of her employer, Ishwar Pamani, who was the Overseas Marketing Director of L.A. Worldwide Manpower and Management Services. She asserts that she was employed as a secretary of Satellite Travel Agency owned by Pamani and that she was only instructed by Pamani to report every morning to L.A. Worldwide to conduct recruitment activities.

We find the above contention unmeritorious.

In dealing with the private complainants, appellant presented herself as the person who had the power to deploy workers abroad. If it were true that she was not recruiting in her personal capacity but was merely acting as the secretary of Mr. Pamani, appellant should have referred the complainants to the employees of L.A. Worldwide Manpower and Management Services, a duly licensed recruitment agency, where Mr. Pamani was the Overseas Marketing Director. She did not refer complainants to Pamani, or any other person who exercised supervision over her undertaking in her dealings with the private complainants, giving us the impression that she was acting on her own. Worse, appellant did not present Pamani, the person who was allegedly responsible for the recruitment, as a witness to back up her claim. With the failure of appellant to present Pamani, she risked the adverse inference and legal presumption that evidence suppressed would be adverse if produced.[13]

Moreover, appellant did not use the receipts issued by L.A. Worldwide but her own deskpad with Satellite Travel Agency,[14] an entity which is prohibited to recruit workers under Article 26[15] of the Labor Code.

Appellant's claim that she acted in good faith and without any criminal intent is inconsequential. Illegal recruitment in large scale is *malum prohibitum*, not *malum in se*. The fact that a person violated the law warrants her conviction.[16] Appellant cannot escape liability by claiming that she was not aware that before working for her employer in the recruitment agency, she should first be registered with the POEA.

In addition, there is no showing that any of the private complainants had ill-motives to accuse and impute to appellant such a serious charge. It is an established rule that it is against human nature and experience for strangers to conspire and accuse another stranger of a most serious crime just to mollify their hurt feelings.[17]

In fine, there is no doubt that appellant is guilty of illegal recruitment. Since three or more persons had been recruited, the appellant is guilty of illegal recruitment in large scale, punishable with life imprisonment and a fine of P100,000.00.

Appellant also assails her conviction for estafa arguing that the monies paid by private complainants were all given to Ishwar Pamani and that she has not benefited from the proceeds thereof.

We find the contention untenable.

Estafa is a crime committed by a person who defrauds another, causing him to suffer damages by means of unfaithfulness or abuse of confidence, or of false pretenses or of fraudulent acts.[18] A person may be convicted of the crime of estafa if the following elements are present, to wit: (1) that the accused defrauded another by abuse of confidence or by means of deceit; (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person.[19]

Both elements have been proven in this case. Appellant, through her representations, misled private complainants that she can provide work abroad, and by reason of such assurance, private complainants parted with their hard-earned money. As all these representations proved false, appellant is guilty of estafa under Article 315 of the Revised Penal Code.[20] The fact that appellant allegedly did not benefit from the money collected from the private complainants will not relieve him of criminal responsibility.[21]

We do not, however, agree with the penalties imposed by the trial court. In sentencing the appellant, the trial court merely imposed the penalty in its maximum period which is 6 years, 8 months, and 21 days, to 8 years of prision mayor, and added one year for every P10,000.00 defrauded in excess of P22,000.00.

Article 315 of the Revised Penal Code provides:

"ART. 315. Swindling (estafa).- Any person who shall defraud another by any of the means mentioned

hereinbelow shall be punished by:

`1[st]. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such case, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be;

`2[nd]. The penalty of prision correccional in its minimum and medium periods, if the amount of the fraud is over 6,000 pesos but does not exceed 12,000 pesos;

`3[rd]. The penalty of arresto mayor in its maximum period to prision correccional in its minimum period, if such amount is over 200 pesos but does not exceed 6,000 pesos; and

`4[th]. By arresto mayor in its medium and maximum periods, if such amount does not exceed 200 pesos, provided that in the four cases mentioned, the fraud be committed by any of the following means."

The penalty prescribed by law for the estafa charge against appellant is prision correccional maximum to prision mayor minimum, the penalty next lower would then be prision correccional minimum to medium. Applying the Indeterminate Sentence Law,[22] the minimum term of the indeterminate sentence should be anywhere within six (6) months and one (1) day, to four (4) years and two (2) months; while the maximum term of the indeterminate sentence should at least be six (6) years and one (1) day and because the amounts involved exceeded P22,000.00, an additional one (1) year imprisonment should be imposed for each additional P10,000.00.[23]

Thus, the penalty imposed by the trial court should be modified as follows:

In Criminal Case No. 94-5203, the amount involved is P56,000.00. The minimum penalty should be four (4) years and two (2) months of prision correccional to nine (9) years, eight (8) months and twenty (20) days of prision mayor, as maximum.

In Criminal Case No. 94-5204, the amount involved is P30,000.00. The minimum penalty should be four (4) years and two (2) months of prision correccional, to six (6) years, eight (8) months and twenty (20) days of prision mayor, as maximum. There is no additional imprisonment imposed because the excess is only P8,000.00.

In Criminal Case No. 94-5206, the amount involved is P60,000.00. The minimum penalty should be four (4) years and two (2) months of prision correccional, to nine (9) years, eight (8) months and twenty (20) days of prision mayor, as maximum.

In Criminal Case No. 94-5207, the amount involved is P45,000.00. The minimum penalty should be four (4) years and two (2) months of prision correccional, to eight (8) years, eight (8) months and twenty (20) days of prision mayor, as maximum.

In Criminal Case No. 94-5209, the amount involved is P40,000.00. The minimum penalty is four (4) years and two (2) months of prision correccional to seven (7) years, eight (8) months and twenty (20) days of prision mayor, as maximum.

WHEREFORE, the decision of the Regional Trial Court, finding appellant Josephine Fajardo guilty beyond reasonable doubt of the crimes of illegal recruitment in large scale, is AFFIRMED and the penalties imposed in the estafa cases are hereby MODIFIED, as follows:

- Criminal Case No. 94-5203:

To serve an indeterminate sentence of 4 years and 2 months of prision correccional, as MINIMUM, to 9 years, 8 months and 20 days of prision mayor, as MAXIMUM, and to indemnify the complainant Arthur Aposaga the amount of P56,000.00 pesos.

- Criminal Case No. 94-5204:

To serve an indeterminate sentence of 4 years and 2 months of prision correccional, as MINIMUM, to 6 years, 8 months and 22 days of prision mayor, as MAXIMUM, and to indemnify the complainant Benedicto Daria the amount of P30,000.00 pesos.

- Criminal Case No. 94-5206:

To serve an indeterminate sentence of 4 years and 2 months of prision correccional, as MINIMUM, to 9 years, 8 months and 20 days of prision mayor, as MAXIMUM, and to indemnify complainant Eduardo Amiscua the amount of P60,000.00 pesos.

- Criminal Case No. 94-5207:

To serve an indeterminate sentence of 4 years and 2 months of prision correccional, as MINIMUM, to 8 years, 8 months and 20 days of prision mayor, as MAXIMUM, and to indemnify complainant Ruben Porras the amount of P45,000.00 pesos.

- Criminal Case No. 94-5209:

To serve an indeterminate sentence of 4 years and 2 months of prision correccional, as MINIMUM, to 7 years, 8 months and 20 days of prision mayor, as MAXIMUM, and to indemnify complainant Lamberto Balasa the amount of P45,000.00 pesos.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Records, pp. 1-2.

[2] Id, pp. 28-29; 40-41; 52-53; 64-65; 76-77; 87-88; 98-99.

[3] Appellee's Brief, end notes omitted.

[4] RTC Decision, pp. 513-541, Records.

[5] Article 38 (b) x x x Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group. See also *People vs. Lorna Guevarra*, 306 SCRA 111 [1999]; *People vs. Mercado*, 304 SCRA 504 [1999].

[6] TSN, March 23, 1995, pp. 6-9.

[7] TSN, October 18, 1995, pp. 5-7.

[8] TSN, April 11, 1995, pp. 3-6.

[9] TSN, September 7, 1995, pp. 5-10.

[10] TSN, October 4, 1995, pp. 3-5.

[11] *People of the Philippines vs. Goce*, 247 SCRA 780 [1995].

[12] Exhibit "D."

"CERTIFICATION

This is to certify that per available records of this Office, JOSEPHINE FAJARDO OR JOSEPHINE LANCHITA / VIRGINIA LANCHITA OR VIRGIE LANCHITA y DIASCE OR VIRGIE SUMUGAT IN THEIR PERSONAL CAPACITIES with Office address at 101 Valencia St. Inter City Homes Cupang, Muntinlupa, Metro Manila is/are neither licensed nor authorized by this Administration to recruit workers for overseas employment."

[13] *People vs. Remedios Enriquez*, 306 SCRA 739 [1999].

[14] Exhs. "A," "A-A," "B," "B-B," "CC," "F," "FF," "G," "GG," Records, pp. 395-399.

[15] Art. 26. Travel agencies prohibited to recruit.- Travel agencies and sales agencies of airline companies are prohibited from engaging in the business of recruitment and placement of workers for overseas employment whether for profit or not.

[16] *People vs. Reyes*, 282 SCRA 105, 122 cited in *People vs. Enriquez*, 306 SCRA 739, 748 [1999].

[17] *People vs. Carol*, 230 SCRA 499 cited in *People vs. Guevarra*, 306 SCRA 111, 125 [1999].

[18] Article 315, Revised Penal Code; *Liwanag vs. Court of Appeals*, 281 SCRA 225, 229 [1997].

[19] *People vs. Romero*, 224 SCRA 749 [1993].

[20] *People vs. Mercado*, 304 SCRA 504, 529 [1999]; *People vs. Calonzo*, 262 SCRA 534 [1996]; *People vs. Benemerito*, 264 SCRA 677, 693 [1996].

[21] *United States vs. Umali*, 15 Phil. 33, 38 [1910].

[22] Section 1 of Act No. 4103 (as amended) -

"SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same."

[23] *People vs. Gabres*, 267 SCRA 581, 596 [1997].

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