PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IRENE YABUT @ IRENE CORTEZ @ FLORENCE MADRID, ACCUSED-APPELLANT.

G.R. Nos. 115719-26. October 05, 1999

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-nos-115719-26/

QUISUMBING, J.:

On appeal is the decision dated February 16, 1994 of the Regional Trial Court of Pasig City, Branch 159, convicting appellant Fernando Cortez y Vega of the crime of illegal recruitment in large scale, imposing upon him the penalty of life imprisonment, and ordering him to pay a fine of P100,000.00 and to indemnify private complainants in the following amounts -

> "a. Fely M. Casanova in the amount of P151,581.00;
>
> b. Arnel M. Diana in the amount of P50,000.00;
>
> c. Reynaldo P. Claudio in the amount of P58,454.00;
>
> d. German Aquino in the amount of P40,000.00;
>
> e. Manolito Latoja in the amount of P45,000.00;
>
> f. Alejandro P. Ruiz in the amount of P50,000.00;
>
> g. Antonio S. Bernardo in the amount of P60,000.00; and,
>
> h. Henry Ilar in the amount of P25,000.00; all with legal rate of interest reckoned from the filing of the Information until fully paid."

Appellant is a former policeman while the co-accused, Irene Yabut, is his common-law wife. Both were charged with estafa and illegal recruitment in large scale, but only appellant stood trial as Yabut has eluded arrest and remains at-large.

The facts, as summarized by the Office of the Solicitor General, which we find to be duly supported by the records, are as follows:[2]

> On August 13, 1992, prosecution witness and private complainant Mr. Henry Ilar met for the first time the herein appellant, who was at that time a policeman, and his live-in partner and co-accused Irene Yabut, at Rm. 103 P.M. Apartelle, N. Domingo Street, San Juan, Metro Manila (TSN, June 9, 1993, pp. 3-7). Ilar handed over to the appellant and co-accused Irene Yabut the initial down payment of P10,000.00 for the processing of papers and visa for Japan where he was to work as a roomboy in a hotel (Ibid., p. 3-4, Exh. "A" Pros.). Appellant assured Ilar not to worry since he would be able to leave for Japan otherwise his money would be refunded (TSN, June 9, 1993, p. 7). Additional amounts were given by Ilar to co-accused Irene Yabut thru her employee Butch Barrios, namely: P6,000.00, and P4,000.00 for the purpose of processing his papers (TSN, June 9, 1993, pp. 4-5; Exhs. "B" and "C" pros.). On September 26, 1993, Ilar handed over additional

P5,000.00 to the appellant the amount to be used allegedly for the expenses to be incurred for Ilar's training (TSN, June 9, 1993, p. 5; Exh. "D" pros.). Finally, Ilar was made to sign a one (1) year contract but he was not furnished a copy of the same (TSN, June 9, 1993, p. 4). Ilar was scheduled to leave for Japan on October 8, 1993 but this date was postponed allegedly due to problems (TSN, June 9, 1993, p. 5). The second scheduled date for departure was again cancelled allegedly due to the necessity of applicants undergoing medical examination (TSN, June 9, 1993, p. 6). After undergoing the medical examination, Ilar was again scheduled to depart on December 12, 1992 (Ibid). Prior to the scheduled departure, Ilar checked on Irene Yabut but she was no longer in her apartelle (Ibid) although he found the appellant who re-assured Ilar that he would be able to leave for Japan (TSN, June 9, 1993, p. 7). Sensing fraudulent practice on the part of the appellant and his co-accused, Ilar verified from the POEA whether the appellant and his co-accused were authorized or licensed to engage in recruitment and placement activities. A certification was issued by the POEA stating that the appellant and co-accused Irene Yabut were neither licensed nor authorized to recruit workers for overseas employment (TSN, June 9, 1993, p. 6; Exh. "E" pros). As expected, the last scheduled departure of Ilar on December 12, 1993 (sic) (1992) did not push through.

In the case of private complainant Mr. Reynaldo P. Claudio, on July 28, 1992, he went to Room 103 P.M. Apartelle, San Juan, Metro Manila, to apply for a job as hotel worker in Japan. Appellant and co-accused Irene Yabut, introducing themselves as husband and wife, told him that he could work in Japan provided he paid the fees (TSN, June 15, 1993, pp. 8-9, 26). Convinced by their assurances, (TSN, June 15, 1993, p. 19) Claudio gave them an initial payment of P15,000.00 (TSN, June 15, 1993, pp. 9-10; Exhibits "A" and "G" pros.). Claudio was required to undergo training (June 15, 1993, p. 10-11, Exhs. "B" and "H" pros.). On August 18, 1992, Claudio paid P30,000.00 to co-accused Irene Yabut (June 15, 1993, p. 11; Exhs. "C" and "I" pros). On August 21, 1992, Claudio paid another P25,000.00 to the co-accused Irene Yabut (TSN, June 15, 1993, pp. 12, 22; Exhs. "J" and "D" pros.). The amounts he paid all in all totalled P70,000.00 which would allegedly be used for the processing of the visa, plane ticket expenses, medical tests and seminar costs for Claudio and his two (2) brothers (TSN, June 15, 1993, pp. 11, 13). Claudio was made to sign a recruitment contract but he was not furnished a copy of the same by the appellant and his co-accused (TSN, June 15, 1993, p. 13). Yabut tried to convince Claudio not to appear at the preliminary investigation hearing scheduled the next day at the Department of Justice by refunding to him the amount of the plane ticket already paid for by Claudio. This proved futile as Claudio appeared at the hearing nonetheless (TSN, June 15, 1993, pp. 14-16). Claudio was scheduled to depart five (5) times but not one of those scheduled departures for Japan materialized for purportedly the following reasons: that there was no escort or that the contract had to be changed or that it was necessary for him to undergo a medical examination (TSN, June 15, 1993, pp. 18-19). Persistent follow-ups made by Claudio with the appellant and Yabut at their apartelle went for naught as Claudio was repeatedly told to wait as they were allegedly doing something about the delay (TSN, June 15, 1993, p. 20).

In the case of Mr. Arnel Diana, on July 20, 1992, he along with his brother-in-law, met the appellant and his co-accused Irene Yabut at their room in P.M. Apartelle, No. 26 N. Domingo Street, San Juan Metro Manila (TSN, June 15, 1993, p. 30). Diana and his companion were assured by the appellant that they could leave for abroad (Ibid). The appellant and his co-accused asked Diana to pay the fee of P50,000.00 for the travel documents and POEA papers (TSN, June 15, 1993, p. 31). Diana was made to sign an employment contract (Ibid; Exhs. "A" to "A-4" and "P" to "P-4") which convinced him to part with his money (TSN, June 15, 1993, pp. 40-42). The amount was paid on installments. Diana made the first payment on July 20, 1992 for P15,000.00 (TSN, June 15, 1993, pp. 33; Exhs. "B" and "Q" pros), handed over to the appellant and Irene Yabut (TSN, June 15, 1993, pp. 40-41). The second installment on July 24, 1992 for P25,000.00 (Ibid, Exhs. "C" and "R" pros) and the third installment was given on July 27, 1992 for P10,000.00 (TSN, July 15, 1993, p. 34; Exhs. "D" and "S" pros). Diana was first scheduled to leave on August 8, 1992 but his departure did not push through (TSN, June 15, 1993, p. 35). Disappointed, Diana asked the appellant and his co-accused Irene Yabut for an explanation. Appellant cited lack of escort as the reason for his non-departure (Ibid).

The second scheduled date of departure was also cancelled for alleged unavailability of the Japanese who was

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> to hire him (Ibid). Diana was scheduled five (5) times to depart but each time the departure went for naught, while appellant and co-accused Irene Yabut kept on assuring him that they were going to do something about it (TSN, June 15, 1993, p. 36). Exasperated, Diana demanded for the return of his money from appellant (TSN, June 15, 1993, pp. 37-38). Despite the promises of the appellant, the money he paid was never refunded. Thereafter, Diana found out from another complainant Henry Ilar, that the appellant and his co-accused were not licensed nor authorized to recruit workers for overseas employment (TSN, June 15, 1993, p. 38).
>
> In the case of private complainant Antonio S. Bernardo, he entered into an employment contract with appellant's co-accused Irene Yabut (TSN, August 18, 1993, pp. 2-3). Bernardo was told by the appellant that he did not affix his signature on the employment contract because of his government employment i.e., a member of the Philippine National Police (PNP), but appellant on several occasions promised Bernardo that he would be able to leave for abroad (TSN, August 18, 1993, p. 3).
>
> Still another complainant, Fely Casanova testified that she first met appellant and his co-accused Irene Yabut who introduced themselves as Mr. and Mrs. Madrid on June 8, 1992 (TSN, August 18, 1993, p. 5). Casanova always saw the appellant at the P.M. Apartelle on Domingo Street, San Juan, Metro Manila whenever she made follow-ups on her papers (Ibid). Casanova also saw the appellant and his co-accused Irene Yabut at the Town and Country on December 18, and 22, 1992 when the two were already in hiding. They were talking to other applicants whom they promised to send abroad (TSN, August 19, 1993, p. 6). On those two occasions, appellant and his co-accused assured her about a job placement abroad or the return of her money (Ibid)."

Realizing that their overseas jobs would never materialize, complainants hauled appellant and his co-accused to the Department of Justice, which conducted a preliminary investigation on the complaints. Both were subsequently charged with (1) Illegal Recruitment in Large Scale in Criminal Case No. 98224, and (2) eight (8) counts of Estafa in Criminal Case Nos. 98997-99004. The Information for Illegal Recruitment reads:[3]

> "The undersigned State Prosecutor of the Department of Justice and Presidential Anti-Crime Commission hereby accuses Irene Yabut and Fernando Cortez for (sic) Illegal Recruitment as defined and penalized under Articles 38 and 39 of Presidential Decree No. 422 as Amended, otherwise known as the Labor Code of the Philippines, committed as follows:
>
> "That during the period from June to September, 1992 or thereabouts, in San Juan, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused mutually confederating and conspiring with each other did then and there wilfully, unlawfully and feloniously contract, enlist and recruit for a fee, eight (8) persons for employment abroad without first obtaining the required license and/or authority from the Philippine Overseas Employment Administration.
>
> CONTRARY TO LAW.
>
> Manila, for Makati, Metro Manila, March 31, 1993
>
> Francisco F. Benedicto, Jr.
>
> State Prosecutor II"

Upon arraignment, appellant entered a plea of not guilty to all charges.[4] Accused Irene Yabut already fled and was not arraigned.

During joint trial, the prosecution presented as its witnesses three (3) of the complainants, namely: (1) Henry L. Ilar; (2) Reynaldo P. Claudio; and (3) Arnel M. Diana. The testimonies of the other five (5) complainants were dispensed with upon the agreement of the prosecution and the defense that affidavits would be offered as their testimonies. The corresponding receipts issued by accused Yabut for amounts received from complainants were marked as evidence for the prosecution.[5]

For the defense, appellant testified on his behalf. He admitted that accused Irene Yabut was his live-in partner with whom he has a child, but he washed his hands of any participation in her business activities. He further insisted that Yabut was not engaged in recruitment of workers for overseas employment but only in the processing of visas. He also denied any knowledge of the special power of attorney executed in his favor by Yabut for the refund of the PAL tickets of several recruits. Moreover, he claimed that he was not present at any given time when large sums of money were received by Yabut and that he never gave any assurances to complainants regarding their departure to Japan.[6]

The prosecution then presented complainants Antonio S. Bernardo, Fely M. Casanova, and Henry L. Ilar as rebuttal witnesses to refute appellant's denials and protestations of innocence regarding accused Yabut's recruitment activities.

On February 16, 1994, the trial court rendered a decision[7] acquitting appellant of eight (8) counts of estafa but convicting him of illegal recruitment in large scale. The dispositive portion of the decision states:

> "WHEREFORE, accused Fernando Cortez is hereby Acquitted under Criminal Case Nos. 98997-99004 of the crime of Estafa under Art. 315, par. 2(a) of the Revised Penal Code, on grounds of reasonable doubt.
>
> Upon the other hand, the prosecution having established beyond reasonable doubt the guilt of accused Fernando Cortez under Criminal Case No. 98224 of the crime of Illegal Recruitment (in large scale) penalized under Art. 38(a) in relation to Art. 39(b) of P.D. 442, this Court hereby imposes upon accused Fernando Cortez as follows:
>
> 1. To suffer life imprisonment and pay a fine of ONE HUNDRED THOUSAND PESOS (P100,000.00);
>
> 2. To indemnify private complainants-
>
> a) Fely M. Casanova in the amount of P151,581.00;
>
> b) Arnel M. Diana in the amount of P50,000.00;
>
> c) Reynaldo P. Claudio in the amount of P58,454.00;
>
> d) German Aquino in the amount of P40,000.00;
>
> e) Manolito Latoja in the amount of P45,000.00;
>
> f) Alejandro F. Ruiz in the amount of P50,000.00;
>
> g) Antonio S. Bernardo in the amount of P60,000.00; and
>
> h) Henry Ilar in the amount of P25,000.00; all with legal rate of interest reckoned from the filing of the Information until fully paid.
>
> **SO ORDERED."**

Hence, the present appeal. Appellant contends that the trial court [8] -

"... ERRED IN THE APPRECIATION OF THE EVIDENCE ADDUCED DURING THE TRIAL ON THE MERITS AND AS A RESULT IT ALSO ERRED IN CONVICTING FERNANDO CORTEZ OF ILLEGAL RECRUITMENT WHILE AT THE SAME TIME IT ACQUITTED HIM OF THE CRIME OF ESTAFA BASED ON THE SAME EVIDENCE."

Appellant anchors his bid for acquittal on the insufficiency of evidence, documentary and testimonial, to prove his guilt beyond reasonable doubt. If at all, appellant argues, the sole person guilty of illegal recruitment in large scale

should be Yabut since she was the only one who signed the receipts for the amounts received from the complainants. He contends that the mere fact that he is "romantically linked" with Yabut does not mean he acted in conspiracy with her.

The Office of the Solicitor General, in praying for the affirmance in toto of the trial court decision, insists that appellant acted in conspiracy with his co-accused, as shown by the following acts:[9]

> "... (1) He received deposits of money to defray travelling expenses (TSN, June 9, 1993, pp. 3-5; June 15, 1993, pp. 9-12, 22, 40-41; July 15, 1993, p. 34); (2) He informed the complainants that the money turned over would be used for the processing of papers and visas for Japan (TSN, June 9, 1993, pp. 3-5; June 15, 1993, pp. 11, 13, 31); (3) He gave assurance to the complainants that they would be able to leave for Japan otherwise their money would be refunded (TSN, June 9, 1993, p. 7; June 15, 1993, pp. 8-9, 20, 26, 30, 36; August 18, 1993, p. 3; August 19, 1993, p. 6); (4) He stayed at the apartelle office and manned the office by entertaining job seekers even after his co-accused Irene Yabut had gone into hiding (TSN, June 9, 1993, pp. 3-7; June 15, 1993, pp. 8-9, 20, 30; August 18, 1993, p. 5)"

The crux of the issue is whether appellant could be convicted of illegal recruitment in large scale despite his acquittal of the crime of estafa. If so, did the prosecution prove beyond reasonable doubt all the elements of illegal recruitment in large scale insofar as appellant is concerned?

In this jurisdiction, it is settled that a person who commits illegal recruitment may be charged and convicted separately of illegal recruitment under the Labor Code and estafa under par. 2 (a) of Art. 315 of the Revised Penal Code.[10] The offense of illegal recruitment is malum prohibitum where the criminal intent of the accused is not necessary for conviction, while estafa is malum in se where the criminal intent of the accused is crucial for conviction.[11] Conviction for offenses under the Labor Code does not bar conviction for offenses punishable by other laws.[12] Conversely, conviction for estafa under par. 2 (a) of Art. 315 of the Revised Penal Code does not bar a conviction for illegal recruitment under the Labor Code. It follows that one's acquittal of the crime of estafa will not necessarily result in his acquittal of the crime of illegal recruitment in large scale, and vice versa.

Article 13, par. (b) of the Labor Code enumerates the acts which constitute recruitment and placement as follows –

> "(b) 'Recruitment and placement' refer 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 acts of appellant consisting of his promises, offers and assurances of employment to complainants fall squarely within the ambit of recruitment and placement as defined above. The fact that he did not issue the receipts for amounts received from complainants has no bearing on his culpability for the complainants have shown through their respective testimonies and affidavits that appellant was involved in the prohibited recruitment.[13] It is immaterial that appellant ingeniously stated to one of the complainants that he (appellant) was a member of the PNP and a government employee, hence could not sign the receipts.[14]

Article 38 of the Labor Code renders illegal all recruitment activities without the necessary license or authority from the Philippine Overseas Employment Administration. Art. 38 of the Labor Code provides –

> "Article 38. Illegal Recruitment. - (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punishable under Article 39 of this Code. The Ministry of Labor and Employment (now Department

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> of Labor and Employment) or any law enforcement officer may initiate complaints under this Article.
>
> (b) Illegal Recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

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. x x x"

Thus, if the illegal recruitment is committed by a syndicate or in large scale, the Labor Code considers it an offense involving economic sabotage and imposes a stiffer penalty therefor in accordance with Article 39 of the Labor Code.

The elements of illegal recruitment in large scale are: "(1) the accused undertakes any recruitment activity defined under Art. 13, par. (b), or any prohibited practice enumerated under Art. 34 of the Labor Code; (2) he does not have a license or authority to lawfully engage in the recruitment and placement of workers; and, (3) he commits the same against three (3) or more persons, individually or as a group."[15]

Indisputably, all three (3) elements exist in the case at bar. First, the complaining witnesses have satisfactorily established that appellant had actively promised them employment, gave assurance of their placement overseas, and with his co-accused received certain sums as fees therefor. Second, the Licensing Division of the Philippine Overseas Employment Administration issued a Certification dated March 1, 1993 that JAWOH GENERAL MERCHANDISING[16] represented by Irene Yabut and Fernando Cortez are neither licensed nor authorized by the POEA to recruit workers for overseas employment.[17] In fact, the defense even entered into a stipulation during trial that appellant is not authorized by the POEA to recruit overseas workers.[18] Third, appellant and co-accused undertook recruitment of not less than eight (8) workers – complainants herein, who were recruited individually on different occasions. For purposes of illegal recruitment, however, the law makes no distinction whether the workers were recruited as a group or individually.

There is no showing that any of the complainants had ill-motive to testify falsely against appellant. And it is generally observed 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.[19] Moreover, we have no reason to discount the trial court's appreciation of the complainants' truthfulness, honesty and candor. For such appreciation deserves the highest respect, since the trial court is best-equipped to make the assessment of the witnesses' credibility, and its factual findings are generally not disturbed on appeal.[20] Thus, after a careful review of the records, we see no cogent reason to disturb the findings of the trial court.

As to the amounts to be refunded to complainants, we find the trial court's computations in accord with the evidence, except with respect to complainant Fely M. Casanova. Upon recomputation, the amount to be refunded for the failed promise of employment of her daughter and sister-in-law should be P150,781.00 instead of P151,581.00.[21]

Lastly, it would not be amiss to stress that in these difficult times, many of our countrymen venture abroad and work even in hazardous places to ensure for themselves and their families a life worthy of human dignity. They labor overseas to provide proper education for their children and secure a decent future for them. Illegal recruiters prey on hapless workers, charge exorbitant fees that siphon their meager savings, then cruelly dash their dreams with false promises of lucrative jobs overseas. For this reason, illegal recruiters have no place in society. Illegal recruitment activities must be stamped out by the full force of the law.

WHEREFORE, WE AFFIRM the Decision of the Regional Trial Court finding appellant Fernando Cortez y Vega guilty of Illegal Recruitment in Large Scale beyond reasonable doubt and sentencing him to life imprisonment, as well as to pay a fine of P100,000.00 and to indemnify complainants in the amounts stated therein, EXCEPT that only P150,781.00 instead of P151,581.00 should be paid to complainant Fely M. Casanova, with interest at the legal rate from the time of filing the information until fully paid. Costs against appellant.

SO ORDERED.

Mendoza, and Buena, JJ., concur.

Bellosillo, (Chairman), J., on official leave.

---

[1] The Information and records did not indicate her middle name.1 (At-large), FERNANDO CORTEZ y VEG

[2] Rollo, pp. 158-165.

[3] Records, pp. 1-2.

[4] Id. at 66-67.

[5] TSN, July 12, 1993, pp. 2-7.

[6] TSN, August 17, 1993, pp. 5-15.

[7] Records, pp. 283-298.

[8] Rollo, p. 104.

[9] Id. at 167.

[10] People v. Juego, G.R. No. 123162, October 13, 1998, p. 10; People v. Manungas Jr., 231 SCRA 1 (1994).

[11] Ibid.

[12] Id. at 11; People v. Bautista, 241 SCRA 216 (1995).

[13] See People v. Juego, id. at 9-10.

[14] TSN, August 18, 1993, p. 3.

[15] People v. Enriquez, G.R. No. 127159, May 5, 1999, p. 8; People v. Castillon, G.R. No. 130940, April 21, 1999, p. 7; People v. Ganaden, G.R. No. 125441, November 27, 1998, p. 7; People v. Villas, 277 SCRA 391 (1997); People v. Mañozca, 269 SCRA 513 (1997); People v. Calonzo, 262 SCRA 534 (1996); People v. Bautista, 241 SCRA 216 (1995); People v. Comia, 236 SCRA 185 (1994); People v. Sendon, 228 SCRA 489 (1993).

[16] Also known as “JOWOH’S CONSULTANT AND GENERAL SERVICES”; See Records, p. 79.

[17] Exhibits “E” to “E-2”, Records, p. 76.

[18] TSN, June 9, 1993, p. 6.

[19] People v. Guevarra, G.R. No. 120141, April 21, 1999, p. 17.

[20] People v. Hernandez, G.R. No. 108027, March 4, 1999, p. 7.

[21] Records, pp. 136-148.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.