



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 238910

Present:

- versus -

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

PERLITA CASTRO URQUICO @
Fhey, CARLO VILLAVICENCIO,
JR. @ BOYET, and ELNORA
MANDELMA* @ LATHEA,
ESTEFANOS STELLIOS,
Accused,

ELNORA MANDELMA @
LATHEA ESTEFANOS
STELLIOS,

Accused-Appellant.

Promulgated:

JUL 20 2022

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DECISION

HERNANDO, J.:

On appeal¹ is the September 14, 2017 Decision² of the Court of Appeals (CA) in CA-G.R. CR HC No. 07170, affirming the January 16, 2014 Joint Decision³ of the Regional Trial Court (RTC) of San Fernando City, Pampanga, Branch 41 in Criminal Case Nos. 17318, 17326, 17327, 17332 and 17346,

* Also spelled Mandela in some parts of the records.

¹ *Rollo*, pp. 41-43.

² *Id.* at 2-40. Penned by Associate Justice Carmelita Salandahan Manahan and concurred in by Associate Justices Fernanda Lampas Peralta, and J. Elihu A. Ybañez.

³ Records (Crim. Case No. 17318), pp. 313-349.

which found accused-appellant Elnora Mandelma a.k.a. "Lathea Estefanos Stellios" (accused-appellant) guilty beyond reasonable doubt of the crimes of (1) Illegal Recruitment committed in Large Scale which constitutes economic sabotage defined and penalized by Republic Act No. (RA) 8042,⁴ as amended, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995;" and (2) Estafa under Article 315, paragraph 2 (a) of the Revised Penal Code (RPC).

The facts (based on the testimonies of the prosecution's and defense's witnesses) as found by the lower courts, are as follows:

Sometime in the months of November 2009 to May 2010, accused-appellant and her co-accused, Perlita Castro Urquico a.k.a. "Fhey" (Urquico), and Carlo Villavicencio, Jr. a.k.a. "Boyot" (Villavicencio), operating under Mheyman Manpower Agency (MMA), had a series of transactions that involved the collection of money from at least 31 individuals who were looking for employment abroad.⁵ However, despite paying all the supposed fees, none of these individuals were actually able to go abroad, and hence, resulted to the filing of several complaints against the accused trio.⁶

Five Informations charging the accused with violation of RA 8042 and Estafa under Article 315, par. 2 (a) of the RPC were filed by the Office of the Prosecutor, to wit:⁷

- 1) Information dated November 2, 2010 in Criminal Case No. 17318 for violation of RA 8042;
- 2) Information dated November 2, 2010 in Criminal Case No. 17326 for Estafa under Article 315, par. 2(a), RPC (Lopez case);
- 3) Information dated November 2, 2010 in Criminal Case No. 17327 for Estafa under Article 315, par. 2(a), RPC (Lozano case);
- 4) Information dated November 2, 2010 in Criminal Case No. 17332 for Estafa under Article 315, par. 2(a), RPC (Calma case); and
- 5) Information dated November 2, 2010 in Criminal Case No. 17346 for Estafa under Article 315, par. 2(a), RPC (Galendez case).

⁴ Entitled "AN ACT TO INSTITUTE THE POLICIES OF OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES." Approved: June 7, 1995.

⁵ Id. at 313-316.

⁶ Id.

⁷ *Rollo*, pp. 4-9.

Upon arraignment on April 25, 2011, accused-appellant, with assistance of counsel, pleaded not guilty in Criminal Case Nos. 17318 to 17349.⁸ The RTC, upon motion of the prosecution and without objection from the defense, also ordered that these cases be tried jointly.⁹ Thereafter, trial ensued.¹⁰

On February 15, 2012, the RTC granted accused-appellant's Motion for Leave of Court to File Demurrer to Prosecution's Evidence, which she filed on February 9, 2012.¹¹

On March 6, 2012, accused-appellant filed a Demurrer to Evidence (With Leave of Court)¹² to which the prosecution filed its Comment/Opposition (To Demurrer to Evidence) arguing that it established accused-appellant's guilt for violation of RA 8042 and Estafa.¹³

On March 16, 2012, the RTC issued an Order¹⁴ denying accused-appellant's demurrer to evidence in Criminal Case Nos. 17318, 17326, 17327, 17332, and 17346. However, in the same Order, the RTC granted her demurrer to evidence in Criminal Case Nos. 17319 to 17325, 17328 to 17331, 17332 to 17345, and 17347 to 17349, dismissing said cases only as to her.¹⁵ The dispositive portion of the Order reads:

VIEWED IN THE LIGHT OF THE FOREGOING, the Demurrer to Evidence is DENIED in as (*sic*) Criminal Case Nos. 17318, 17326, 17327, 17332, and 17346.

There being no evidence presented against accused Elnora Ebo Mandelma in Criminal Case Nos. 17319 to 17325, 17328 to 17331, 17333 to 17345, and 17347 to 17349, the Demurrer to Evidence is GRANTED and the said cases are ordered DISMISSED only as against accused Elnora Ebo Mandelma. Considering that the other accused - Perlita Castro Urquico @ 'Fhey' and Carlo Villavicencio Jr. @ 'Boyot' are at large and Alias Warrants of Arrest were already issued against them, let Criminal Case Nos. 17319 to 17325, 17328 to 17331, 17333 to 17345, and 17347 to 17349 be sent to the archives subject to their revival upon apprehension of the said accused or their voluntary surrender to this Court.

x x x x

SO ORDERED.¹⁶

⁸ Id. at 9.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id. at 13.

¹⁵ Id.

¹⁶ Id.

The prosecution did not object to the dismissal of the above cases against accused-appellant.¹⁷

During trial, the prosecution presented Bienvenida R. Galendez (Galendez), Saigee C. Lozano (Lozano), Arnold M. Lopez (Lopez), Andy M. Calma (Calma), and Ferdinand Jose E. Merrera (Merrera) as witnesses.

Testimony of Galendez

Galendez, the private complainant in Criminal Case No. 17346, testified that on February 2, 2010, a certain "Mang Kiting," supposedly an agent, accompanied Galendez to MMA, an overseas recruitment agency in San Fernando City, Pampanga.¹⁸ There, she met Urquico who informed her of a job opening in Cyprus, and that their broker is a certain "Lathea," later identified as accused-appellant.¹⁹ Accused-appellant will bring their documents to Manila and look for work in Cyprus for the applicants.²⁰

Urquico asked Galendez to pay MMA a total of ₱52,000.00 in order for her to secure employment in Cyprus. On three separate instances from February 4 to March 10, 2010, Galendez was able to pay a total of ₱34,000.00 to MMA, and during all three instances, Villavicencio was beside Urquico while she was preparing the receipts.²¹

On June 11, 2010, Galendez was in MMA and saw accused-appellant for the first time.²² Galendez thought accused-appellant was a foreigner as the latter looked like one and spoke the English language.²³

After hearing stories from other applicants that MMA was a fake entity, Galendez requested for a refund of her money from Urquico.²⁴ Nevertheless, Galendez was not able to get a refund because Urquico and Villavicencio were arrested on July 5, 2010 when the matter was brought to attention of the television program "Imbestigador."²⁵

Galendez was not able to go to Cyprus for employment and hence, filed the instant complaint against the accused.

¹⁷ Id. at 14.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id. at 14-15.

²² Id. at 15.

²³ Id.

²⁴ Id.

²⁵ Id. at 16.

Testimony of Lozano

Lozano is the private complainant in Criminal Case No. 17327.²⁶

On December 9, 2009, he paid Urquico ₱16,500.00 for processing and transmittal fees although the acknowledgement receipt only shows ₱13,800.00.²⁷ Additionally, on December 24, 2009, in the presence of accused-appellant, Lozano paid Urquico and Villavicencio ₱35,000.00 for the plane ticket, as reflected in the acknowledgement receipt issued on the same date.²⁸

On December 27, 2009, he was with other applicants in the house of Urquico and Villavicencio in San Fernando City, Pampanga.²⁹ Accused-appellant arrived and she was introduced as a broker named “Lathea Estefanos Stellios.”³⁰ Accused-appellant spoke in English and carried a bag containing a list of all applicants, his name included.³¹

However, Lozano was also not able to go to Cyprus as promised, and thus filed a complaint against the accused.

Testimony of Lopez

Lopez is the private complainant in Criminal Case No. 17326. Sometime in October 2009, he met “Fhey” and her spouse “Boyet,” later identified as Urquico, and Villavicencio, respectively, at their house in front of Camp Olivas in San Fernando City, Pampanga.³² Urquico allegedly offered Lopez a job in Cyprus as a grape-picker with a salary of \$23.00 per hour, excluding overtime.³³

On December 27, 2009, at around 9:00 to 10:00 a.m., Lopez, along with other applicants were gathered in the house of Urquico as they were told that accused-appellant, who was later introduced to them as the broker and recruiter, would meet them for contract signing.³⁴ On that occasion, Lopez, paid ₱51,500.00 to Urquico who counted it and afterwards, gave the same to accused-appellant.³⁵ This was supported by two Acknowledgement Receipts.³⁶

Accused-appellant spoke in English when she told Lopez that he is one of the applicants who would undergo a Pre-Departure Orientation Seminar (PDOS) the next day.³⁷ Villavicencio was the one in charge of the applicants

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

³¹ Id. at 17.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Id. at 17-18.

³⁶ Id. at 18.

³⁷ Id.

undergoing medical examination for the PDOS.³⁸ As with the other private complainants, Lopez was not able to go and work in Cyprus. Thus, Lopez filed the instant complaint.

Testimony of Calma

Calma is the private complainant in Criminal Case No. 17332. He was likewise informed by a “Mang Kiting” that the group of “Fhey” was recruiting people to work abroad.³⁹

Sometime in November 2009, Calma went to the house of Urquico, who was then known to him as “Fhey.”⁴⁰ Urquico informed him and the other applicants present that they were recruiting people to become fruit-pickers in Cyprus at a rate of \$23.00 per hour, but the applicants would need to pay for the processing of their papers.⁴¹ Accused-appellant, who was introduced to the applicants as “Lathea,” and Villavicencio, who was then known as Urquico’s spouse “Boyet,” were also present.⁴²

On December 9, 2009, Calma paid Urquico ₱16,500.00, and ₱34,500.00, as supported by two acknowledgement receipts.⁴³ Calma later paid the balance of ₱500.00 on January 9, 2010, as shown in an acknowledgement receipt with the same date.⁴⁴

On December 27, 2009, Calma signed his contract and was advised to wait, but he was not able to go to Cyprus.⁴⁵ Thus, he filed the instant complaint.

Testimony of Merrera

Merrera, a Senior Labor and Employment Officer of the Philippine Overseas Employment Administration (POEA), Satellite Office III, San Fernando City, Pampanga,⁴⁶ testified that among his functions is to give legal assistance to victims of illegal recruitment, which is the subject matter of Criminal Case No. 17318.⁴⁷

Merrera testified that Director Melchor B. Dizon (Dir. Dizon), the POEA Director for Licensing and Adjudication Branch, issued a certification dated May 25, 2011 stating the following, among others:

³⁸ Id.
³⁹ Id.
⁴⁰ Id. at 19.
⁴¹ Id.
⁴² Id.
⁴³ Id.
⁴⁴ Id.
⁴⁵ Id.
⁴⁶ Id. at 20.
⁴⁷ Id.

This is to certify that based on available records of this Office, MHEYMAN MANPOWER INTERNATIONAL, with office address at 94 Gil Puyat Avenue, Makati City, represented by Elena M. Buenaventura, Proprietor, is a landbased agency whose licence is valid until September 21, 2010.

It is further clarified that Perlita Urquico a.k.a. Perlita Ramos, Claro Aniceta Villavicencio Jr., Lathea Estefanos Stellios are not included in the list of employees submitted to this office by the above agency.

Moreover, the agency has no registered branch office in San Fernando City, Pampanga.⁴⁸

Merrera claimed that he is familiar with Dir. Dizon's signature, having already received multiple certifications from the latter.⁴⁹ Furthermore, Merrera personally verified in their system whether the persons mentioned in the certification were licensed or not, but he found no records of them having authority to recruit workers for overseas employment.⁵⁰

Version of the Defense

For her defense, accused-appellant maintained that she is not one and the same person as "Lathea Estefanos Stellios."⁵¹ She denied having known or even seen any of her co-accused and the private complainants. It was only during trial that she saw complainants for the first time.⁵² She is not familiar with MMA, and that she did not promise employment abroad to private complainants.⁵³

Aside from invoking the defense of denial, accused-appellant also presented an alibi. She alleged that she was not in the house of Urquico on December 27, 2009 because she was at Cambatutay and Rama Islands, Samar from December 15 or 17, 2009 until January 6, 2010.⁵⁴ She also denied having been present at the MMA office on June 11, 2010 because she was at Santiago City at the time.⁵⁵

Ruling of the Regional Trial Court

After trial, the RTC rendered a Joint Decision⁵⁶ dated January 16, 2014, in Criminal Case Nos. 17318, 17326, 17327, 17332, and 17346, finding accused-appellant guilty beyond reasonable doubt of the felonies charged against her.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id. at 21.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id. at 22.

⁵⁶ Records (Crim. Case No. 17318) pp. 313-349.

The RTC ruled that the prosecution successfully proved the charges against accused-appellant beyond reasonable doubt, and that her defenses of denial and alibi cannot prevail over the categorical and affirmative testimonies presented by the prosecution.⁵⁷ The dispositive portion of the RTC Joint Decision reads:⁵⁸

VIEWED IN LIGHT OF THE FOREGOING, this Court finds the accused ELNORA EBO MANDELMA alias LATHEA ESTEFANOS STELLIOS guilty beyond reasonable doubt of the crime of Illegal Recruitment committed in a large scale which constitutes economic sabotage defined and penalized by R.A. 8042, *as amended*, and Estafa under Article 315, paragraph 2(a) of the Revised Penal Code, and hereby sentences her as follows:

1) in Criminal Case No. 17318 (Illegal Recruitment), to suffer the penalty of life imprisonment and to pay a fine of Php 2,000,000.00;

2) in Criminal Case No. 17326 (Estafa), to suffer the indeterminate penalty of 4 years and 2 months of prision correccional, *as minimum*, to 10 years, 8 months, and 21 days of prision mayor, *as maximum*, and to indemnify Arnold M. Lopez the amount of Php 51,500.00;

3) in Criminal Case No. 17327 (Estafa), to suffer the indeterminate penalty of 4 years and 2 months of prision correccional, *as minimum*, to 10 years, 8 months, and 21 days of prision mayor, *as maximum*, and to indemnify Saigee C. Lozano the amount of Php 51,500.00;

4) in Criminal Case No. 17332 (Estafa), to suffer the indeterminate penalty of 4 years and 2 months of prision correccional, *as minimum*, to 10 years, 8 months, and 21 days of prision mayor, *as maximum*, and to indemnify Andy M. Calma the amount of Php 51,500.00;

5) in Criminal Case No. 17346 (Estafa), to suffer the indeterminate penalty of 4 years and 2 months of prision correccional, *as minimum*, to 10 years, 8 months, and 21 days of prision mayor, *as maximum*, and to indemnify Bienvenida R. Galendez the amount of Php 51,500.00; and

6) to pay the costs of suit.

SO ORDERED.⁵⁹

Aggrieved, accused-appellant appealed to the CA claiming that the RTC gravely erred in giving undue credence to the private complainants' version of the story, and in convicting her despite the prosecution's failure to overthrow the constitutional presumption of innocence in her favor.⁶⁰

⁵⁷ Id. at 346-348

⁵⁸ Id. at 348-349.

⁵⁹ Id.

⁶⁰ *Rollo*, pp. 25-26.

Ruling of the Court of Appeals

On September 14, 2017, the CA rendered a Decision denying accused-appellant's appeal and affirming the RTC Joint Decision with modification.⁶¹ The CA held that as to the crime of Illegal Recruitment, all the elements of the same were established by the prosecution.⁶² Moreover, since it was also established that the Illegal Recruitment was committed against three or more persons, the CA ruled that the crime was Illegal Recruitment in Large Scale and thus, the penalty imposed by the RTC was proper.⁶³

As to the four counts of Estafa, the CA also affirmed accused-appellant's conviction as all the elements of the same were proven by the prosecution beyond reasonable doubt.⁶⁴ However, the CA modified the penalty imposed by the RTC. The dispositive portion reads as follows:⁶⁵

WHEREFORE, the Appeal is DENIED. We AFFIRM with MODIFICATIONS the January 16, 2014 Joint Decision of the Regional Trial Court, Branch 41, San Fernando City, Pampanga to read as follows:

1) In Criminal Case No. 17318 (Illegal Recruitment), the Court finds accused-appellant Elnora Ebo Mandelma alias "Lathea Estefanos Stellios" GUILTY beyond reasonable doubt of the crime of Illegal Recruitment committed in Large Scale, constituting economic sabotage, as defined and penalized in Sections 6 and 7(b) of Republic Act No. 8042, as amended. She is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos (Php 2,000,000.00);

2) In Criminal Case No. 17326, the Court finds accused-appellant Elnora Ebo Mandelma alias "Lathea Estefanos Stellios" GUILTY beyond reasonable doubt of the crime of Estafa, as defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code. She is hereby sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of prision correccional, *as minimum*, to eight (8) years, eight (8) months, and twenty-one (21) days of prision mayor, *as maximum*, and to indemnify Arnold M. Lopez the amount of Fifty One Thousand Five Hundred Pesos (Php 51,500.00) with legal interest at the rate of six percent (6%) per annum from November 2, 2010, until such amount is fully paid;

3) In Criminal Case No. 17327, the Court finds accused-appellant Elnora Ebo Mandelma alias "Lathea Estefanos Stellios" GUILTY beyond reasonable doubt of the crime of Estafa, as defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code. She is hereby sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of prision correccional, *as minimum*, to eight (8) years, eight (8) months, and twenty-one (21) days of prision mayor, *as maximum*, and to indemnify Saigee C. Lozano the

⁶¹ Id. at 2-40.

⁶² Id. at 30-33.

⁶³ Id. at 33.

⁶⁴ Id. at 34-36.

⁶⁵ Id. at 38-39.

amount of Fifty One Thousand Five Hundred Pesos (Php 51,500.00) with legal interest at the rate of six percent (6%) per annum from November 2, 2010, until such amount is fully paid;

4) In Criminal Case No. 17332, the Court finds accused-appellant Elnora Ebo Mandelma alias "Lathea Estefanos Stellios" GUILTY beyond reasonable doubt of the crime of Estafa, as defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code. She is hereby sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of prision correccional, *as minimum*, to eight (8) years, eight (8) months, and twenty-one (21) days of prision mayor, *as maximum*, and to indemnify Andy M. Calma the amount of Fifty One Thousand Five Hundred Pesos (Php 51,500.00) with legal interest at the rate of six percent (6%) per annum from November 2, 2010, until such amount is fully paid;

5) In Criminal Case No. 17346, the Court finds accused-appellant Elnora Ebo Mandelma alias "Lathea Estefanos Stellios" GUILTY beyond reasonable doubt of the crime of Estafa, as defined and penalized in Article 315, paragraph 2 (a) of the Revised Penal Code. She is hereby sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of prision correccional, *as minimum*, to eight (8) years, eight (8) months, and twenty-one (21) days of prision mayor, *as maximum*, and to indemnify Bienvenida R. Galendez the amount of Fifty One Thousand Five Hundred Pesos (Php 51,500.00) with legal interest at the rate of six percent (6%) per annum from November 2, 2010, until such amount is fully paid;

6) Accused-appellant Elnora Ebo Mandelma alias "Lathea Estefanos Stellios" shall pay the costs of suit.

SO ORDERED.⁶⁶

Hence, the present petition before this Court.

Our Ruling

There is no merit in this appeal.

The prosecution has successfully established accused-appellant's guilt beyond reasonable doubt

Illegal Recruitment in Large Scale (Criminal Case No. 17318)

Article 13(b) of the Labor Code defines recruitment and placement as "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."

⁶⁶ Id.

Illegal recruitment, on the other hand is defined under Article 38 of the Labor Code as follows:

ART. 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 Department 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.

(c) The Secretary of Labor and Employment or his duly authorized representatives shall have the power to cause the arrest and detention of such non-licensee or non-holder of authority if after investigation it is determined that his activities constitute a danger to national security and public order or will lead to further exploitation of job-seekers. The Secretary shall order the search of the office or premises and seizure of documents, paraphernalia, properties and other implements used in illegal recruitment activities and the closure of companies, establishments and entities found to be engaged in the recruitment of workers for overseas employment, without having been licensed or authorized to do so.

Illegal recruitment, as defined under Article 38 of the Labor Code, encompasses recruitment activities for both local and overseas employment. However, illegal recruitment under this article is limited to recruitment activities undertaken by non-licensees or non-holders of authority.⁶⁷ Thus, under the Labor Code, to constitute Illegal Recruitment in Large Scale, three elements must concur:

1. The accused undertook any recruitment activity defined under Art. 13 (b) or any prohibited practice enumerated under Art. 34 of the Labor Code.
2. He did not have the license or the authority to lawfully engage in the recruitment and placement of workers.
3. He committed the same against three or more persons, individually or as a group.⁶⁸

⁶⁷ *People v. Tolentino*, 762 Phil. 592, 606 (2015).

⁶⁸ *Id.*

RA 8042, otherwise known as the “Migrant Workers and Overseas Filipinos Act of 1995,” established a higher standard of protection and promotion of the welfare of the migrant workers, their families and overseas Filipinos in distress.⁶⁹ RA 8042 also broadened the concept of illegal recruitment for overseas employment and increased the penalties, especially for Illegal Recruitment in Large Scale and Illegal Recruitment Committed by a Syndicate, which are considered offenses involving economic sabotage.⁷⁰ Part II of RA 8042 defines and penalizes illegal recruitment for employment abroad, whether undertaken by a non-licensee or non-holder of authority or by a licensee or holder of authority.⁷¹

Section 6 of RA 8042 defines illegal recruitment, while Section 7 enumerates the penalties therefor, thus:

SEC. 6. *Definition.* - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad for two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

⁶⁹ Id. at 606-607.

⁷⁰ Id. at 607.

⁷¹ Id.

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;

(h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;

(i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;

(j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;

(l) Failure to actually deploy without valid reason as determined by the Department of Labor and Employment: and

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be 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 or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

SEC. 7 of RA 8042, as amended by Section 6 of RA 10022⁷² provides for the penalties, thus:

(a) x x x

(b) The penalty of life imprisonment and a fine of not less than Two million pesos (2,000,000.00) or more than Five million pesos (P5,000,000.00)

⁷² Entitled "AN ACT AMENDING REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995, AS AMENDED, FURTHER IMPROVING THE STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES." Lapsed into law on March 8, 2010.

shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority x x x⁷³

As applied in this case, the records would show that the prosecution has indeed proven beyond reasonable doubt each of the elements constituting the crime of Illegal Recruitment of a Large Scale as follows:

(1) Regarding the first element that the accused undertook any recruitment activity defined under Article 13(b), or any prohibited practice enumerated under Article 34 of the Labor Code, the prosecution was able to prove through the testimony of its witnesses that accused-appellant was introduced by her co-accused as the job broker for Cyprus, "Lathea Estefanos Stellios." Under this fake identity, accused-appellant committed various overt acts of recruitment such as giving orders to her co-accused to check the names of applicants who already paid, calling the names of applicants who will undergo PDOS, giving a supposed contract to the applicants for their signature and collecting it afterwards, and even writing the names of applicants ready for deployment, among other things.⁷⁴ There is no doubt that accused-appellant participated in recruitment or placement activities.

(2) For the second element, it was satisfactorily established that accused-appellant clearly did not have a license or authority to lawfully engage in the recruitment and placement of workers. Merrera, a Senior Labor and Employment Officer of the POEA, Satellite Office III, San Fernando City, Pampanga,⁷⁵ testified that Dir. Dizon, POEA's Director for Licensing and Adjudication Branch, issued a certification dated May 25, 2011 stating the following, among others:

This is to certify that based on available records of this Office, MHEYMAN MANPOWER INTERNATIONAL, with office address at 94 Gil Puyat Avenue, Makati City, represented by Elena M. Buenaventura, Proprietor, is a landbased agency whose licence is valid until September 21, 2010.

It is further clarified that Perlita Urquico a.k.a. Perlita Ramos, Claro Aniceta Villavicencio, Jr., Lathea Estefanos Stellios are not included in the list of employees submitted to this office by the above agency.

Moreover, the agency has no registered branch office in San Fernando City, Pampanga⁷⁶

⁷³ Underscoring supplied.

⁷⁴ *Rollo*, pp. 30-32.

⁷⁵ *Id.* at 32-33.

⁷⁶ *Rollo*, p. 20. Underscoring supplied.

Aside from this public document issued by the POEA, Merrera also testified that he personally verified in their system whether the persons mentioned in the certification were licensed or not, but he found no records of them having authority to recruit workers for overseas employment.⁷⁷ Clearly, the prosecution was able to show that accused-appellant and her cohorts have no lawful authority to engage in recruitment and placement activities.

(3) Lastly, the prosecution has established that there were at least four victims in this case – Galendez, Lozano, Lopez, and Calma.⁷⁸

Estafa (Criminal Case Nos. 17326, 17327, 17332, 17346)

It is established that a person, for the same acts, may be convicted separately for Illegal Recruitment under RA 8042 (or under the Labor Code) and Estafa under Article 315, par. 2 (a) of the RPC.⁷⁹

Article 315, par. 2 (a) of the RPC provides:

Article 315. *Swindling (estafa).*— Any person who shall defraud another by any of the means mentioned herein below x x x

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.⁸⁰

*Arias v. People*⁸¹ enumerated the following elements of this kind of Estafa. The elements of estafa under Article 315, paragraph 2(a) of the RPC, are the following:

1. That there must be a false pretense, fraudulent act or fraudulent means;
2. That such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud;
3. That the offended party must have relied on the false pretense, fraudulent act, or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and

⁷⁷ Id.

⁷⁸ Id. at 32.

⁷⁹ *People v. Tolentino*, supra note 67.

⁸⁰ Underscoring supplied.

⁸¹ G.R. Nos. 237106-07, June 19, 2019.

4. That as a result thereof, the offended party suffered damage.⁸²

In this case, all the elements of Estafa are present. The testimonies of the private complainants, coupled with the documentary and object evidence, demonstrated that accused-appellant, under the false pretense of being a legitimate overseas worker recruiter, fraudulently induced private complainants to part with their money as part of the supposed recruitment process. Given that none of the private complainants was deployed abroad as they were just being scammed, they clearly suffered damage.

The RTC and the CA were correct in finding that accused-appellant deceived private complainants into believing that she had the authority and capability to send them to Cyprus for employment. Particularly, the RTC aptly found that Mandelma used a fictitious-sounding name, “Lathea Estefanos Stellos,” to conceal her true identity and spoke English with a feigned foreign accent or diction to induce private complainants, who relied on these false pretenses, to part with their money amounting to ₱51,500.00 each in exchange for the promise of future work abroad. However, this promise of overseas employment was never fulfilled.

Mandelma’s defenses of denial and alibi failed to overturn the positive and categorical testimonies of the prosecution’s witnesses

It must be reiterated that the factual findings of the trial court, especially those which revolve around matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.⁸³ The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses’ deportment, demeanor, conduct, and attitude under grueling examination.⁸⁴ Such findings of the trial court are even more convincing when affirmed by the CA, as in this case.

With the above in mind, the Court finds that the RTC correctly held that the bare denial of accused-appellant must yield to the categorical statements of the prosecution witnesses.⁸⁵ Jurisprudence has held that denial and alibi as defenses are negative and self-serving evidence undeserving of weight in law, unless substantiated by clear and convincing evidence.⁸⁶ It is considered with suspicion and always received with caution, not only because they are

⁸² Id.

⁸³ *People v. Bayan*, 741 Phil. 716, 727 (2014), citing *Quelnan v. People*, 553 Phil. 618, 637 (2007).

⁸⁴ Id., citing *People v. Alunday*, 586 Phil. 120, 128 (2008).

⁸⁵ Records (Crim. Case No. 17318), p. 346.

⁸⁶ *Artates v. People*, G.R. No. 235724, March 11, 2020.

inherently weak and unreliable, but also because they are easily fabricated and concocted.⁸⁷

As applied in this case, accused-appellant was not able to present any clear and convincing evidence to support her self-serving statements.⁸⁸ In fact, she did not even present any other witness to corroborate her alibi that she was not in the house of Urquico on December 27, 2009 because she was in Samar, and that she was not in the MMA office on January 11, 2010 because she was at Santiago City. If she was confident in the truth of her statements, there is no reason as to why she could not even present another witness to vouch for her presence or absence.

Moreover, there is no proof of ill intent on the part of the private complainants to falsely impute the crime charged against the accused.⁸⁹ Verily, accused-appellant's self-serving testimonies without any other corroborating evidence cannot overcome the positive testimonies of the prosecution's witnesses that were corroborated by the other evidence on record, *i.e.*, acknowledgement receipts. Accused-appellant's denial and alibi are nothing but a desperate attempt to escape the clutches of the law.

Penalty

As to the penalty to be imposed, this Court finds the modifications made by the CA to the RTC Decision to be outdated.⁹⁰ RA 10951⁹¹ which was enacted into law on August 29, 2017, already amended Article 315 of the RPC. Particularly, Section 85 of RA 10951 provides:

Section 85. Article 315 of the same Act, as amended by Republic Act No. 4885, Presidential Decree No. 1689, and Presidential Decree No. 818, is hereby further amended to read as follows:

Art. 315. *Swindling (estafa)*. - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

1st. The penalty of *prisión correccional* in its maximum period to *prisión mayor* in its minimum period, if the amount of the fraud is over Two million four hundred thousand pesos (₱2,400,000) but does not exceed Four million four hundred thousand pesos (₱4,400,000), 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 Two million pesos (₱2,000,000); but the total penalty which may be imposed shall not exceed twenty years. In such

⁸⁷ Id.

⁸⁸ Records (Crim. Case No. 17318), pp. 346-347.

⁸⁹ Id. at p. 347.

⁹⁰ *Rollo*, pp. 35-37.

⁹¹ Entitled "AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS 'THE REVISED PENAL CODE,' AS AMENDED." Approved: August 29, 2017.

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 prisión mayor or reclusion temporal, as the case may be.

2nd. The penalty of prisión correccional in its minimum and medium periods, if the amount of the fraud is over One million two hundred thousand pesos (₱1,200,000) but does not exceed Two million four hundred thousand pesos (₱2,400,000).

3rd. The penalty of arresto mayor in its maximum period to prisión correccional in its minimum period, if such amount is over Forty thousand pesos (₱40,000) but does not exceed One million two hundred thousand pesos (₱1,200,000).

4th. By arresto mayor in its medium and maximum periods, if such amount does not exceed Forty thousand pesos (₱40,000): *Provided*, That in the four cases mentioned, the fraud be committed by any of the following means:

1. With unfaithfulness or abuse of confidence, namely:

(a) altering the substance, quantity, or quality of anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration.

(b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

(c) By taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or any third person.

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

(b) By altering the quality, fineness or weight of anything pertaining to his art or business.

(c) By pretending to have bribed any Government employee, without prejudice to the action for calumny which the offended party may deem proper to bring against the offender. In this case, the offender shall be punished by the maximum period of the penalty.

(d) By postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack or insufficiency of funds shall be prima facie evidence of deceit constituting false pretense or fraudulent act.

Any person who shall defraud another by means of false pretenses or fraudulent acts as defined in paragraph 2(d) hereof shall be punished by:

1st The penalty of reclusion temporal in its maximum period, if the amount of fraud is over Four million four hundred thousand pesos (₱4,400,000) but does not exceed Eight million eight hundred thousand pesos (₱8,800,000). If the amount exceeds the latter, the penalty shall be reclusion perpetua.

2nd. The penalty of reclusion temporal in its minimum and medium periods, if the amount of the fraud is over Two million four hundred thousand pesos (₱2,400,000) but does not exceed Four million four hundred thousand pesos (₱4,400,000).

3rd. The penalty of prisión mayor in its maximum period, if the amount of the fraud is over One million two hundred thousand pesos (₱1,200,000) but does not exceed Two million four hundred thousand pesos (₱2,400,000).

4th. The penalty of prisión mayor in its medium period, if such amount is over Forty thousand pesos (₱40,000) but does not exceed One million two hundred thousand pesos (₱1,200,000).

5th. By prisión mayor in its minimum period, if such amount does not exceed Forty thousand pesos (₱40,000).

3. Through any of the following fraudulent means:

(a) By inducing another, by means of deceit, to sign any document.

(b) By resorting to some fraudulent practice to insure success in a gambling game.

(c) By removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.⁹²

⁹² Underscoring supplied.

In this case, the total amount defrauded is ₱51,500.00, and thus, pursuant to the above provision, the penalty prescribed is *arresto mayor* in its maximum period to *prisión correccional* in its minimum period, as the amount is over ₱40,000 but does not exceed ₱1,200,000. Applying the Indeterminate Sentence Law (ISL), the Court is guided by its disposition in *People v. Dejolde, Jr.*,⁹³ which also involved the application of RA 10951 vis-a-vis the third paragraph of Article 315, as amended, to wit:

However, in view of the recent enactment of RA 10951, there is a need to modify the penalties imposed by the CA insofar as the two counts of estafa, docketed as Criminal Case Nos. 27592-R and 27602-R, are concerned. For committing estafa involving the amounts of [₱]440,000.00 and [₱]350,000.00, Article 315 of the RPC, as amended by RA 10951, now provides that the penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period shall be imposed if the amount involved is over [₱]40,000.00 but does not exceed [₱]1,200,000.00. There being no mitigating and aggravating circumstance, the maximum penalty should be one (1) year and one (1) day of *prisión correccional*. Applying the Indeterminate Sentence Law, the minimum term of the indeterminate sentence is *arresto mayor* in its minimum and medium periods, the range of which is one (1) month and one (1) day to four (4) months. Thus, the indeterminate penalty for each count of estafa should be modified to a prison term of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prisión correccional*, as maximum.

In addition, an interest rate of 6% [per] *annum* is likewise imposed on the amounts of [₱]440,000.00 and [₱]350,000.00 from the date of finality of this Resolution until full payment.⁹⁴

Thus, in Criminal Case Nos. 17326, 17327, 17332, and 17346, considering that there are no mitigating or aggravating circumstances present, accused-appellant is sentenced to suffer an indeterminate penalty of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prisión correccional*, as maximum.⁹⁵


WHEREFORE, the appeal is hereby **DISMISSED**. The September 14, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 07170 is **AFFIRMED WITH MODIFICATIONS** that, insofar as Criminal Case Nos. 17326, 17327, 17332, and 17346, accused-appellant **Elnora Mandelma @ Lathea Estefanos Stellios**, is sentenced to suffer the indeterminate penalty of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prisión correccional*, as maximum, is hereby imposed for each count of Estafa.

⁹³ *People of the Philippines v. Moises Dejolde, Jr.*, 824 Phil. 939, 947 (2018).

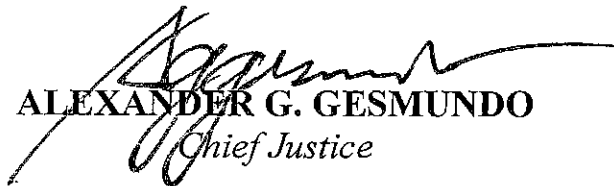
⁹⁴ Id. Underscoring supplied.

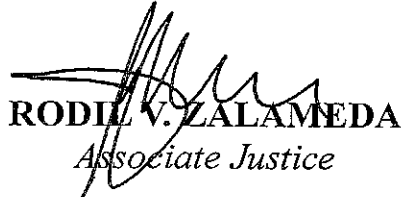
⁹⁵ *Rollo*, p. 37.

SO ORDERED.

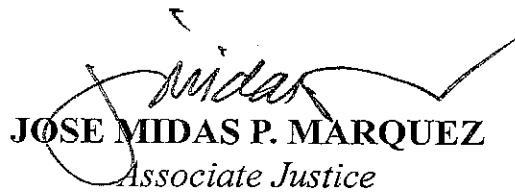

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice