PEOPLE OF THE PHILIPPINES, APPELLEE, VS. VICENTA MEDINA LAPIS, ANGEL MATEO, AIDA DE LEON (AT LARGE) AND JEAN AM-AMLAW (AT LARGE), APPELLANTS.

G.R. Nos. 145734-35. October 15, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Illegal recruiters prey on our gullible and impoverished people by inveigling them with false or fraudulent promises of attractive employment in foreign shores. Such vultures deserve the full sanction of the law.

The Case

Vicenta Medina Lapis and Angel Mateo appeal the March 6, 2000 Joint Decision[1] of the Regional Trial Court (RTC) of Makati City (Branch 138), finding them guilty beyond reasonable doubt of illegal recruitment and estafa. The dispositive portion of the Decision reads as follows:

> "WHEREFORE, the Court rules –
>
> "1. In Criminal Case No. 99-1112[,] accused Vicenta Medina Lapis and Angel Mateo are pronounced guilty of violating Section 6, of Republic Act No. 8042, the Migrant Workers and Overseas Filipinos Act of 1995 and they are both sentenced to suffer life imprisonment. Pursuant to the last paragraph of Section 7, Republic Act No. 8042, considering that both accused are non-licensers or non-holders of authority, they are both sentenced to pay fines of One Million Pesos (P1,000,000.00) each. Both accused are ordered to indemnify both complainants jointly and severally of the amount of P118,000.00, the net amount after deducting the recovery of P40,000.00. They are likewise ordered to pay both complainants jointly and severally the amounts of P24,000.00 as reimbursement for traveling expenses; P4,000.00 as rental for boarding house, and P100,000.00 as unrealized income;
>
> "2. In Criminal Case No. 99-1113[,] accused Vicenta Medina Lapis and Angel Mateo are guilty of violating Article 315 (2) (a) of the Revised Penal Code and they are both sentenced to suffer imprisonment of twenty (20) years of reclusion temporal.
>
> "No civil liability need be imposed considering that in Criminal Case No. 99-1112 the same was already provided.
>
> "Let the case as against Jane Am-amlao and Aida de Leon be sent to the archives to be revived upon arrest, surrender or acquisition of jurisdiction over their person.
>
> "SO ORDERED."[2]
>
> Two separate Informations,[3] both dated April 20, 1999, charged appellants with syndicated illegal recruitment under Republic Act (RA) 8042[4] and estafa under paragraph 2 (a) of Article 315 of the Revised Penal Code.[5]

In Criminal Case No. 99-1112, they were charged as follows:

> "That on or about March, 1998 and thereafter in Makati City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with each other, did then and there willfully, unlawfully and feloniously recruit the herein complainants, MELCHOR F. DEGSI and PERPETUA L. DEGSI for employment as an office worker and as a cook or mechanic in Japan, for and in consideration thereof, they were required to pay the amount of P158,600.00 as alleged placement and processing fees, which the complainants delivered and paid the amount of P158,600.00 Philippine Currency, without the accused having deployed the complainants despite the lapse of several months, to their damage and prejudice."[6]

In Criminal Case No. 99-1113, the Information reads:

> "That on or about March, 1998 and thereafter in Makati City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with each other, did then and there, willfully, unlawfully and feloniously recruit and promise employment to spouses MELCHOR and PERPETUA DEGSI in Japan for a total consideration of one hundred fifty eight thousand and six hundred pesos (P158,600.00) as placement and processing fees, knowing that they have no capacity whatsoever and with no intention to fulfill their promise, but merely as a pretext, scheme or excuse to get or exact money from said complainant as they in fact collected and received the amount of P158,600.00 from said MELCHOR and PERPETUA DEGSI to their damage, loss and prejudice for the aforesaid amount."[7]

With the assistance of their counsel de oficio,[8] appellants pleaded not guilty to the charges during their arraignment on July 27, 1999.[9]

The Facts

Version of the Prosecution

The Office of the Solicitor General (OSG) relates how appellants, despite their lack of authority or license, represented themselves as persons who had the capacity to send the victims abroad for employment. We quote its version of the facts as follows:

> "The prosecution presented three witnesses, namely, Melchor Degsi and Perpetua Degsi ('Complainants' for brevity) and Priscilla Marreo (or Priscilla Marelo).
>
> "The prosecution and appellants stipulated that appellants are not licensed or authorized to recruit workers for employment abroad, in lieu of the testimony of Senior Labor Researcher Johnson Bolivar of the Philippine Overseas Employment Administration (POEA).
>
> "Complainants are husband and wife, residents of Baguio City. They made a living earning an average of P20,000.00 a month by selling fish and vegetables in a rented stall in said City, at least until March 24, 1998 when they closed shop for reasons of attending to the demands of the promised jobs for them in Japan. Both categorically identified Jane Am-amlao (or Jean Am-amlaw), their co-vendor in Baguio City Market, as the person who approached them and assured them that she knew a legal recruiter, an ex-POEA employee, who had the capacity to send them both abroad. Jane Am-amlaw (or 'Am-amlaw' for brevity) recruited complainants and personally accompanied them on March 24, 1998 to meet the person she earlier referred to, or Aida de Leon (or Alma de Leon), in the latter's apartment at No. 7280 J. Victor St., Pio del Pilar, Makati.
>
> "Complainants likewise categorically identified Aida de Leon ('de leon' for brevity) as the person who arranged a meeting in her apartment on March 24, 1998 between complainants and appellant Angel Mateo ('Mateo' for brevity) whom de Leon introduced as their contact person for Japan-bound workers. In said meeting, Mateo represented himself as having the capacity to send people abroad and showed complainants various documents to convince them of his legitimate recruitment operations. Convinced that Mateo had

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indeed the capacity to facilitate their employment as an office worker and as a cook or mechanic in Japan, complainants, on that same day, handed Mateo P15,000.00 which Mateo required them to pay for their processing fees. This was to be the first of a series of sums of money to be extracted from complainants.

"Complainants were able to positively identify Mateo in court as the contact person of de Leon and who collected from them, from March 24, 1998 to June 23, 1998, sums of money for the alleged necessary expenses relative to the promised jobs awaiting them in Japan in the total amount of P158,600.00. Complainants likewise categorically identified Mateo as the same person whose authorization was needed for the recovery of P40,000.00 of the P45,000.00 they gave Mateo who in turn deposited it to Sampaguita Travel Agency under his own name.

"Complainants likewise positively identified appellant Vicenta 'Vicky' Lapis ('Lapis' for brevity) in Court as the person introduced to them by Mateo as his wife on April 29, 1998 at Max's Restaurant in Makati when Lapis required complainants to pay P49,240.00 for their plane tickets and travel taxes. Lapis is, in fact, only the live-in partner of Mateo. Lapis told complainants that she was helping to speed up the process[ing] of their papers relative to the promised jobs awaiting them in Japan. Complainants met again Lapis, who was with Mateo on May 2, 1998 at the Makati Restaurant, annex of Max's Restaurant, when Lapis assured them that Mateo could really send them abroad and even wrote in a piece of paper appellants' address at Phase I, Lot 14, Blk 13 Mary Cris Subd., Imus, Cavite. On May 17, 1998, complainants once more met Lapis who was with Mateo, de Leon and de Leon's husband in Baguio City at the house of Priscilla Marreo's daughter. Both appellants updated complainant as to the status of their paper and reiterated their promise that complainants would soon be leaving for Japan, then collected from complainants unreceipted amount of P20,000.00. Complainants met again with Lapis, who was again with Mateo, on May 19, 1998 at the Sampaguita Travel Agency. Mateo extracted P45,000.00 from complainants and deposited it under his name. On that occasion, Perpetua wanted to ask from the Sampaguita Travel Agency's employees where to pay the P45,000.00 but failed to do so because Lapis took her attention away from asking while Mateo asked Melchor to hand over to him said sum.

"Priscilla Marreo ('Priscilla' for brevity) is the sister of Melchor who loaned complainants part of the P158,000.00 which appellants extracted from complainant[s]. Thus, she made herself present in most of the meetings between complainants and appellants together with the two other accused where she witnessed the assurances and promises made by appellants relative to complainants' immediate departure for Japan and their corresponding demands of sums of money. The testimony of Priscilla underscored the testimony of complainants showing that Am-amlaw, de Leon, Lapis and Mateo indeed corroborated and confederated in the commission of illegal recruitment.

"The prosecution presented documentary evidence, such as varied unofficial receipts all bearing the signature of Mateo; 'Sinumpaang Salaysay' of Perpetua L. Degsi executed on July 21, 1998; Affidavit executed by complainants on July 21, 1998; Requirement for Guarantee Letter of Visa bearing the names of both private complainants; Request for Certification of POEA-CIDG, Team to Mr. Hermogenes Mateo, Director II, Licensing Branch of POEA as represented by Johnson Bolivar, Senior Labor Researcher of POEA, and the various documents that complainants alleged to have been shown to them by Mateo to prove the legality of his recruitment operations."[10] (Citations omitted)

Version of the Defense

For their part, appellants deny that they were engaged in recruitment activities, and that they promised foreign employment to the victims. Below is the version of the facts presented by the defense:

"VICENTA MEDINA LAPIS testified that she is the live-in partner of her co-accused Mateo. They have been living together for almost three (3) years. According to her, she first met both complainants at Max's Restaurant in Makati when they talked to accused Mateo. She was there only to accompany her live-in partner.

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> The subject of the conversation between the complainants and accused Mateo was a contract in Baguio City. She did not see complainant deliver money to accused Mateo while they were in that meeting. She also has no knowledge about the transaction between complainant and accused Mateo. She admitted that she went to Baguio City together with accused Mateo to talk to the City Mayor. She likewise admitted that the handwriting appearing in Exhibit 'F' is hers but the reason why she gave it was only to comply to the request of the complainant Perpetua Degsi regarding a matter to be followed up at the National Bureau of Investigation (NBI). The result of her follow-up rendered was that complainant Perpetua Degsi has a pending case of estafa.
>
> "ANGEL MATEO averred that he is engaged in the importation of heavy equipment and containers but he has never been engaged in recruitment. To prove that he was really engaged in the delivery of heavy equipment, he presented a document of Import Service signed by a certain Alexander Arcilla addressed to Honorable Timoteo Encar Jr., City Mayor, Cavite City dated March 14, 1997 and were marked as Exhibit '1' and '1-a'. He also presented another document of Import Services issued by the Department of Trade and Industry addressed to Honorable Mayor Maliksi as Municipal Mayor of Imus, Cavite; a photocopy of a Bill of Lading from Trade Bulk cargoes by Eastern Shipping Lines, Inc.; and Invoice of used vehicles, airconditioners and washing machines and the packing list which were all marked as Exhibits 3 to 5. Sometime in March 24, 1998, he met the complainants at Pio del Pilar, in Makati City at the apartment of accused Aida de Leon. He went there to follow-up their transaction about heavy equipment with Mayor Binay because, it was accused de Leon who entered the transaction with Mayor Binay. While he was there, the complainants were introduced to him by accused de Leon. He admitted meeting the complainants on April 29, 1998 at Max's Restaurant but the reason was for him to meet Mrs. Marero in person and also because complainant Perpetua Degsi has a pending case for large scale estafa and she needed a clearance. He denied having signed Exhibit 'B'. He further claimed that the topic of their meeting was to supply heavy equipment in Baguio City. He denied having asked for P50,000.00 on May 6, 1999. He likewise denied signing the receipt showing the total amount of P158,600.00."[11]

The Trial Court's Ruling

The trial court held that the evidence for the prosecution sufficiently established the criminal liability of appellants for the crimes charged. It ruled in this manner:

> "Evidence for the prosecution clearly established that both complainants were enticed by accused Mateo and were led to believe that the latter has the capacity to send them for employment to Japan. Complainant Melchor Degsi and his wife Perpetua Degsi both testified to this fact. Acting on their belief that indeed accused Mateo can deploy them to Japan, amounts were disbursed by both complainants to accused Mateo to cover the processing and placement fees. x x x The Court finds the evidence presented by the prosecution sufficient to establish that accused Mateo violated Section 6 of Republic Act No. 8042 when he demanded amounts for placement and processing fees but he failed to deploy both complainants. The Court has a similar conclusion insofar as the accusation for estafa is concerned as the evidence shows accused Mateo knew beforehand that he has no capacity to deploy both complainants abroad and that the enticement to work abroad was merely a scheme or plan to exact money from both complainants. Deception was proven.
>
> "Insofar as the accused Lapis is concerned it is to be noted that the theory of the prosecution is that she acted in conspiracy with her co-accused Mateo who is her live-in partner. Evidence for the prosecution shows that at least on three (3) occasions accused Lapis was present when accused Mateo asked and received money from complainants in connection with their intended employment in Japan. x x x The Court conclude[d] that accused Lapis has knowledge of the intention of her co-accused Mateo in asking for money from both complainants. There was active participation on her part in the recruitment of both complainants and in deceiving them about the capacity to secure employment. The Court believes that conspiracy was established beyond reasonable doubt. Her defense of ignorance of the transaction cannot be considered given the positive evidence presented by the prosecution which should prevail over her plain denial."[12]

Hence, this appeal.[13]

The Issues

In their Brief, appellants interpose the following assignment of errors:

> "I
>
> The court a quo gravely erred in finding accused-appellants guilty beyond reasonable doubt of violations of Republic Act No. 8042 (Migrant Workers' and Overseas Filipinos Act of 1995) committed by a syndicate and Article 315 paragraph 2(a) of the Revised Penal Code.
>
> "II
>
> The court a quo gravely erred in finding accused-appellant Vicenta Medina Lapis guilty beyond reasonable doubt of illegal recruitment and estafa.
>
> "III
>
> The court a quo gravely erred in finding accused-appellants guilty beyond reasonable doubt of illegal recruitment committed by a syndicate.
>
> "IV
>
> The court a quo gravely erred in finding accused-appellants guilty beyond reasonable doubt of the crime of estafa defined and penalized under Article 315 par. 2(a) of the Revised Penal Code as amended."[14]

The Court's Ruling

The appeal has no merit.

First Issue:
Syndicated Illegal Recruitment

Appellants aver that the finding of syndicated illegal recruitment by the lower court was erroneous; its conclusion that the offense was committed by three (3) or more persons had no factual or legal basis. Allegedly, without sufficient evidence, the trial court wrongfully presumed that all of them had acted in conspiracy. According to them, the prosecution failed to prove beyond reasonable doubt that they had conspired and confederated in illegally recruiting complainants. Appellants conclude that, if at all, they could only be held liable for illegal recruitment in its simple form. We disagree.

Illegal recruitment is committed when these two elements concur: (1) the offenders have no valid license or authority required by law to enable them to lawfully engage in the recruitment and placement of workers, and (2) the offenders undertake any activity within the meaning of recruitment and placement[15] defined in Article 13(b) or any prohibited practices enumerated in Article 34 of the Labor Code.[16]

Under Article 13(b), recruitment and placement refers to "any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers[;] and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not." In the simplest terms, illegal recruitment is committed by persons who, without authority from the government, give the impression that they have the power to send workers abroad for employment purposes.[17]

We believe that the prosecution was able to establish the elements of the offense sufficiently. The case records reveal that appellants did in fact engage in recruitment and placement activities by promising complainants employment in Japan. Undisputed is the fact that the former did not have any valid authority or license to engage

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in recruitment and placement activities. Moreover, the pieces of testimonial and documentary evidence presented by the prosecution clearly show that, in consideration of their promise of foreign employment, they indeed received various amounts of money from complainants totalling P158,600.

Where appellants made misrepresentations concerning their purported power and authority to recruit for overseas employment, and in the process, collected from complainants various amounts in the guise of placement fees, the former clearly committed acts constitutive of illegal recruitment.[18] In fact, this Court held that illegal recruiters need not even expressly represent themselves to the victims as persons who have the ability to send workers abroad. It is enough that these recruiters give the impression that they have the ability to enlist workers for job placement abroad in order to induce the latter to tender payment of fees.[19]

It is also important to determine whether illegal recruitment committed by appellants can be qualified as a syndicated illegal recruitment or an offense involving economic sabotage.

Section 6 of RA 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, provides that illegal recruitment shall be considered an offense involving economic sabotage when it is committed by a syndicate or carried out by a group of three or more persons conspiring and confederating with one another.

In several cases, illegal recruitment has been deemed committed by a syndicate if carried out by a group of three or more persons conspiring and/or confederating with each other in carrying out any unlawful or illegal transaction, enterprise or scheme defined under Article 38(b) of the Labor Code.[20]

In this case, it cannot be denied that all four (4) accused — Jane Am-amlaw, Aida de Leon, Angel Mateo and Vicenta Medina Lapis – participated in a network of deception. Verily, the active involvement of each in the various phases of the recruitment scam formed part of a series of machinations. Their scheme was to lure complainants to Manila and to divest them of their hard-earned money on the pretext of guaranteed employment abroad. The prosecution evidence shows that complainants were convinced by Jane Am-amlaw to go to Manila to meet someone who could find employment for them abroad. Upon reaching the city, they were introduced to Aida de Leon and Angel Mateo; Mateo claimed to have the contacts, the resources and the capacity to employ them overseas. After that initial meeting, complainants made several payments to him, supposedly for the processing requirements of their deployment to Japan. Later on, they met Vicenta Medina Lapis who volunteered her assistance in the processing of their employment papers and assured them that Mateo could easily send them abroad. Complainant Perpetua Degsi testified on the devious trail of transactions with all of the accused as follows:

> "Q
>
> How did you come to know the accused in this case?
>
> A
>
> They were introduced to me by one Aida de Leon and Jane Am-Amlao.
>
> Q
>
> Who is this Jane Am-Amlao you are referring to?
>
> A
>
> She is our co-member in Baguio.

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Q

What is she in relation to your recruitment by Angel Mateo and Vicenta Lapis?

A

She was the first one who mentioned to us that she knows somebody who has the capacity to send us abroad.

Q

When was this?

A

March, 1998.

Q

When Jane Am-Amlao told you that she knows somebody who has the capacity to send you abroad what happened next?

A

On March 24, 1998 Jane accompanied us here in Manila.

Q

Where in Manila particularly?

A

At No. 72 J. Victor Street, Pio del Pilar, Makati in the apartment of Aida de Leon.

Q

So what happened at the apartment of Aida de Leon?

A

Jane told us that Aida de Leon was an ex-employee of POEA and she was able to send many workers abroad.

Q

Were you able to meet Aida de Leon?

A

Yes, ma'am.

Q

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What happened when you met her?

A

Aida called us by phone and according to her she has the contact person who can explain [to] us the details on how to be able to work abroad.

Q

After Aida called you up on the phone what happened next?

A

We waited because according to her, that person is coming over to the house.

Q

A[fter] waiting what happened after that?

A

ANGEL MATEO arrived and he was introduced to me as the contact person and we could ask him how we could work abroad.

Q

Who is this siya, you are referring to?

A

ANGEL MATEO.

Q

Who introduced you to ANGEL MATEO?

A

AIDA DE LEON.

Q

After introducing you to ANGEL MATEO what happened?

A

ANGEL MATEO showed us some documents AND HE WAS ABLE TO convince us that he has the capacity to send us abroad.

Q

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What documents were shown to you?

A

Incorporation documents of two companies one, Philippine company and one is Japan company and some other documents they made in order to send workers abroad.

Q

After convincing you that he can send you abroad what happened after that?

A

He asked for a processing fee and I asked him how much.

Q

What did he tell you?

A

He told me that he does not know because AIDA DE LEON will be the one to give us the price.

Q

After that what happened?

A

I asked AIDA how much and she answered, twenty thousand pesos.

Q

After telling you that the amount is P20,000.00 what happened next?

A

We went to the bank to withdraw P20,000.00 but we were only able to withdraw P15,000.00 and then we handed the P15,000.00 to ANGEL MATEO, in front of Jane Am-Amlaw.

Q

After receiving said amount from you by ANGEL MATEO what happened next?

A

We parted ways.

Q

Was there anything else that happened after that?

A

Before we parted ways, [he] asked from us other documents like ID, birth certificate, marriage contract in order for him to begin processing our papers.

Q

After that what happened next?

A

On March 31, we went back to [him] and we gave [him] the other documents needed and we also gave [him] the balance for the processing fee.

Q

Who is this niya or he you are referring to?

A

Angel Mateo.

Q

Where did you meet?

A

[He] called me and we met in the apartment of AIDA.

Q

Were you able to meet ANGEL MATEO in the apartment of AIDA DE LEON?

A

Yes.

Q

What happened there?

A

We gave [him] the documents and we started processing the documents

Q

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What are those documents that you gave to ANGEL MATEO?

A

Birth certificate authenticated, marriage contract and passport IDs and then we went to Pasay City to start the processing of the passport.

Q

You told us that ANGEL MATEO asked for the balance of P5,000.00, were you able to pay the said amount to ANGEL MATEO?

A

Yes, ma'am.

x x x x x x x x x

Q

After receiving said amount of P5,000.00 what happened?

A

After that meeting at Pasay City we parted ways but [he] did not issue us any receipt so on April 15, [he] again called us up and told me that he needs NBI clearance so we processed our NBI clearance.

Q

You told us that ANGEL MATEO called you, where were you at that time?

A

Baguio City.

Q

Were you able to come here in Manila?

A

Yes ma'am, we met in Quiapo.

Q

Were you able to meet ANGEL MATEO in QUIAPO?

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A

[He] did not arrive in Quiapo.

Q

So what did you do?

A

We proceeded [to] the NBI and we called up AIDA and asked her why ANGEL MATEO did not arrive and whom did AIDA talk to.

Q

What was the reply of AIDA DE LEON?

A

She told me that whatever ANGEL MATEO would tell us, that's what we should follow.

Q

After that what happened?

A

The processing of our NBI clearance did not finish so on April 15 ANGEL MATEO asked for P2,000.00 in order to help us process the NBI.

Q

After calling you on April 15, what happened next?

A

On April 29, 1998 me, my sister, Melchor, and Melchor's sister together with ANGEL MATEO met at Max's Restaurant in Makati.

x x x x x x x x x

Q

Were you able to meet ANGEL MATEO?

A

Yes ma'am, they arrived together with somebody whom [she] introduced to us as [his] wife.

Q

Who is this wife you are referring to?

A

She is Vicky Lapis, and later on we found out that she is Vicenta Medina Lapis.

Q

What was this meeting all about?

A

We were updated on what was happening on our papers and then ANGEL MATEO AND VICENTA LAPIS asked for a plane ticket.

Q

What was the update for the processing of your papers?

x x x x x x x x x

A

Vicenta Lapis told us that she is just helping to speed up the processing of papers so that we could be sent abroad immediately and she even showed us some documents and I even told her that I could help them in typing those documents."[21]

The foregoing testimony very clearly demonstrates that the individual actuations of all four (4) accused were directed at a singular criminal purpose — to delude complainants into believing that they would be employed abroad. The nature and the extent of the former's interactions among themselves as well as with the latter clearly show unity of action towards a common undertaking. Certainly, complainants would not have gone to Manila to meet Aida de Leon and Angel Mateo without the prodding of Am-amlaw. They would not have made various payments for their travel and employment papers without the fraudulent representations of Mateo De Leon. Moreover, they would not have complied with further instructions and demands of Mateo without the repeated assurances made by Lapis.

Even assuming that the individual acts of the accused were not necessarily indispensable to the commission of the offense, conspiracy would have still been present. Their actions, when viewed in relation to one another, showed a unity of purpose towards a common criminal enterprise and a concurrence in their resolve to commit it.

In People v. Gamboa,[22] the Court had occasion to discuss the nature of conspiracy in the context of illegal recruitment as follows:

> "Conspiracy to defraud aspiring overseas contract workers was evident from the acts of the malefactors whose conduct before, during and after the commission of the crime clearly indicated that they were one in purpose and united in execution. Direct proof of previous agreement to commit a crime is not necessary as it may be deduced from the mode and manner in which the offense was perpetrated or inferred from the acts of the accused pointing to a joint purpose and design, concerted action and community of interest. As such, all the accused, including accused-appellant, are equally guilty of the crime of illegal recruitment since in a conspiracy the act of one is the act of all."[23] (Italics supplied)

To establish conspiracy, it is not essential that there be actual proof that all the conspirators took a direct part in every act. It is sufficient that they acted in concert pursuant to the same objective.[24]

Conspiracy is present when one concurs with the criminal design of another, indicated by the performance of an overt act leading to the crime committed.[25]

The OSG avers, as an incident to this issue, and in line with People v. Yabut,[26] that complainants are entitled to recover interest on the amount of P118,000, which the trial court awarded from the time of the filing of the Information until fully paid. We agree with the OSG's observation and hereby grant the legal interest on the amount prayed for.

In a number of cases,[27] this Court has affirmed the trial court's finding that victims of illegal recruitment are entitled to legal interest on the amount to be recovered as indemnity, from the time of the filing of the information until fully paid.

Second Issue:
Appellants' Liability for Estafa

Appellants argue that in a prosecution for estafa under Article 315, paragraph 2(a) of the Revised Penal Code, it is indispensable that the element of deceit, consisting of fraudulent representations or false statements of the accused, be made prior to or simultaneous with the delivery of the thing; and that such misrepresentations or false statements induce the complainants to part with the object of the crime. The former allege that the prosecution failed to point out with certainty whether their misrepresentations or false statements were made prior to or at least simultaneous with the latter's delivery of the money.

Under the cited provision of the Revised Penal Code, estafa is committed by any person who defrauds another by using a fictitious name; or by falsely pretending to possess power, influence, qualifications, property, credit, agency, business; by imaginary transactions or similar forms of deceit executed prior to or simultaneous with the fraud.[28] Moreover, these false pretenses should have been the very reason that motivated complainants to deliver property or pay money to the perpetrators of the fraud. While appellants insist that these constitutive elements of the crime were not sufficiently shown by the prosecution, the records of the case prove otherwise.

During almost all of their meetings, complainants paid various amounts of money to appellants only after hearing the feigned assurances proffered by the latter regarding the former's employment prospects in Japan. Even as early as their first meeting in the house of Aida de Leon, the payment by complainants of the initial amount of P15,000 was immediately preceded by an onslaught of promises. These enticing, albeit empty, promises were made by Angel Mateo, who even showed them documents purportedly evincing his connections with various foreign companies. Equally important, they relied on such misrepresentations, which convinced them to pay the initial amount as "processing fees." Complainant Melchor Degsi testified on the matter in this wise:

> "Prosecutor Ong:

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So when Angel Mateo arrived at the apartment of Aida de Leon, what did he do, if any?

Witness:

He introduced himself to us and told us that he can easily send us to Japan because he knows many Japanese employers and he also showed us some documents, ma'am. (Nagpakilala siya at ang sabi niya ay kayang-kaya niya kaming padalhin sa Japan dahil marami siyang kilalang Japanese employer at may ipinakita siyang mga dokumento, ma'am).

Q

What are these documents, if you remember, that were shown to you?

A

Papers of Japanese companies, Clean Supplies Co. Ltd., Arabian Boy Express Corporation and that is the reason why we were convinced, ma'am.

Q

So, after being convinced that Angel Mateo can send you abroad, what did you do after that?

A

Nakumbinsi nga po kami at pagkatapos noon ay nag-usap-usap silang tatlo nina Jean Am-amlaw at humihingi na sila ng processing fee na P20,000, ma'am.

Q

So what did you do when they were already asking for the amount of P20,000 from you as processing fee?

A

We told them that we do not have any money that time and we have to withdraw from the bank and then we went to Pasay and we withdrew the amount of P15,000.00 so that was the only amount we were able to give them that time, ma'am.

Q

Who were with you when you withdrew the said amount from the bank in Pasay?

A

Jean Am-amlaw and Angel Mateo, ma'am.

Q

Who received the amount of P15,000?

A

Angel Mateo in front of Jean Am-amlaw, ma'am."[29] (Italics supplied)

From the foregoing, it is evident that the false statements that convinced complainants of the authenticity of the transaction were made prior to their payment of the various fees. Indubitably, the requirement that the fraudulent statements should have been made prior to or simultaneous with the actual payment was satisfied.

Verily, by their acts of falsely representing themselves as persons who had the power and the capacity to recruit workers for abroad, appellants induced complainants to pay the required fees.[30] There is estafa if, through insidious words and machinations, appellants deluded complainants into believing that, for a fee, the latter would be provided overseas jobs.[31]

Although we agree with the ruling of the RTC convicting appellants of estafa, we note that it failed to apply the Indeterminate Sentence Law in imposing the penalty. Under Section 1 of that law, the maximum term of the indeterminate sentence shall be the penalty properly imposed, considering the attending circumstances; while the minimum term shall be within the range of the penalty next lower than that prescribed by the Code.[32] Hence, pursuant to the Indeterminate Sentence Law, the trial court should have fixed the minimum and the maximum penalties.[33]

The Revised Penal Code provides the penalties for estafa as follows:

> "Art. 315. Swindling (estafa). — Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:
>
> 1[st]. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000.00 but does not exceed 22,000 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be." (Italics supplied)

Considering that complainants were defrauded in excess of the P22,000 limit fixed by law, the maximum penalty of prision mayor should be imposed in its minimum period, or six (6) years and one (1) day to eight (8) years, plus one (1) year for each additional P10,000 in excess of the P22,000 limit. The total amount defrauded from the complainants was P158,600 — or P136,600 in excess of P22,000, which translates to an additional prison sentence of thirteen (13) years based on the aforementioned computation. Accordingly, the maximum penalty to be imposed should be nineteen (19) years and one (1) day to twenty-one (21) years, thus raising the penalty to reclusion temporal. However, the penal provisions for the crime of estafa provide that the total penalty to be imposed should not in any case exceed twenty (20) years imprisonment.

In Criminal Case No. 99-1113 for estafa, consonant with the Indeterminate Sentence Law, appellants should thus be sentenced to an indeterminate penalty of twelve (12) years of prision mayor which is the penalty next lower than that prescribed by the Code for the offense to twenty (20) years of reclusion temporal. Indeed, the expression "the penalty next lower to that prescribed by said Code for the offense," used in Section 1 of the Indeterminate Sentence Law, means the penalty next lower than that determined by the court in the case before it as the maximum.[34]

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Third Issue:
Liability as Co-conspirator

Finally, appellants contend that the trial court should not have convicted Vicenta Medina Lapis because the prosecution evidence did not sufficiently prove her participation in the conspiracy to defraud the victims. They maintain that she merely accompanied Angel Mateo during his meetings with complainants and that she had no knowledge of the intentions of her co-accused. They add that mere knowledge, acquiescence or agreement to cooperate is not enough to constitute one as a co-conspirator.

We are not persuaded. As discussed earlier, Lapis not only knew of the conspiracy, but she also offered her assistance in the processing of the employment requirements of complainants. Contrary to her claim that she was merely an unknowing spectator in the underhanded transactions, she deliberately inveigled them into pursuing the promise of foreign employment. The records clearly belie her claim of innocence and indicate that her participation in the criminal scheme transcends mere knowledge or acquiescence. Complainant Melchor Degsi describes one of the many instances of how deeply involved Lapis was in the whole recruitment charade:

> "Prosecutor Ong:
>
> Mr. Witness, you testified a while ago that you were at Max Restaurant together with Vicenta Lapis and Angel Mateo?
>
> Witness:
>
> Yes, ma'am.
>
> Q:
>
> Could you remember what Vicenta Medina [Lapis] said to you?
>
> A:
>
> She promised that we will be sent to Japan sooner as OCW, ma'am.
>
> Q:
>
> Could you recall how she said it?
>
> A:
>
> She said 'Sigurado kay, makakapunta kayo ng Japan', ma'am.
>
> Q:
>
> During that time that she was telling you 'sigurado kay makakapunta kayo ng Japan', did she show you

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anything?

A:

Tinanong namin ang address nila at kusang loob na ibinigay ni Vicenta Medina [Lapis] sa amin ang address at direksyon para makapunta kami sa Imus, Cavite, ma'am.

Q:

What was the reason why Vicenta Medina Lapis gave you the address?

A:

Para sigurado raw kami na hindi sila illegal kaya ibinigay niya ang address nila, ma'am."[35] (Italics supplied)

Once conspiracy is established, the act of one becomes the act of all regardless of the degree of individual participation.[36] Moreover, the precise modality or extent of participation of each individual conspirator becomes merely a secondary consideration.[37] Notwithstanding nonparticipation in every detail of the execution of the crime, the culpability of the accused still exists.[38]

WHEREFORE, the appealed Decision is hereby AFFIRMED with the following MODIFICATIONS:

- In Criminal Case No. 99-1112, appellants are ordered to pay legal interest on the amount of P118,000 from the time of the filing of the Information until fully paid.

- In Criminal Case No. 99-1113, appellants are sentenced to an indeterminate penalty of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Rollo, pp. 20-27; records, Vol. 1, pp. 321-328; penned by Judge Sixto Marella Jr.

[2] Id., pp. 26-27 & 327-328.

[3] Both Informations were signed by State Prosecutor Jocelyn Ong.

[4] Rollo, pp. 8-9; records, Vol. 1, pp. 2-3.

[5] Id., pp. 10-11 & 6-7.

[6] Id., pp. 8 & 2.

[7] Id., pp. 10 & 6.

[8] Atty. Lody Tancioco.

[9] Records, Vol. 1, p. 121.

[10] Appellee's Brief, pp. 8-14; rollo, pp. 96-102. This was signed by Asst. Solicitors Carlos N. Ortega and Cecilio O. Estoesta and Associate Solicitor Rebecca S. Dacanay.

[11] Appellant's Brief, pp. 11-13; rollo, pp. 54-56. This was signed by Attys. Amelia Garchitorena, Elpidio C. Bacuyag and Pastor A.P. Morales of the Public Attorney's Office.

[12] Decision, pp. 6-7; rollo, pp. 25-26; records, Vol. 1, pp. 326-327.

[13] This case was deemed submitted for decision on April 24, 2002 upon receipt by this Court of appellee's Brief. Appellant's Brief was received by this Court on November 28, 2001.

[14] Appellant's Brief, pp. 1-2; rollo, pp. 44-45. Original in upper case.

[15] People v. Alvares, GR No. 142981, August 20, 2002, pp. 11-12; People v. Ordoño, 335 SCRA 331, July 10, 2000; People v. Diaz, 259 SCRA 441, 450, July 26, 1996; People v. Señoron, 267 SCRA 278, 284, January 30, 1997; People v. Gabres, 267 SCRA 581, 594, February 6, 1997.

[16] People v. Ordoño, supra.

[17] People v. Alvarez, supra, p. 11; People v. Diaz, supra, p. 456.

[18] People v. Ong, 322 SCRA 38, January 18, 2000.

[19] People v. Gamboa, 341 SCRA 451, September 29, 2000.

[20] People v. Alvarez, supra; People v. Hernandez, GR No. 141221-36, March 7, 2002; People v. Ordoño, supra.

[21] TSN, September 14, 1999, pp. 6-13.

[22] Note at 19.

[23] Id., p. 459.

[24] Fortuna v. People, 348 SCRA 360, December 15, 2000.

[25] People v. Bato, 348 SCRA 253, December 15, 2000.

[26] 316 SCRA 237, October 5, 1999.

[27] People v. Mañozca, 269 SCRA 513, March 13, 1997; Abaca v. Court of Appeals, 290 SCRA 657, June 5, 1998; People v. Ong, 322 SCRA 38, January 18, 2000.

[28] People v. Sagaydo, 341 SCRA 329, September 29, 2000; People v. Meris, 329 SCRA 33, March 28, 2000.

[29] TSN, September 21, 1999, pp. 6-7.

[30] People v. Ladera, 344 SCRA 647, November 15, 2000.

[31] People v. Ganaden, 299 SCRA 433, November 27, 1998.

[32] People v. Meris, 329 SCRA 33, March 28, 2000; Jacobo v. Court of Appeals, 270 SCRA 270, March 21, 1997.

[33] Mari v. Court of Appeals, 332 SCRA 475, May 31, 2000.

[34] "Application of the Indeterminate Sentence Law" by Prof. Esteban B. Bautista, Annotation, 78 SCRA 54, July 28, 1977.

[35] TSN, September 21, 1999, pp. 41-42.

[36] People v. Sumalpong, 284 SCRA 464, January 20, 1998.

[37] People v. Lising, 285 SCRA 595, January 30, 1998.

[38] Marcelo v. Court of Appeals, 348 SCRA 740, December 27, 2000.

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