

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHARLIE COMILA AND AIDA COMILA, ACCUSED-APPELLANTS.

G.R. NO. 171448. February 28, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

On April 5, 1999, in the Regional Trial Court (RTC) of Baguio City, an Information[1] for Illegal Recruitment committed in large scale by a syndicate, as defined and penalized under Article 13(6) in relation to Articles 38(b), 34 and 39 of Presidential Decree No. 442, otherwise known as the New Labor Code, as amended, was filed against Charlie Comila, Aida Comila and one Indira Ram Singh Lastra, allegedly committed as follows:

That on or about the 7[th] day of September, 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually aiding one another, did then and there willfully, unlawfully and feloniously offer, recruit, and promise employment as contract workers in Italy, to the herein complainants, namely: MARLYN ARO y PADCAYAN, ANNIE FELIX y BAKISAN, ELEONOR DONGGA-AS y ANGHEL, ESPERANZA BACKIAN y LAD-EY, ZALDY DUMPILES y MALIKDAN, JOEL EDIONG y CALDERON, RICKY WALDO y NICKEY, JEROME MONTAÑEZ y OSBEN, DOVAL DUMPILES y SAP-AY, JONATHAN NGAOSI y DUMPILES, EDMUND DIEGO y SUBIANGAN and MARLON PETTOCO y SUGOT, without said accused having first secured the necessary license or authority from the Department of Labor and Employment.

CONTRARY TO LAW.

The Information was docketed in the RTC as Crim. Case No. 16427-R and raffled to Branch 60 thereof.

On the same date - April 5, 1999 - and in the same court, twelve (12) separate Informations[2] for Estafa were filed against the same accused at the instance of the same complainants. Docketed as Criminal Case Nos. 16428-R to 16439-R and likewise raffled to the same branch of the court, the twelve (12) Informations for Estafa, varying only as regards the names of the offended parties and the respective amounts involved, uniformly recite:

That on or about the 10[th] day of November, 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another did then and there willfully, unlawfully and feloniously defraud one ZALDY DUMPILES Y MALIKDAN by way of false pretenses, which are executed prior to or simultaneously with the commission of the fraud, as follows, to wit: the accused knowing fully well that he/she/they is/are not AUTHORIZED job RECRUITERS for persons intending to secure work abroad convinced said Zaldy Dumpiles y Malikdan and pretended that he/she/they could secure a job for him/her abroad, for and in consideration of the sum of P25,000.00 and representing the placement and medical fees when in truth and in fact could not; the said Zaldy Dumpiles y Malikdan deceived and convinced by the false pretenses employed by the accused parted away the total sum of P25,000.00 in favor of the accused, to the damage and prejudice of the said Zaldy Dumpiles y Malikdan in the aforementioned amount of TWENTY FIVE THOUSAND PESOS (P25,000.00), Philippine currency.

CONTRARY TO LAW.

Of the three accused named in all the aforementioned two sets of Informations, only accused Aida Comila and Charlie Comila were brought under the jurisdiction of the trial court, the third, Indira Ram Singh Lastra, being then and still is at large.

Arraigned with assistance of counsel, accused Aida Comila and Charlie Comila entered a plea of "NOT GUILTY" not only to the Information for Illegal Recruitment (Crim. Case No. 16427-R) but also to the twelve (12) Informations for Estafa (Crim. Case Nos. 16428-R to 16439-R).

Thereafter, a joint trial of the cases ensued.

Of the twelve (12) complainants in both the illegal recruitment and estafa charges, the prosecution was able to present only seven (7) of them, namely: Annie Felix y Bakisan; Ricky Waldo y Nickey; Jonathan Ngaosi y Dumpiles; Marilyn Aro y Padcayan; Edmund Diego y Subiangan; Jerome Montañez y Osben; and Eleonor Dongga-as y Anghel. A certain Jose Matias of the Philippine Overseas Employment Administration (POEA) was supposed to testify for the prosecution but his testimony was dispensed after the defense agreed that he will merely testify to the effect that as per POEA records, accused Aida Comila and Charlie Comila were not duly licensed or authorized to recruit workers for overseas employment.

In a consolidated decision[3] dated October 3, 2000, the trial court found both accused GUILTY beyond reasonable doubt of the crimes of Illegal Recruitment committed in large scale by a syndicate, as charged in Crim. Case No. 16427-R, and of estafa, as charged in Crim. Case Nos. 16430-R; 16431-R, 16432-R, 16434-R, 16436-R, 16438-R, and 16439-R. The other informations for estafa in Crim. Case Nos. 16428-R, 16429-R, 16433-R, 16435-R and 16437-R were, however, dismissed for lack of evidence. We quote the fallo of the trial court's decision:

WHEREFORE, premises considered, this court hereby finds the accused, Aida Comila and Charlie Comila:

- In Criminal Case No. 16427-R, GUILTY beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale Committed by a Syndicate. They are hereby sentenced to each suffer the penalty of life imprisonment and a fine of P100,000.00;
- In Criminal Case No. 16430-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances and applying the provisions of the Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years of prision mayor, as maximum. They shall also jointly and severally pay the complainant, Marilyn Aro, the sum of P25,500.00 plus interest from the date this Information was filed until it is fully paid;
- In Criminal Case No. 16431-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances and applying the provisions of the Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum. They shall also jointly and severally pay the complainant, Annie Felix, the sum of P50,000.00 plus interest from the date this Information was filed until it is fully paid;
- In Criminal Case No. 16432-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances, and applying the provisions of the Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum. They shall also jointly and severally pay the complainant, Eleanor Dongga-as, the sum of P50,000.00 plus interest from the date this

Information was filed until it is fully paid;

- In Criminal Case No. 16434-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances and applying the provisions of Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years of prision mayor, as maximum. They shall also jointly and severally pay the complainant, Edmund Diego, the sum of P25,000.00 plus interest from the date this Information was filed until it is fully paid;

- In Criminal Case No. 16436-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances, and applying the provisions of the Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years of prision mayor, as maximum. They shall also jointly and severally pay the complainant, Jonathan Ngaosi, the sum of P25,000.00 plus interest from the date this Information was filed until it is fully paid;

- In Criminal Case No. 16438-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances, and applying the provisions of the Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years of prision mayor as maximum. They shall also jointly and severally pay the complainant, Ricky Waldo, the sum of P25,000.00 plus interest from the date this Information was filed until it is fully paid;

- In Criminal Case No. 16439-R, GUILTY beyond reasonable doubt of the crime of Estafa. There being no mitigating and aggravating circumstances, and applying the provisions of the Indeterminate Sentence Law, they are hereby sentenced to each suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum to eight (8) years of prision mayor, as maximum. They shall also jointly and severally pay the complainant, Jerome Montañez, the sum of P25,000.00 plus interest from the date this Information was filed; and

- Criminal Cases Nos. 16428-R; 16429-R; 16433-R; 16435-R and 16437-R are hereby DISMISSED for lack of evidence.

In the service of the various prison terms herein imposed upon the accused Aida Comila and Charlie Comila, the provisions of Article 70 of the Revised Penal Code shall be observed.

As to the accused, Indira Sighn Lastra, let all these cases be archived in the meantime until the said accused is arrested.

SO ORDERED.

Pursuant to a Notice of Appeal[4] filed by the two accused, the trial court forwarded the records of the cases to this Court in view of the penalty of life imprisonment meted in Crim. Case No. 16427-R (Illegal Recruitment in large scale). In its Resolution[5] of October 3, 2001, the Court resolved to accept the appeal and the subsequent respective briefs for the appellants[6] and the appellee[7] as well as the appellants' reply brief.[8]

Thereafter, and consistent with its pronouncement in *People v. Mateo*,[9] the Court, via its Resolution[10] of September 22, 2004, transferred the cases to the Court of Appeals (CA) "for appropriate action and disposition." In the CA, the cases were assigned one docket number and thereat docketed as CA-G.R. CR H.C. No. 01615.

In a decision[11] promulgated on December 29, 2005, the appellate court affirmed that of the trial court, to wit:

WHEREFORE, premises considered, the Decision dated October 3, 2000 of the Regional Trial Court of

Baguio City, Branch 60, in Criminal Cases Nos. 16427-R to 16439-R finding accused-appellants guilty of (1) illegal recruitment committed in large scale; and (2) seven (7) counts of estafa is hereby AFFIRMED and UPHELD.

With costs against the accused-appellants.

SO ORDERED.

The cases are again with this Court in view of the Notice of Appeal [12] interposed by the herein accused-appellants from the aforementioned affirmatory CA decision.

Acting thereon, the Court required the parties to simultaneously submit their respective supplemental briefs, if they so desire.

In their respective manifestations,[13] the parties opted not to file any supplemental brief and instead merely reiterated what they have said in their earlier appellants' and appellee's briefs.

The Office of the Solicitor General, in the brief[14] it filed for appellee People, summarizes the facts of the case in the following manner:

Annie Felix was introduced by her sister-in-law, Ella Bakisan, to appellant Aida Comila in August 1998 (pp. 3, 24, *tsn*, September 14, 1999). Ella Bakisan told her that appellant Aida Comila could help her find work abroad as she was recruiting workers for a factory in Palermo, Italy (*ibid.*). Annie Felix then went to meet appellant Aida Comila at the Jollibee outlet along Magsaysay Avenue, Baguio City in August, 1998 to inquire about the supposed work in Italy (pp. 3-4, *tsn*, *ibid.*). There were other applicants, aside from Annie at the Jollibee outlet at the time, similarly inquiring about the prospective jobs abroad (*ibid.*).

Annie met appellant again at the St. Theresa's College on or about September 6 or 7, 1998 (p.11, *ibid.*). there were around fifty (50) to sixty (60) applicants at that time (*ibid.*). Appellant introduced them to a certain Erlinda Ramos, one of the agents of Mrs. Indira Lastra, a representative of the Far East Trading Corporation (p.4,11, *ibid.*). Accordingly, Erlinda Ramos would be responsible for the processing of the applicants' visas (*ibid.*). Erlinda Ramos even showed them the copy of the job order from Italy (*ibid.*). Like Ramos, appellant likewise introduced herself to Annie and the other applicants as an agent of Lastra (pp. 3-4, *ibid.*).

Annie submitted all her requirements to appellant, along with the amount of two thousand pesos (P2,000.00) as processing fee (p.6, *tsn*, *ibid.*). She also paid a total of twenty three thousand (P23,000.00) as partial payment of her placement fee of fifty thousand pesos (P50,000.00) on or about September 6 or 7, 1998. Appellant issued a common receipt detailing the amounts she received not only from Annie Felix (23,000.00) but also for her fellow applicants, Zaldy Dumpiles (P23,000.00), Joel Ediong (P25,000.00), and Ricky Baldo (P25, 000.00) (p. 8, *tsn*, *ibid.*).

Annie went to Manila several times to complete her medical examination as required (pp. 14-16, *tsn*, *ibid.*). Considering appellant Aida Comila's pregnancy at that time, her husband Charlie Comila, also an agent of Lastra, accompanied Annie and the other applicants during their medical check-up (pp. 22-24, *ibid.*).

On the last week of October, 1998, Annie again paid appellant the total amount of twenty five thousand pesos (P25,000.00) to complete her placement fee of fifty thousand pesos (P50,000.00). Annie was told that her flight to Italy was scheduled on September 14, 1998 (p. 20, *ibid.*). Later on, Erlinda Ramos told Annie that her flight to Italy was re-scheduled to October, 1998 due to a typhoon (p.20, *ibid.*).

There were others like Annie Felix who were similarly enticed to apply for the promised job in Italy (pp. 4-5, *tsn*, September 22, 1999). Among them were Ricky Waldo, Edmund Diego, Eleanor Donga-as, Jonathan Ngaosi, Marilyn Aro and Jerome Montañez (pp. 4-5; 19-28, *tsn*, September 22, 1999, afternoon session).

In the briefing at St. Theresa's College, Navy Road, Pacdal, Baguio City, (p. 7, tsn, September 22, 1999; pp. 29-30, tsn, September 14, 1999) appellant briefed Ricky Waldo and the rest of the applicants on their application requirements (pp. 7-8, tsn, Sept. 22, 1999). The briefing was conducted by appellants Aida Comila, Charlie Comila, and Erlinda Ramos who alternately talked about the documents to be submitted for the processing of their applications and the processing fee of fifty thousand pesos (P50,000.00) they have to pay (p.8, tsn, September 22, 1999). In the same briefing, they were also told that Erlinda Ramos was scheduled to go to Italy on September 14, 1998 and that whoever would pay P25,000.00 first, or half of the P50,000.00 processing fee would be able to go with her to Italy (p. 8, tsn, September 22, 1999). Per the job order shown to Jonathan Ngaosi, for instance, male workers were to receive a salary of two thousand three hundred dollars (\$2,300.00) plus an additional eight dollars (\$8.00) for overtime work (p.8, tsn, September 21, 1999, afternoon session).

After undergoing the required medical examination in Manila, applicants Ricky Waldo and company paid the following amounts for their respective processing fees, which were duly receipted by appellant Aida Comila in three separate documents, thus:

"8-23-98, received the amount of P14,000.00 from Ella Bakisan. Signed, Aida Comila. The second document again is a piece of paper of which the following is written: 9-7-98. Received the amount of the following: Philip Waldo, P20,000.00; Doval Dumpiles, P23,000.00 Edmund Diego, P25,000.00; Jerome Montañez, P25,000.00 Total- P93,000.00. Received by A. Comila. The 3[rd] document is ½ page of a yellow pad and it reads 9-7-98, received the following amounts from Zaldy Dumpiles -P23,000.00; Joel Ediong - P25,000.00; Ricky Waldo- P25,000.00; Annie Felix -P23,000.00; Marlon Tedoco - P23,000.00. Total - P119,000.00. Received by Aida Comila; witnesses Ella Bakisan. (p.14, tsn, of witness Edmund Diego, September 22, 1999, morning session).

Considering the payments they made, Ricky Waldo's flight to Italy was scheduled on September 14, 1999 while those of Marilyn Aro, Edmund Diego, Jerome Montanez, Jonathan Ngaosi, and Eleanor Donga-as were scheduled on October 27, 1999 (pp. 8-9, tsn, September 22, 1999; pp. 32-33, tsn, September 14, 1999; pp. 2-4, tsn, September 15, 1999; p. 24, September 21, 1999; p.10, tsn, September 22, 1999, morning session; p. 27, tsn, September 22, 1999, afternoon session).

Like Annie Felix, Ricky Waldo's flight did not push through as scheduled on September 14, 1999 (pp. 32-34, tsn, September 14, 1999; pp. 2-4, tsn, September 15, 1999). Appellant Aida Comila explained that the re-scheduling was due to typhoon (ibid.). Ricky's flight was then re-scheduled to October 7, 1999 but was again moved to October 27, 1999 as, according to appellant Aida Comila, there were some problems in his papers and that of the other applicants (pp. 2-3, ibid.).

On October 25, 1998, appellant Aida Comila called the applicants for a briefing at the St. Therese Building at the Navy Base, Baguio City (p.24, tsn, September 21, 1999). In the same briefing, Erlinda Ramos, as representative of the supposed principal, Indira Lastra, explained to the applicants that their flight on October 27, 1999 was cancelled but will be re-scheduled (ibid.). Appellant Aida Comila told them that they have to wait for the notice from the Italian Embassy (ibid.).

On the first week of November, 1998, appellant Charlie Comila told Marilyn Aro and several other applicants that their visas would be released (p. 25, September, 21, 1999). Appellant Charlie Comila accompanied them and the others to the Elco Building at Shaw Boulevard, Pasig City purportedly to see Erlinda Ramos (p.25, tsn, September 21, 1999). When Erlinda Ramos arrived, she told Marilyn and the other applicants to wait for the release of their visas, the following day (p.25, ibid.). Marilyn and the rest came back each day for one whole week but the promised visas were not released to them (ibid.).

Marilyn and the other applicants complained to appellant Charlie Comila about the delay and told him of their doubts about their application and the promised job in Italy (ibid.). At this point, appellant Charlie Comila assured them that they should not worry and that everything will be alright (ibid.). Appellant Charlie Comila

then brought them to Indira Lastra (p.26, *ibid.*).

Marilyn Aro, Annie Felix, and the rest were all shocked to find out that Indira Lastra was actually an inmate of Manila (Quiapo) city jail. (p.26, *ibid.*; p. 13, *tsn*, September 14, 1999). They felt at once that they were, indeed, victims of illegal recruitment (*ibid.*). When they demanded the return of their money from Indira Lastra, the latter told them to withdraw their money from appellant Aida Comila (p.26. *ibid.*).

Upon their return to Baguio, Marilyn's group proceeded to appellant Aida Comila's residence at Km. 6, La Trinidad, Benguet to demand the return of their money (p. 27, *tsn*, *ibid.*). Appellant Aida Comila, however, told them to wait as Indira Lastra will soon be out of jail and will personally process their papers at the Italian Embassy (*ibid.*). Marilyn and the other applicants followed-up several times with appellant Aida Comila the return of the amounts of money they paid for their supposed placement fee, but were simply told to wait (*ibid.*). the last time complainants visited them, appellants Aida Comila and Charlie Comila were already in a Bulacan jail (p. 27, *ibid.*).

In April, 1999, Marilyn Aro, Edmund Diego, Annie Felix, Eleanor Donga-as, Jerome Montanez, Ricky Waldo and Jonathan Ngaosi filed their complaint against appellants Aida Comila and Charlie Comila before the Criminal Investigation Group (CIG).

In the same month of April 1999, separate Informations for estafa and illegal recruitment committed in large scale by a syndicate or violation of Article 13 (b) in relation to Article 38 (b) 34, and 39 of P.D. No. 442, otherwise known as the Labor Code of the Philippines were filed against appellants Charlie Comila, Aida Comila and Indira Lastra.

In their appellants' brief, accused-appellants would fault the two courts below in (1) finding them guilty beyond reasonable doubt of the crimes of illegal recruitment and estafa; and (2) totally disregarding the defense of denial "honestly advanced" by them.

It is not disputed that accused-appellants Charlie Comila and Aida Comila are husband-and-wife. Neither is it disputed that husband and wife knew and are well-acquainted with their co-accused, Indira Ram Singh Lastra, and one Erlinda Ramos. It is their posture, however, that from the very beginning, appellant Aida Comila never professed that she had the authority to recruit and made it clear to the applicants for overseas employment that it was Erlinda Ramos who had such authority and who issued the job orders from Italy. Upon this premise, this appellant contends that the subsequent transactions she had with the applicants negate the presence of deceit, an essential element of estafa under paragraph 2(a) of Article 315 of the Revised Penal Code. On the charge of illegal recruitment, this appellant argues that "she was merely trying to help the applicants to process their papers, believing that Indira Ram Sighn Lastra and Erlinda Ramos would really send the applicants to Italy." With respect to co-appellant Charlie Comila, the defense submits that the prosecution "miserably failed to prove his participation in the illegal recruitment and estafa."

The appeal must fail.

After a careful and circumspect review of the records, we are fully convinced that both the trial and appellate courts committed no error in finding both appellants guilty beyond moral certainty of doubt of the crimes charged against them. Through the respective testimonies of its witnesses, the prosecution has satisfactorily established that both appellants were then engaged in unlawful recruitment and placement activities. The combined testimonies of the prosecution witnesses point to appellant Aida Comila as the one who promised them foreign employment and assured them of placement overseas through the help of their co-accused Indira Ram Singh Lastra. For sure, it was Aida herself who informed them of the existence of job orders from Palermo, Italy, and of the documents needed for the processing of their applications. Aida, in fact, accompanied the applicants to undergo medical examinations in Manila. And relying completely on Aida's representations, the

applicants-complainants entrusted their money to her only to discover later that their hopes for an overseas employment were but vain. In the words of the trial court:

Aida Comila cannot escape culpability by the mere assertion that the recruitment activities were done by Ella Bakisan, Erlinda Ramos and Indira Lastra as if she was just a mere observer of the activities going on right under her nose, especially so that the seven complainants who testified all pointed to her as their recruiter. She could not adequately explain why: (1) she had to show and explain the job order and the work and travel requirements to the complainants; (2) she had to meet the complainants at Jollibee, Magsaysay Ave., Baguio City and in her residence; (3) she had to be present at the briefings for the applicants; (4) she received the placement fees even if she claims that she received them from Ella Bakisan; (5) she had to go down to Manila and accompanied the complainants for their medical examination; and (6) she had to go out of her way to do all these things even when she was pregnant and was about to give birth. Certainly, she was not a social worker or a humanitarian who had all the time in this world to go out of her way to render free services to other people whom she did not know or just met. To be sure, Aida Comila had children to attend to and a husband who was unemployed to be able to conduct such time-consuming charitable activities.[15]

Running in parallel vein is what the CA wrote in its appealed decision:[16]

As regards appellant Aida Comila's contention that she did not represent herself as a licensed recruiter, and that she merely helped complainants avail of the job opportunity on the belief that Indira Lastra and Erlinda Ramos would really send them to Italy, the same hardly deserves merit. The crime of illegal recruitment is committed when, among other things, a person who, without being duly authorized according to law represents or gives the distinct impression that he or she has the power or the ability to provide work abroad convincing those to whom the representation is made or to whom the impression is given to thereupon part with their money in order to be assured of that employment.

In fact, even if there is no consideration involved, appellant will still be deemed as having engaged in recruitment activities, since it was sufficiently demonstrated that she promised overseas employment to private complainants. 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.

As regards appellant Charlie Comila, it is inconceivable for him to feign ignorance of the illegal recruitment activities of his wife Aida, and of his lack of participation therein. Again, we quote with approval what the trial court has said in its decision:[17]

Charlie Comila could not, likewise, feign ignorance of the illegal transactions. It is contrary to human experience, hence, highly incredible for a husband not to have known the activities of his wife who was living with him under the same roof. In fact, he admitted that when Aida gave birth, he had to accompany the complainants to Manila for their medical examination and again, on another trip, to bring them to the office of Erlinda Ramos to follow-up their visas. The fact that he knew the ins and outs of Manila was a desperate excuse or reason why he accompanied the complainants to Manila considering that, as he and his wife claimed, they have nothing to do with the recruitment activities. Furthermore, if he and his wife had nothing to do with the recruitment of the complainants, why did he have to sign the letter and accommodate the request of Myra Daluca whom they have not really known. But damning was his statement that he signed the letter because Aida was not there to sign it. Such a statement would only show that they were indeed parties to these illegal transactions. Charlie Comila would even claim that he was just an elementary graduate and so he did not understand what he was asked to sign. But his booking sheet showed that he was a high school graduate. He was a conductor of a bus company who should know and understand how to read and write. Furthermore, he was already a grown up man in his thirties who knew what was right and wrong and what he should or should not do.

It is well established in jurisprudence that a person may be charged and convicted for both illegal recruitment and

estafa. The reason therefor is not hard to discern: illegal recruitment is *malum prohibitum*, while estafa is *malum in se*. In the first, the criminal intent of the accused is not necessary for conviction. In the second, such an intent is imperative. Estafa under Article 315, paragraph 2, of the Revised Penal Code, is committed by any person who defrauds another by using fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of similar deceits executed prior to or simultaneously with the commission of fraud.[18] Here, it has been sufficiently proven that both appellants represented themselves to the complaining witnesses to have the capacity to send them to Italy for employment, even as they do not have the authority or license for the purpose. Doubtless, it is this misrepresentation that induced the complainants to part with their hard-earned money for placement and medical fees. Such act on the part of the appellants clearly constitutes estafa under Article 315, paragraph (2), of the Revised Penal Code.

Appellants next bewail the alleged total disregard by the two courts below their defense of denial which, had it been duly considered and appreciated, could have merited their acquittal.

The Court disagrees. The two courts below did consider their defense of denial. However, given the positive and categorical testimonies of the complainants who were one in pointing to appellants, in cahoots with their co-accused Indira Ram Singh Lastra, as having recruited and promised them with overseas employment, appellants' defense of denial must inevitably collapse.

All told, we rule and so hold that the two courts below committed no error in adjudging both appellants guilty beyond reasonable doubt of the crimes of illegal recruitment committed by a syndicate in large scale and of estafa in seven (7) counts. We also rule that the penalties imposed by the court of origin, as affirmed by the CA, accord with law and jurisprudence.

IN VIEW WHEREOF, the instant appeal is DISMISSED and the appealed decision of the CA, affirmatory of that the trial court, is AFFIRMED in toto.

Costs against appellants.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, and Corona, JJ., concur.
Azcuna, J., on official leave.

[1] Rollo, p. 8.

[2] Id. at 10-32.

[3] Id. at 44-64.

[4] Id. at 65.

[5] Id. at 70.

[6] Id. at 83-103.

[7] Id. at 132-181.

[8] Id. at 185-188.

[9] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[10] Rollo, p. 195.

[11] Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Rebecca de Guia-Salvador and Japar B. Dimaampao, concurring; Id. at 198-219.

[12] Supra note 4.

[13] Id. at 25-27.

[14] Id. at 142-152.

[15] Id. at 61.

[16] Supra note 11.

[17] Supra note 15.

[18] People v. Hernandez, G.R. Nos. 141221-36, March 7, 2002, 378 SCRA 593.

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