

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO HERNANDEZ (AT LARGE), KARL REICHL, AND YOLANDA GUTIERREZ DE REICHL, ACCUSED.

G.R. Nos. 141221-36. March 07, 2002

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from the Joint Decision of the Regional Trial Court, Batangas City in Criminal Case Nos. 6428, 6429, 6430, 6431, 6432, 6433, 6434, 6435, 6436, 6437, 6438, 6439, 6528, 6529, 6530 and 6531 finding accused-appellants, Spouses Karl Reichl and Yolanda Gutierrez de Reichl guilty of five (5) counts of estafa and one (1) count of syndicated and large scale illegal recruitment.[1]

In April 1993, eight (8) informations for syndicated and large scale illegal recruitment and eight (8) informations for estafa were filed against accused-appellants, spouses Karl and Yolanda Reichl, together with Francisco Hernandez. Only the Reichl spouses were tried and convicted by the trial court as Francisco Hernandez remained at large.

The evidence for the prosecution consisted of the testimonies of private complainants; a certification from the Philippine Overseas Employment Administration (POEA) that Francisco Hernandez, Karl Reichl and Yolanda Gutierrez Reichl in their personal capacities were neither licensed nor authorized by the POEA to recruit workers for overseas employment;[2] the receipts for the payment made by private complainants; and two documents signed by the Reichl spouses where they admitted that they promised to secure Austrian tourist visas for private complainants and that they would return all the expenses incurred by them if they are not able to leave by March 24, 1993,[3] and where Karl Reichl pledged to refund to private complainants the total sum of P1,388,924.00 representing the amounts they paid for the processing of their papers.[4]

Private complainant Narcisa Hernandez, a teacher, was first to testify for the prosecution. She stated that Francisco Hernandez introduced her to the spouses Karl and Yolanda Reichl at the residence of a certain Hilarion Matira at Kumintang Ibaba, Batangas City. At the time, she also saw the other applicants Melanie Bautista, Estela Manalo, Edwin Coleng, Anicel Umahon, Analiza Perez and Maricel Matira. Karl and Yolanda Reichl told Narcisa that they could find her a job as domestic helper in Italy. They, however, required her to pay the amount of P150,000.00 for the processing of her papers and travel documents. She paid the fee in three installments. She paid the first installment of P50,000.00 on July 14, 1992, the second installment of P25,000.00 on August 6, 1992 and the third in the amount of P75,000.00 on December 27, 1992. She gave the money to Francisco Hernandez in the presence of the Reichl spouses at Matira's residence. Francisco Hernandez issued a receipt for the first and second installment[5] but not for the third. Narcisa was scheduled to leave on December 17, 1992 but was not able to do so. Karl Reichl explained that she would get her transit visa to Italy in Austria, but she could not yet leave for Austria because the hotels were fully booked at that time because of the Christmas season. Narcisa's departure was again scheduled on January 5, 1993, but it still did not push through. Narcisa stated that they went

to Manila several times supposedly to obtain a visa from the Austrian Embassy and Karl Reichl assured her that she would be able to leave once she gets her visa. The accused set the departure of Narcisa and that of the other applicants several times but these proved to be empty promises. In March 1993, the applicants met with the three accused at the residence of private complainant Charito Balmes and asked them to refund the payment if they could not send them abroad. The meeting resulted in an agreement which was reduced into writing and signed by Karl Reichl. Mr. Reichl promised to ensure private complainants' departure by April, otherwise, they would return their payment.[6]

Private complainant Leonora Perez also gave the following testimony: In July 1992, her sister, Analiza Perez, introduced her to Francisco Hernandez at their residence in Dolor Subdivision, Batangas City. Francisco Hernandez convinced her to apply for a job in Italy. When she accepted the offer, Francisco Hernandez told her to prepare P150,000.00 for the processing of her papers. In August 1992, Leonora, together with her sister and Francisco Hernandez, went to Ramada Hotel in Manila to meet with Karl and Yolanda Reichl. At said meeting, Leonora handed her payment of P50,000.00 to Yolanda Reichl. Yolanda assured her that she would be able to work in Italy. Francisco Hernandez and the Reichl spouses told Leonora to wait for about three weeks before she could leave. After three weeks, Francisco Hernandez invited Leonora and the other applicants to the house of Hilarion Matira in Batangas City to discuss some matters. Francisco Hernandez informed the applicants that their departure would be postponed to December 17, 1992. December 17 came and the applicants were still unable to leave as it was allegedly a holiday. Yolanda and Karl Reichl nonetheless assured Leonora of employment as domestic helper in Italy with a monthly salary of \$1,000.00. Francisco Hernandez and the Reichl spouses promised the applicants that they would leave for Italy on January 5, 1993. Some time in January 1993, Francisco Hernandez went to the residence of Leonora and collected the sum of P50,000.00 purportedly for the plane fare. Francisco issued a receipt for the payment. When the applicants were not able to leave on the designated date, Francisco Hernandez and the spouses again made another promise. Tired of the recruiters' unfulfilled promises, the applicants decided to withdraw their application. However, Karl Reichl constantly assured them that they would land a job in Italy because he had connections in Vienna. The promised employment, however, never materialized. Thus, Karl Reichl signed a document stating that he would refund the payment made by the applicants plus interest and other expenses. The document was executed and signed at the house of one of the applicants, Charito Balmes, at P. Zamora St., Batangas City.[7]

Janet Perez, Leonora's sister, corroborated the latter's testimony that she paid a total amount of P100,000.00 to the three accused.[8]

Private complainant Charito Balmes told a similar story when she testified before the court. She said that Francisco Hernandez convinced her to apply for the job of domestic helper in Italy and required her to pay a fee of P150,000.00. He also asked her to prepare her passport and other papers to be used to secure a visa. On November 25, 1992, she gave P25,000.00 to Francisco Hernandez. They proceeded to Kumintang Ibaba, Batangas City and Francisco Hernandez introduced her to his business partners, spouses Karl and Yolanda Reichl. Francisco Hernandez turned over the payment to the spouses so that they could secure a visa for her. The Reichl spouses promised her an overseas job. They said she and the other applicants would leave on December 17, 1992. On December 11, 1992, Charito paid the amount of P70,300.00 to Francisco Hernandez in the presence of the Reichls. Francisco Hernandez again handed the money to the spouses. On February 16, 1993, Charito paid P20,000.00 to Francisco Hernandez who delivered the same to the spouses. Francisco Hernandez did not issue a receipt for the payment made by Charito because he told her that he would not betray her trust. Like the other applicants, Charito was not able to leave the country despite the numerous promises made by the accused. They gave various excuses for their failure to depart, until finally the Reichls told the applicants that Karl Reichl had so many business transactions in the Philippines that they would not be able to send them abroad and that they would

refund their payment instead. Hence, they executed an agreement which was signed by Karl Reichl and stating that they would return the amounts paid by the applicants. The accused, however, did not comply with their obligation.[9]

Mrs. Elemenita Bautista, the mother of private complainant Melanie Bautista, also took the witness stand. She stated that in May 1992, Melanie applied for an overseas job through Francisco Hernandez. Francisco Hernandez told her to prepare P150,000.00 to be used for the processing of her papers and plane ticket. On June 26, 1992, Melanie made the initial payment of P50,000.00 to Francisco Hernandez who was then accompanied by Karl and Yolanda Reichl.[10] Upon receipt of the payment, Francisco Hernandez gave the money to Yolanda Reichl. Melanie made two other payments: one on August 6, 1992 in the amount of P25,000.00,[11] and another on January 3, 1993 in the amount of P51,000.00.[12] Three receipts were issued for the payments.[13]

Rustico Manalo, the husband of private complainant Estela Abel de Manalo, testified that his wife applied for the job of domestic helper abroad. In June 1992, Francisco Hernandez introduced them to Karl and Yolanda Reichl who were allegedly sending workers to Italy. Rustico and his wife prepared all the relevant documents, i.e., passport, police clearance and marriage contract, and paid a total placement fee of P130,000.00.[14] They paid P50,000.00 on June 5, 1992, P25,000.00 on August 8, 1992, and P55,000.00 on January 3, 1993. The payments were made at the house of Hilarion Matira and were received by Francisco Hernandez who, in turn, remitted them to the Reichl spouses. Francisco Hernandez issued a receipt for the payment. The Reichls promised to take care of Estela's papers and to secure a job for her abroad. The Reichls vowed to return the payment if they fail on their promise. As with the other applicants, Estela was also not able to leave the country.[15]

The defense interposed denial and alibi.

Accused-appellant Karl Reichl, an Austrian citizen, claimed that he entered the Philippines on July 29, 1992. Prior to this date, he was in various places in Europe. He came to the country on July 29, 1992 to explore business opportunities in connection with the import and export of beer and sugar. He also planned to establish a tourist spot somewhere in Batangas. Upon his arrival, he and his wife, Yolanda Reichl, stayed at the Manila Intercontinental Hotel. On August 3, 1992, they moved to Manila Midtown Hotel. They stayed there until August 26, 1992. After they left Manila Midtown Hotel, they went to another hotel in Quezon City. Karl Reichl returned to Vienna on September 19, 1992.[16]

Mr. Reichl stated that he first met Francisco Hernandez through a certain Jimmy Pineda around August 1992 at Manila Midtown Hotel. Francisco Hernandez was allegedly looking for a European equipment to be used for the quarrying operation of his friend. Before accepting the deal, he made some research on the background of the intended business. Realizing that said business would not be viable, Karl Reichl advised Francisco Hernandez to instead look for a second-hand equipment from Taiwan or Japan. He never saw Francisco Hernandez again until he left for Vienna in September 1992.[17]

Karl Reichl returned to the Philippines on October 21, 1992. Francisco Hernandez allegedly approached him and sought his help in securing Austrian visas purportedly for his relatives. Karl Reichl refused and told him that he was planning to stay permanently in the Philippines. On one occasion, Francisco Hernandez invited him to an excursion at Sombrero Island. Francisco Hernandez told him that he would also bring some of his relatives with him and he would introduce him to them. There he met Narcisa Hernandez and Leonora Perez. Leonora Perez, together with Francisco Hernandez, later went to see Mr. Reichl at the house of his in-laws at No. 4 Buenafe Road, Batangas City and asked him if he could help her obtain an Austrian visa. Karl Reichl, however, was firm on his refusal.[18]

In his testimony before the trial court, Karl Reichl denied any knowledge about Francisco Hernandez's

recruitment activities. He said that Francisco Hernandez merely told him that he wanted to help his relatives go to Europe. He further denied that he promised private complainants that he would give them overseas employment.[19] As regards the document where Mr. Reichl undertook to pay P1,388,924.00 to private complainants, he claimed that he signed said document under duress. Francisco Hernandez allegedly told him that private complainants would harm him and his family if he refused to sign it. He signed the document as he felt he had no other option.[20]

Yolanda Gutierrez de Reichl corroborated the testimony of her husband and denied the charges against her. She claimed that she was in Manila on the dates alleged in the various informations, thus, she could not have committed the acts charged therein. Yolanda Reichl further stated that she did not know of any reason why private complainants filed these cases against her and her husband. She said that several persons were harassing her and pressuring her to pay private complainants the sum of at least P50,000.00.[21]

After assessing the evidence presented by the parties, the trial court rendered a decision convicting accused-appellants of one (1) count of illegal recruitment in large scale and six (6) counts of estafa. The dispositive portion of the decision reads:

“WHEREFORE, judgment is hereby rendered finding the accused spouses KARL REICHL and YOLANDA GUTIERREZ REICHL -

- NOT GUILTY of the crime of syndicated and large-scale illegal recruitment as charged in the above-mentioned Criminal Cases Nos. 6435, 6437 and 6529;
- NOT GUILTY of the crime of estafa as charged in the above-mentioned Criminal Cases Nos. 6434, 6436 and 6528;
- GUILTY beyond reasonable doubt of the crime of syndicated and large-scale illegal recruitment, as charged, in the above-mentioned Criminal Cases Nos. 6429, 6431, 6433, 6439 and 6531;
- GUILTY beyond reasonable doubt of the crime of estafa, as charged, in the above-mentioned Criminal Cases Nos. 6428, 6430, 6432, 6438 and 6530.

The Court hereby imposes upon the accused-spouses KARL REICHL and YOLANDA GUTIERREZ REICHL the following sentences:

- For the 5 offenses, collectively, of syndicated and large-scale illegal recruitment in Criminal Cases Nos. 6429, 6431, 6433, 6438 and 6531, to suffer the penalty of life imprisonment, and to pay a fine of One Hundred Thousand Pesos (P100,000.00);
- In Criminal Case No. 6428, there being no mitigating or aggravating circumstance, to suffer the indeterminate sentence of Six (6) Years of prison correctional, as minimum to Sixteen (16) Years of reclusion temporal, as maximum, and to indemnify the complainant Narcisa Hernandez in the amount of P150,000.00;
- In Criminal Case No. 6430, there being no mitigating or aggravating circumstance, to suffer the indeterminate sentence of six (6) years of prison correctional as minimum to eleven (11) years of prison mayor, as maximum and to indemnify the complainant Leonora Perez in the amount of P100,000.00;
- In Criminal Case No. 6432, there being no mitigating or aggravating circumstance, to suffer the indeterminate sentence of six (6) years of prison correctional as minimum to sixteen (16) years of reclusion temporal, as maximum and to indemnify the complainant Melanie Bautista in the amount of P150,000.00;
- In Criminal Case No. 6438, there being no mitigating or aggravating circumstance, to suffer the indeterminate sentence of six (6) years of prison correctional as minimum to fourteen (14) years of reclusion temporal as maximum and to indemnify the complainant Estela Abel de Manalo in the amount of P130,000.00;

- In Criminal Case No. 6530, there being no mitigating or aggravating circumstance, to suffer the indeterminate sentence of six (6) years or prison correctional as minimum to thirteen (13) years of reclusion temporal as maximum and to indemnify the complainant Charito Balmes in the amount of P121,300.00; and

- To pay the costs.

SO ORDERED.”

Accused-appellants appealed from the decision of the trial court. They raise the following errors:

“1.

The trial court erred in finding accused-appellant Karl Reichl guilty of the crimes of estafa and illegal recruitment committed by syndicate and in large scale based on the evidence presented by the prosecution which miserably failed to establish guilt beyond reasonable doubt.

2.

The trial court erred in convicting the accused-appellant of the crime of illegal recruitment on a large scale by cumulating five separate cases of illegal recruitment each filed by a single private complainant.

3.

The trial court erred in rendering as a matter of course an automatic guilty verdict against accused-appellant for the crime of estafa after a guilty verdict in a separate crime for illegal recruitment. It is submitted that conviction in the latter crime does not ipso facto result in conviction in the former.”[22]

The appeal is bereft of merit.

Article 38 of the Labor Code defines illegal recruitment as "any recruitment activities, including the prohibited practices enumerated under Article 34 of (the Labor Code), to be undertaken by non-licensees or non-holders of authority." The term "recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, including 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.[23] The law imposes a higher penalty when the illegal recruitment is committed by a syndicate or in large scale as they are considered an offense involving economic sabotage. 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. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.[24]

In the case at bar, the prosecution was able to prove beyond reasonable doubt that accused-appellants engaged in activities that fall within the definition of recruitment and placement under the Labor Code. The evidence on record shows that they promised overseas employment to private complainants and required them to prepare the necessary documents and to pay the placement fee, although they did not have any license to do so. There is illegal recruitment when one who does not possess the necessary authority or license gives the impression of having the ability to send a worker abroad.[25]

Accused-appellants assert that they merely undertook to secure Austrian visas for private complainants, which act did not constitute illegal recruitment. They cite the document marked at Exhibit "J" stating that they promised to

obtain Austrian tourist visas for private complainants. We are not convinced. Private complainants Narcisa Hernandez, Leonora Perez and Charito Balmes categorically stated that Karl and Yolanda Reichl told them that they would provide them overseas employment and promised them that they would be able to leave the country on a specified date. We do not see any reason to doubt the truthfulness of their testimony. The defense has not shown any ill motive for these witnesses to falsely testify against accused-appellants if it were not true that they met with the Reichl spouses and the latter represented themselves to have the capacity to secure gainful employment for them abroad. The minor lapses in the testimony of these witnesses pointed out by accused-appellants in their brief do not impair their credibility, especially since they corroborate each other on the material points, i.e., that they met with the three accused several times, that the three accused promised to give them overseas employment, and that they paid the corresponding placement fee but were not able to leave the country. It has been held that truth-telling witnesses are not always expected to give error-free testimonies considering the lapse of time and the treachery of human memory.[26] Moreover, it was shown that Karl Reichl signed a document marked as Exhibit "C" where he promised to refund the payments given by private complainants for the processing of their papers. We are not inclined to believe Mr. Reichl's claim that he was forced by Francisco Hernandez to sign said document. There is no showing, whether in his testimony or in that of his wife, that private complainants threatened to harm them if he did not sign the document. Mr. Reichl is an educated man and it cannot be said that he did not understand the contents of the paper he was signing. When he affixed his signature thereon, he in effect acknowledged his obligation to ensure the departure of private complainants and to provide them gainful employment abroad. Such obligation arose from the promise of overseas placement made by him and his co-accused to private complainants. The admission made by accused-appellants in Exhibit "J" that they promised to obtain Austrian visas for private complainants does not negate the fact that they also promised to procure for them overseas employment. In fact, in Exhibit "J", accused-appellants admitted that each of the private complainants paid the amount of P50,000.00. However, in Exhibit "C", which was executed on a later date, accused-appellants promised to refund to each complainant an amount exceeding P150,000.00. This is an acknowledgment that accused-appellants received payments from the complainants not only for securing visas but also for their placement abroad.

Accused-appellants' defense of denial and alibi fail to impress us. The acts of recruitment were committed from June 1992 until January 1993 in Batangas City. Karl Reichl was in Manila from July 29, 1992 until September 19, 1992, and then he returned to the Philippines and stayed in Batangas from October 21, 1992. Yolanda Reichl, on the other hand, claimed that he was in Manila on the dates alleged in the various informations. It is of judicial notice that Batangas City is only a few hours' drive from Manila. Thus, even if the spouses were staying in Manila, it does not prevent them from going to Batangas to engage in their recruitment business. Furthermore, it appears that the three accused worked as a team and they conspired and cooperated with each other in recruiting domestic helpers purportedly to be sent to Italy. Francisco Hernandez introduced Karl and Yolanda Reichl to the job applicants as his business partners. Karl and Yolanda Reichl themselves gave assurances to private complainants that they would seek employment for them in Italy. Francisco Hernandez remitted the payments given by the applicants to the Reichl spouses and the latter undertook to process the applicants' papers. There being conspiracy, each of the accused shall be equally liable for the acts of his co-accused even if he himself did not personally take part in its execution.

Accused-appellants argue that the trial court erred in convicting accused-appellants of illegal recruitment in large scale by cumulating the individual informations filed by private complainants. The eight informations for illegal recruitment are worded as follows:

Criminal Case No. 6429

“That on or about July 14, 1992 and sometime prior and subsequent thereto at Hilltop, Brgy. Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Narcisa Autor de Hernandez and to more than three other persons, job placement abroad, by reason of which said Narcisa Autor de Hernandez relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

Criminal Case No. 6431

“That on or about July 1992 and sometime prior and subsequent thereto at Dolor Subdivision, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Leonora Perez y Atienza and to more than three other persons, job placement abroad, by reason of which said Leonora Perez y Atienza relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED THOUSAND (P100,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

Criminal Case No. 6433

“That on or about June 26, 1992 and sometime prior and subsequent thereto at Hilltop, Brgy. Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Melanie Bautista y Dolor and to more than three other persons, job placement abroad, by reason of which said Melanie Bautista y Dolor relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

Criminal Case No. 6435

“That on or about July 12, 1992 and sometime prior and subsequent thereto at Hilltop, Brgy. Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Annaliza Perez y Atienza and to more than three other persons, job placement abroad, by reason of which said Annaliza Perez y Atienza relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.

Criminal Case No. 6437

“That on or about August 15, 1992 and sometime prior and subsequent thereto at Hilltop, Brgy. Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Edwin Coling y Coling and to more than three other persons, job placement abroad, by reason of which said Edwin Coling y Coling relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

Criminal Case No. 6439

“That on or about June 5, 1992 and sometime prior and subsequent thereto at Hilltop, Brgy. Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Estela Abel de Manalo and to more than three other persons, job placement abroad, by reason of which said Estela Abel de Manalo relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED THIRTY THOUSAND (P130,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

Criminal Case No. 6529

“That on or about July 1992 and sometime prior and subsequent thereto at Brgy. Sta. Rita Karsada, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Anicel Umahon y Delgado and to more than three other persons, job placement abroad, by reason of which said Anicel Umahon y Delgado relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED THIRTY THOUSAND (P130,000.00) PESOS, Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

Criminal Case No. 6531

“That on or about November 25, 1992 and sometime prior and subsequent thereto at No. 40 P. Zamora Street, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that they are non-licensees nor holders of authority from the Department of Labor and Employment or any other authorized government entity, conspiring and confederating together, did then and there, wilfully, unlawfully and feloniously engage in syndicated and large scale recruitment and placement activities by enlisting, contracting, procuring, offering and promising for a fee to one Charito Balmes y Cantos and to more than three other persons, job placement abroad, by reason of which said Charito Balmes y Cantos relying on these misrepresentations, paid and/or gave the amount of ONE HUNDRED TWENTY ONE THOUSAND THREE HUNDRED PESOS (P121,300.00), Philippine Currency, to said accused, which acts constitute a violation of the said law.

Contrary to Law.”

We note that each information was filed by only one complainant. We agree with accused-appellants that they could not be convicted for illegal recruitment committed in large scale based on several informations filed by only one complainant. The Court held in *People vs. Reyes*:^[27]

“x x x When the Labor Code speaks of illegal recruitment ‘committed against three (3) or more persons individually or as a group,’ it must be understood as referring to the number of complainants in each case who are complainants therein, otherwise, prosecutions for single crimes of illegal recruitment can be cumulated to make out a case of large scale illegal recruitment. In other words, a conviction for large scale illegal recruitment must be based on a finding in each case of illegal recruitment of three or more persons whether individually or as a group.”^[28]

This, however, does not serve to lower the penalty imposed upon accused-appellants. The charge was not only for illegal recruitment committed in large scale but also for illegal recruitment committed by a syndicate. 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 of Article 38 of the Labor Code. It has been shown that Karl Reichl, Yolanda Reichl and Francisco Hernandez conspired with each other in convincing private complainants to apply for an overseas job and giving them the guaranty that they would be hired as domestic helpers in Italy although they were not licensed to do so. Thus, we hold that accused-appellants should be held liable for illegal recruitment committed by a syndicate which is also punishable by life imprisonment and a fine of one hundred thousand pesos (P100,000.00) under Article 39 of the Labor Code.

Finally, we hold that the prosecution also proved the guilt of accused-appellants for the crime of estafa. A person who is convicted of illegal recruitment may, in addition, be convicted of estafa under Art. 315 (2) of the Revised Penal Code provided the elements of estafa are present. Estafa under Article 315, paragraph 2 of the Revised Penal Code is committed by any person who defrauds another by using a 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 the fraud. The offended party must have relied on the false pretense, fraudulent act or fraudulent means of the accused-appellant and as a result thereof, the offended party suffered damages.^[29] It has been proved in this case that accused-appellants represented themselves to private complainants to have the capacity to send domestic helpers to Italy, although they did not have any authority or license. It is by this representation that they induced private complainants to pay a placement fee of P150,000.00. Such act clearly constitutes estafa under Article 315 (2) of the Revised Penal Code.

IN VIEW WHEREOF, the appeal is DISMISSED. The Decision appealed from is hereby AFFIRMED.

Cost against appellants.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Ynares-Santiago, JJ., concur.

[1] Penned by Judge Liberato C. Cortes.

[2] Exhibit "F".

[3] Exhibit" J".

- [4] Exhibit "C".
- [5] Exhibit "A".
- [6] TSN, November 4, 1993, pp. 6-26.
- [7] TSN, April 11, 1994, pp. 4-25; April 18, 1994, pp. 2-6.
- [8] TSN, October 12, 1995, pp. 7-19.
- [9] TSN, June 15, 1995, pp. 4-33.
- [10] Exhibit "K".
- [11] Exhibit "L".
- [12] Exhibit "M".
- [13] TSN, November 7, 1995, pp. 3-28.
- [14] Exhibit "K".
- [15] TSN, February 5, 1996, pp. 4-22.
- [16] TSN, December 10, 1996, pp. 3-12; TSN, February 25, 1997, pp. 2-16; TSN, June 9, 1997, pp. 6-10; June 16, 1997, pp. 6-10.
- [17] TSN, June 9, 1992, pp. 10-12.
- [18] Id., pp. 22-28; June 16, 1997, pp. 10-19.
- [19] TSN, June 9, 1997, pp. 27-30.
- [20] TSN, June 16, 1997, pp. 19-26.
- [21] TSN, September 4, 1997, pp. 4-44.
- [22] Appellant's Brief, Rollo, pp. 177-178.
- [23] Article 13 (b), Labor Code.
- [24] Article 38 (b), Labor Code.
- [25] People vs. Goce, 247 SCRA 780 (1995); People vs. Manungas, 231 SCRA 1 (1994).
- [26] People vs. Quilatan, 341 SCRA 247 (2000).
- [27] 242 SCRA 264 (1995).**
- [28] At p. 272.
- [29] People vs. Sagaydo, 341 SCRA 329 (2000); People vs. Banzales, 336 SCRA 64 (2000).

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