



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 226140

Present:

- versus -

PERALTA, C.J., Chairperson,
CAGUIOA,
J. REYES, JR.,*
LAZARO-JAVIER, and
LOPEZ, JJ.

**ANNA ESPIRITU AND ELLEN
MABBORANG,***

Accused,

Promulgated:

FEB 26 2020 *mitrabulo*

ISABEL RIOS y CATAGBUI,
Accused-appellant.

X-----X

DECISION

CAGUIOA, J.:

The case before the Court is an appeal of the Decision¹ dated April 23, 2015 of the Court of Appeals (CA) in CA G.R. CR-HC No. 06023 which affirmed with modification the Decision² of the Regional Trial Court (RTC) in Criminal Case (CC) Nos. R-PSY-0900778-CR to R-PSY-0900786-CR dated September 7, 2012 convicting accused-appellant Isabel Rios y Catagbui (Rios) as the principal in Large Scale Illegal Recruitment penalized under Section 6(m)³ of Republic Act No. (RA)

* In the records, Maborang is also spelled Maborang.

* On official leave.

¹ *Rollo*, pp. 2-32. Penned by Associate Justice Maria Elisa Sempio Diy, with Associate Justices Ramon M. Bato, Jr., and Manuel M. Barrios, concurring.

² *CA rollo*, pp. 64-95. Penned by Judge Edwin B. Ramizo, Branch 114, Pasay City.

³ Sec. 6. DEFINITIONS. — 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,

8042 or the Migrant Workers and Overseas Filipinos Act of 1995 and eight counts of Estafa under Article 315(2)(a)⁴ of the Revised Penal Code (RPC).

Facts

The Information⁵ charging Rios for violation of RA 8042 in Criminal Case No. R-PSY-09-0078-CR (Illegal Recruitment case), reads:

The undersigned State Prosecutor of the Department of Justice hereby accuses **ISABEL RIOS, ANA ESPIRITU and ELLEN MABBORANG**, for violation of Section 6 specifically sub-sections letter (l) and (m) of Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, committed as follows:

That sometime during the period from July 2007 to December 2008 or thereabout, at J. Wardley Building, San Juan Street, Pasay City, and within the jurisdiction of this Honorable Court, the above-named accused being the owners, officers, employees of Green Pastures International Staffing Incorporated (“Green Pastures”) and engaged in the business of overseas recruitment as licensed by the Philippine Overseas Employment Agency (“POEA”), did then and there willfully, unlawfully, and criminally, with intent to defraud, promise employment and receive varying amounts as placement and documentation fees from private complainants Liwayway M. Tiglao, Michael B. Custodio, Marlone S. Papio, Eduardo N. Milanés, Elmer Q. de Mata, Rico H. Dacillo, Victoriano T. Agcaoili, Jr., and Mylene U. Arevalo; and thereafter demand, on various occasions, placement and documentation fees from said private complainants, but without valid reasons and through no fault of said private complainants, accused fail to actually deploy them abroad; that despite repeated demands to reimburse expenses incurred by private complainants in connection with their documentation and processing for purposes of deployment, respondents fail and refuse and continues to fail and refuse to reimburse the amounts received, to the damage and prejudice of herein private complainants.

when undertaken by a non-licensee or non-holder of authority contemplated under Article 13() 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 to 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:

x x x x

(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 as offense involving economic sabotage. (Emphasis supplied)

⁴ ART. 315. *Swindling (estafa)*.—Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

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. (Emphasis supplied)

⁵ Records, Vol. I, pp. 1-3.

That the aforesaid acts of accused were committed against than (*sic*) three (3) persons namely, Liwayway M. Tiglao, Michael B. Custodio, Marlone S. Papio, Eduardo N. Milanes, Elmer Q. de Mata, Rico H. Dacillo, Victoriano T. Agcaoili, Jr., and Mylene U. Arevalo, thereby making such acts in large scale, with accused employing deception and false representations as to their (*sic*) qualification, license, authority and/or business transaction to make such placement for overseas work and to actually deploy said private complainants.

CONTRARY TO LAW.⁶

In CC No. R-PSY-09-00779-CR for violation of Article 315(2)(a) of the RPC, the Information⁷ read:

That sometime during the period from July 2007 to December 2008 or thereabout, at J. Wardley Building, San Juan Street, Pasay City, and within the jurisdiction of this Honorable Court, the above-named accused, by means of deceit, fraudulent acts and false pretenses executed prior to or simultaneous with the commission of the fraud, did then and there willfully, unlawfully, and criminally defraud and deceive private complainant **ELMER DE MATA**, and misrepresent themselves as having the capacity to contract, enlist, and transport or actually deploy Filipino workers for employment in Taiwan and Singapore; demand and receive from said private complainant de Mata the total amount of **NINETY THOUSAND PESOS (P90,000.00)** as payment of private complainant de Mata's application and processing fee, and by reason of the abovenamed (*sic*) accused misrepresentation, false assurance and deceit, complainant de Mata was induced to part with and deliver the said **NINETY THOUSAND PESOS (P90,000.00)** to herein accused; that contrary to the representations and assurances of accused, they fail and continue to fail to actually deploy said private complainant; that due to the unjustified failure to actually deploy private complainant de Mata through no fault of the latter, said private complainant demanded the return of the amount of **NINETY THOUSAND PESOS (P90,000.00)**; but despite repeated demands, accused fail and refuse and still fail and refuse to return the same, to the damage and prejudice of herein complainant **ELMER DE MATA**.

CONTRARY TO LAW.⁸

Similarly-worded Informations for Estafa were issued involving the seven other private complainants in the Illegal Recruitment case. The Estafa cases and private complainants are summarized in the table below:

Docket Number	Private Complainant	Amount
CC No. R-PSY-0900779-CR ⁹	Elmer De Mata (De Mata)	₱90,000.00

⁶ Id. at 1-2.

⁷ Id. at 36-38.

⁸ Id. at 36-37.

⁹ Id. at 1-3.

CC No. R-PSY-0900780-CR ¹⁰	Victoriano Agcaoili, Jr. (Agcaoili)	₱50,000.00
CC No. R-PSY-0900781-CR ¹¹	Eduardo Milanes (Milanes)	₱95,000.00
CC No. R-PSY-0900782-CR ¹²	Rico Dacillo (Dacillo)	₱95,000.00
CC No. R-PSY-0900783-CR ¹³	Liwayway Tiglao (Tiglao)	₱80,000.00
CC No. R-PSY-0900784-CR ¹⁴	Michael Custodio (Custodio)	₱100,000.00
CC No. R-PSY-0900785-CR ¹⁵	Marlone Papio (Papio)	₱145,000.00
CC No. R-PSY-0900786-CR ¹⁶	Mylene Arevalo (Arevalo)	₱60,000.00

Rios pleaded “not guilty” upon arraignment.¹⁷ The case proceeded only against Rios as accused Anna Espiritu (Espiritu) and Ellen Maborang (Maborang) were at-large.

On November 7, 2009, before the trial on the merits started, Rios submitted a Confession of Judgment¹⁸ to the RTC on the civil aspect of the Estafa cases with regard to complainants Tiglao (in the amount of ₱70,000.00), Dacillo (₱70,000.00), Milanes (₱80,000.00), Papio (₱55,000.00) and Custodio (₱60,000.00). Rios admitted that Green Pastures International Staffing Services, Corp. (Green Pastures) had received the said amounts from them. However, Rios did not admit any liability regarding complainants De Mata, Arevalo and Agcaoili. Rios reasoned that the latter did not pay any money to her or to Green Pastures but dealt directly with Maborang, a stranger to the agency.

The RTC approved and granted the Confession of Judgment in its Order¹⁹ dated February 8, 2010 and a Writ of Execution²⁰ was issued. Thereafter, trial on the merits ensued.

The prosecution’s version of events was summarized by the CA, as follows:

Version of the Prosecution

To prove its case, the prosecution presented the following witnesses: Elmer Q. De Mata, Mylene Arevalo, Liwayway M. Tiglao,

¹⁰ Id. at 68-70.

¹¹ Id. at 101-103.

¹² Id. at 134-136.

¹³ Id. at 167-169.

¹⁴ Id. at 200-202.

¹⁵ Id. at 233-235.

¹⁶ Id. at 266-268.

¹⁷ See Certificate of Arraignment, Records, Vol. II, p. 445.

¹⁸ Id. at 432-442.

¹⁹ Id. at 530-531.

²⁰ Id. at 543-544.

Rico H. Dacillo, Eduardo Milanes, Michael B. Custodio, and Marlene Papio.

Elmer Q. De Mata (“Elmer”, for brevity) met accused-appellant Isabel Rios (“Isabel”, for brevity), owner of a recruitment agency in U.N. Ave., through accused Ellen Maborang (“Ellen”, for brevity). Ellen had informed him that Isabel owns a recruitment agency (Green Pastures International Staffing Services Corp.) deploying people for Taiwan. Sometime in November 2007, Ellen brought Elmer to Isabel’s agency located at 1991 Jayward Lee Building, Buendia, Pasay City wherein Elmer was required to fill up an application form and bio-data. Thereafter, Ellen asked Elmer to submit a medical certificate and required him to pay the amount of Php4,000.00 for the medical examination. After undergoing medical examination, Ellen asked Elmer to pay the placement fee after one week, which the latter complied with by initially paying the amount of Php40,000.00. Sometime in December 2007, Elmer was asked to give the full payment and so he paid the remaining balance of Php50,000.00 to Ellen. After payment in full of the placement fee, Elmer regularly visited the agency of Isabel together with Ellen to follow up his application until June 2008 when he was required to undergo another medical examination because the first medical certificate had already expired. Ellen then asked Php4,000.00 from Elmer for said medical examination. Two months after the second medical examination, Elmer confronted Ellen if she really gave the money to Isabel. Ellen responded in the affirmative. However, Elmer panicked and thought that Ellen was just cheating him so he decided to go to the POEA to file a complaint. At the POEA, Elmer found out that the agency of Isabel is of good standing but the job order for Taiwan was only good for two persons and not for ten persons as claimed by Ellen. When Elmer went to the agency of Isabel to withdraw his money since Ellen failed to reimburse him the amount, he was shocked to learn that Ellen only remitted Php35,000.00 to Isabel’s agency. Elmer likewise testified that no receipt was issued by Ellen for the payments he made to her and that he spent a total of Php90,000.00.

Mylene Arevalo (“Mylene”, for brevity) knew accused-appellant Isabel and the two other accused, Ellen and Ana Espiritu (“Ana”, for brevity). Accused-appellant Isabel is the owner of Abundant Care International Staffing Services Corp. while Ellen was a sub-agent of said agency. Sometime in 2007, Mylene applied for employment in an electronic company in Taiwan with Green Pastures. Accordingly, she was required by the personnel to fill up application forms. In view of her application, Mylene paid Php60,000.00 to Ellen as her placement fee. But despite payment of the placement fee and promises that Mylene would be deployed in December 2008, said promise of deployment to Taiwan never came to be. No receipt was issued to her by Ellen for the payment of the placement fee but the same was witnessed by “Kuya Marlon” who was also paying his placement fee at that time. However, a certification from KAMPI (Kabalikat ng Migranteng Filipino) was issued to Mylene to prove that she attended a Pre-Departure Orientation Seminar (PDOS) sponsored by the Green Pastures International Staffing Services.

Liwayway Tiglao (“Liwayway”) knew accused-appellant Isabel Rios as well as accused Ellen Maborang and Ana Espiritu. Isabel is the Manager of Green Pastures International Staffing Services Corp (“Green Pastures”). Sometime in December 2007, Liwayway applied for a job as factory worker in Taiwan with Green Pastures. After Isabel and Ana

reminded her to pay the placement fee, Liwayway paid the amount of Php90,000.00 to Isabel. No receipt was issued to Liwayway for the payment of said placement fee. Liwayway was promised to be deployed on December 29, 2007 to Taiwan after she had signed forms, undergone physical examination, and attended the Pre-Departure Orientation Seminar (PDOS). However, such promise of deployment did not materialize. Worse, no reimbursement was made relative to the placement fee she paid was made. On cross-examination, Liwayway clarified that it was Ana Espiritu who brought her to Green Pastures.

Rico Dacillo ("Rico") came to know accused-appellant Isabel Rios through accused Ana Espiritu. Ana was the one who referred him to Green Pastures and was also the one who handled his application. He applied as factory worker in Singapore with an expected income of Php20,000.00 with free lodging. In connection with his application for employment abroad, he paid the sum Php95,000.00 as placement fee but no receipt was issued to him. However, Allied Bank Check No. 0011416 dated July 2, 2008 drawn under Account No. 003233-00582-2 in the amount of Php95,000.00 was issued to Rico allegedly representing his reimbursement when the agency failed to deploy him to Taiwan. Said check was allegedly given by Jenna, secretary of Green Pastures. Nevertheless, Rico still remained unreimbursed since said check was drawn against a closed account.

Eduardo Milanes ("Eduardo") came to know accused-appellant Isabel through accused Ana Espiritu. On January 2, 2008, Eduardo applied as a factory worker for Singapore with Isabel's agency, Green Pastures. Ana told Eduardo that he would be able to leave immediately after he pays the placement fee of Php95,000.00. Eduardo then gave Ana the placement fee of Php95,000.00. However, no receipt was issued to him. After paying said placement fee, Ana assured Eduardo that he would leave in the third week of January 2008. But he was never deployed after said date. Eduardo demanded the withdrawal of the placement fee that he paid. However, he was not able to recover the same. Thus, Eduardo was constrained to file a case before the Department of Justice. After filing a case, Eduardo received a text message asking him to withdraw the case filed and to go to 1311 Quirino Avenue cor. General Luna Extension, Paco, Manila. When Eduardo went to said address, he saw the staff of the agency who promised that Eduardo would be given a partial refund. In view of said promise, a claim stub for refund with Green Pastures was handed to him indicating that he could get his refund on May 24, 2008. However, when said date arrived, no refund was given to him.

Michael Custodio ("Michael", for brevity) knew accused-appellant Isabel Rios as manager of Green Pastures. On October 13, 2007, Ellen Maborang accompanied Michael to Green Pastures to apply for overseas employment as a factory worker. Michael paid a total of Php140,000.00 as placement fee to Ellen. Payment of Php70,000.00 was initially made for which Ellen executed an acknowledgment receipt. Since Michael needed to pay the remaining balance, he was referred to E-CASH PAYLITE to borrow money. Immediately after the loan of Michael was released by E-CASH PAYLITE on November 27, 2008, he paid the remaining balance to Ellen. But no receipt was issued to him. Michael was then promised to be deployed on December 05, 2008 but was not able to leave. Thus, Michael decided to withdraw his application and demanded for reimbursement of his placement fee. Two crossed checks, Allied Check

Nos. 0011428 and 00111429 drawn under Account No. 003233-00582-2 dated August 8, 2008 and July 21, 2008, respectively, were given to Michael by Ellen in the amount of Php50,000.00 each. However, when Michael tried to encash the checks before the drawee bank, he was informed that the subject account was already closed. When Michael returned to the agency, he was promised that he would leave for deployment after Chinese New Year in February 2009. When Michael was not able to leave after Chinese New Year, the agency promised him again that he would leave after holy week. However, still he was not deployed for employment.

Marlone Papio knew accused-appellant Isabel Rios and accused Ellen Maborang. On August 6, 2007, Marlone applied for overseas employment at Green Pastures. Ellen was the one who handled his application, requiring him to pay the placement fee of Php145,000.00. Marlone paid the placement fee of Php145,000.00 to Ellen. However, no receipt was issued to him. Since he was not deployed abroad, he, together with Michael Custodio filed a case against the accused.²¹

After the prosecution rested its case, Rios filed a Demurrer to Evidence²² averring that the prosecution's evidence had failed to prove that she violated Section 6, paragraphs (l) and (m) of RA 8042 and Article 315(2)(a) of the RPC. The RTC dismissed the Demurrer in its Order²³ dated December 29, 2010 and the trial proceeded.

The evidence for the defense, as summarized by the CA, is quoted as follows:

To refute the accusations leveled against the accused, the defense presented accused-appellant herself, Isabel Rios, Senior Labor and Employment Licensing Officer of the POEA, Eraida Dumigpi, and Evaluator of the POEA, Roberto De La Cruz.

In her defense, *Isabel Rios* admitted that she is the President and Manager of Green Pastures. Green Pastures received Php70,000.00 from private complainant Liwayway Tiglao, Php 70,000.00 from private complainant Rico Dacillo, Php80,000.00 from Eduardo Milanes, Php55,000.00 from Marlone Papio, and Php60,000.00 from Micheal (*sic*) Custodio, for which Green Pastures was willing to give reimbursement. However, Isabel maintained that despite having a job order, they were not able to deploy private complainants during that time because Taiwan was experiencing economic problems wherein employers were forced to stop with the hiring. Also, Isabel denied having received money from Victoriano Agcaoili, Jr., Mylene Arevalo, and Elmer de Mata.

Eraida Dumigpi testified that she is the Senior Labor and Employment Licensing Officer of the POEA, with office address at POEA Building, Ortigas corner EDSA, Mandaluyong City. Green Pastures is a duly licensed recruitment agency with the POEA and Isabel Rios is its president.

²¹ *Rollo*, pp. 11-15.

²² Records, Vol. II, pp. 872-895.

²³ *Id.* at 900-914.

Roberto dela Cruz testified that indeed, Green Pastures had job orders for Taiwan as shown in the Job Order Balance Report.²⁴

The RTC Decision

In its Decision dated September 7, 2012, the RTC held that the prosecution was able to establish the elements of violation of Section 6(l) and (m) of RA 8042. Rios was convicted as the principal in Large Scale Illegal Recruitment and sentenced to Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00). Rios was likewise held guilty for eight (8) counts of Estafa and for each count, she was sentenced to suffer the indeterminate penalty of imprisonment of four (4) years and two (2) months of *prision correccional* as minimum to eleven (11) years and one (1) day of *prision mayor* as maximum. Rios was also ordered to reimburse the fees paid by the private complainants.²⁵ In arriving at its Decision, the trial court reasoned:

x x x [T]he fact that Green Pastures was a holder of a valid license at the time to deploy workers abroad did not serve to benefit herein accused, as she was positively pointed to as one of the persons who enticed the complainants to part with their money upon the fraudulent representation that they would be able to secure for them employment abroad.

x x x x

In fine, this Court arrived at this conclusion after additionally considering the following established acts of the accused: (1). her agency's acceptance of the placement fee given by the complainants; (2). the fact that she communicated to the complainants the date of their departure, and, (3). Accused's execution of Confession of Judgment dated 8 February 2010. All these acts indubitably show that indeed accused was engaged in illegal recruitment together with the other two (2) accused. Thus, illegal recruitment having been committed against eight (8) victims is illegal recruitment in large scale x x x.

x x x x

The prosecution likewise established that the accused is guilty of the crime of Estafa as defined under Article 315 par. 2 (a) of the Revised Penal Code x x x.

x x x x

²⁴ See CA Decision, *rollo*, p. 16.

²⁵ See RTC Decision, CA *rollo*, pp. 92-95. De Mata - P90,000.00; Agcaoil - P50,000.00; Milanés - P95,000.00; Dacillo - P95,000.00; Tiglaó - P80,000.00; Custodio - P100,000.00; Papio - P145,000.00; and Arevalo - P60,000.00.

In the instant case, all these elements are present: the accused, together with the other accused who are at large, deceived the complainants into believing that the agency had the power and capability to send them abroad for employment; that there were available jobs for them in Taiwan as factory workers, that by reason or on the strength of such assurance, the complainants parted with their money in payment of the placement fees; that complainants were never deployed abroad, and that complainants waited for at least a year only to realized (*sic*) that they were hoodwinked as no jobs were waiting for them abroad. As all these representations of the accused proved false, paragraph 2 (a), Article 315 of the Revised Penal Code is thus applicable.²⁶

The CA Decision

On appeal, the CA affirmed the RTC Decision with modification. The CA maintained Rios' conviction for violation of Section 6(m) of RA 8042. However, the CA removed Rios' conviction for violation of Section 6(l) of RA 8042. The provision states:

Sec. 6. DEFINITIONS. — For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-license 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 such non-license or non-holder, who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. **It shall likewise include the following acts, whether committed by any persons, whether a non-licensee, non-holder, licensee or holder of authority.**

x x x x

(l) Failure to actually deploy without valid reasons as determined by the Department of Labor and Employment; x x x (Emphasis supplied)

The CA held that under Section 6(l) of RA 8042, there must be independent evidence from the Department of Labor and Employment (DOLE) to establish the reason for non-deployment, such as the absence of a proper job order. The prosecution did not present any document from DOLE during trial to establish the reason for the failure to deploy the private complainants. Thus, Rios could not be held liable for violation of the said provision.

On the conviction for Large Scale Illegal Recruitment under Section 6(m) of RA 8042, the CA held:

²⁶ Id. at 89-92.

In the case at bench, it is inarguable, as even admitted by accused-appellant in her confession of judgment as to the civil aspect for the estafa case, that: 1) Green Pastures is a duly licensed recruitment agency; 2) accused-appellant is the president and general manager of Green Pastures; 3) accused-appellant and co-accused Ana Espiritu received the placement fees of private complainants Liwayway Tiglaog, Rico Dacillo, Eduardo Milanés, Marlone Papio, and Michael Custodio, for and in behalf of Green Pastures; and 4) Green Pastures failed to reimburse the expenses incurred by private complainants in connection with their supposed deployment abroad.

Consequently, with the foregoing facts proven and admitted by accused-appellant, it is clear that Green Pastures gave the distinct impression that it had the power and ability to send private complainants abroad for work, otherwise private complainants would not have parted with their money taking note that some of them even went to the extent of borrowing money. Thus, accused-appellant, as president and general manager of Green Pastures, is liable as principal for violation of Section 6(m) of R.A. 8042. It is inconsequential whether or not the prosecution failed to show proof that private complainants parted with their money by virtue of accused-appellant's promises to send them abroad. As president and general manager, it is of no doubt that accused-appellant was in the forefront of the recruitment activities, otherwise she would have not received placement fees from private complainants. Also, the positions held by accused-appellant vest upon her the authority of managing, controlling and directing the corporate affairs. The attempt of accused-appellant to escape liability by passing the blame to Ellen Maborang, a sub-agent or independent contractor, has no bearing. It can be gleaned from the testimonies of private complainants that accused-appellant, co-accused Ana, and Ellen cooperated and coordinated in recruiting applicants. It was both Ana, as recruitment and marketing officer, and Ellen, as agent, who brought recruits to Green Pastures and introduced them to accused-appellant. The success of their illegal scheme depended on their joint efforts x x x.²⁷

The CA likewise maintained Rios' conviction for eight counts of Estafa under Article 315(2)(a). According to the CA, the same evidence proving Rios' liability for illegal recruitment also established her liability for Estafa.²⁸ The maximum periods of Rios' sentence in the Estafa cases were adjusted by the CA in accordance with the amounts involved.²⁹

²⁷ See CA Decision, *rollo*, pp. 20-21.

²⁸ *Id.* at 22.

²⁹ **WHEREFORE**, premises considered, the appeal is hereby **PARTIALLY GRANTED** with **MODIFICATIONS** to read as follows:

1. In Criminal Case No. R-PSY-09-0078-CR, the Court finds the accused-appellant ISABEL RIOS **GUILTY** beyond reasonable doubt of the crime of Illegal Recruitment committed in large scale under Section 6 (m) of R.A. 8042 only. Accused-appellant Isabel Rios is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00:
2. In Criminal Case No. R-PSY-00779-CR, the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to twelve (12)

Rios filed a Notice of Appeal³⁰ on May 14, 2015, which was given due course by the CA on May 27, 2015.³¹ On May 4, 2017, Rios filed a Supplemental Brief³² arguing that the prosecution failed to prove her guilt beyond reasonable doubt as there was no direct evidence of her complicity in the acts complained of. She did not directly transact with the private complainants or personally receive any money from them. The private complainants dealt with Mabborang and Espiritu. The prosecution did not even allege, much less prove, the existence of a conspiracy between Rios and her co-accused. Rios was convicted as the principal in Large Scale Illegal Recruitment and Estafa but her participation in the purported illegal acts was not established. Rios further asserts that the Confession of Judgment is of doubtful validity and cannot be used as basis to determine her criminal liability.

The Office of the Solicitor General (OSG) filed its Supplemental Brief³³ on June 5, 2018 maintaining that the prosecution proved beyond

years, eight (8) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to indemnify Elmer De Mata the amount of P90,000.00;

3. In Criminal Case No. R-PSY-00780-CR the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to (8) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum, and to indemnify Victoriano Agcaoili, Jr. the amount of P50,000.00;

4. In Criminal Case No. R-PSY-00781-CR, the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to thirteen (13) years, eight (8) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to indemnify Eduardo Milanés the amount of P95,000.00;

5. In Criminal Case No. R-PSY-00782-CR the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to thirteen (13) years, eight (8) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to indemnify Rico Dacillo the amount of P95,000.00;

6. In Criminal Case No. R-PSY-00783-CR the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eleven (11) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum, and to indemnify Liwayway Tiglao the amount of P80,000.00;

7. In Criminal Case No. R-PSY-00784-CR, the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to thirteen (13) years, eight (8) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to indemnify Michael Custodio the amount of P100,000.00;

8. In Criminal Case No. R-PSY-00785-CR the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eighteen (18) years, eight (8) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to indemnify Marlone Papio the amount of P145,000.00;

9. In Criminal Case No. R-PSY-00786-CR, the Court finds accused-appellant Isabel Rios **GUILTY** beyond reasonable doubt of the crime of estafa and sentences her to an indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to (9) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum, and to indemnify Mylene Arevalo the amount of P60,000.00.

SO ORDERED.; id. at 30-32.

³⁰ CA rollo, pp. 161-163.

³¹ Id. at 172.

³² Rollo, pp. 61-77.

³³ Id. at 97-115.

reasonable doubt, Rios' guilt for the offenses charged. According to the OSG, Rios cannot exculpate herself merely on the ground that she did not directly transact with the private complainants as the latter positively identified her as one of the persons who enticed them to part with their money based on the assurance that they would be deployed abroad.

Issue

Whether the guilt of Rios was proven beyond reasonable doubt.

The Court's Ruling

The CA Decision is affirmed with modification.

The Illegal Recruitment case

Recruitment, under Article 13(b) of the Labor Code, is defined 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: 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.³⁴

Under Article 38 of the Labor Code, Illegal Recruitment is defined as any act of recruitment undertaken by unlicensed or unauthorized persons. With the amendments introduced by RA 8042, Illegal Recruitment may be committed even by POEA-licensed recruiters or agencies, who commit any of the prohibited acts under Section 6³⁵ of RA

³⁴ Department of Labor and Employment, Department Advisory No. 01, Series of 2015, entitled "RENUMBERING OF LABOR CODE OF THE PHILIPPINES, AS AMENDED" dated July 21, 2015.

³⁵ x x x It shall likewise include the following acts, whether committed by any person, whether a non-licensure, 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;
- (g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;



8042. The Court notes that RA 8042 was amended on March 8, 2010 by RA 10022³⁶ or An Act Amending RA 8042. However, as the acts in this case were committed in 2007-2008, RA 8042 is the relevant law that applies.

Herein accused Rios was charged and convicted of the Illegal Recruitment as penalized under Section 6(m) of the law:

SEC. 6. DEFINITIONS. — x x x [I]llegal recruitment x x x shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority.

x x x x

(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 as offense involving economic sabotage.

Section 6(m) of RA 8042 pertains to Illegal Recruitment committed through the failure of any person (whether or not a holder of license or authority) to reimburse documentation and processing expenses incurred by the worker when the deployment did not occur without the worker's fault. This provision also defines Syndicated Illegal Recruitment as being committed by three or more persons and Illegal Recruitment in Large Scale as being committed against three or more persons.

(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 criminally 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.

³⁶ 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, approved on March 8, 2010.

Rios was convicted in her capacity as president and general manager of Green Pastures, Inc. While corporate officers are generally not held personally liable for corporate acts as corporations have separate and distinct legal personality from the persons comprising it, they may be found liable when a specific provision of law makes them personally liable for a corporate action.³⁷ This is the case here as the last paragraph of Section 6 of RA 8042 specifically provides that when Illegal Recruitment is committed by a juridical entity, the persons liable shall be the officers having control, management or direction of the business.

In *Heirs of Fe Tan Uy v. International Exchange Bank*,³⁸ the Court provided the requisites for personal liability to attach to a director or officer for corporate acts:

Before a director or officer of a corporation can be held personally liable for corporate obligations, however, the following requisites must concur: (1) the complainant must allege in the complaint that the director or officer assented to patently unlawful acts of the corporation, or that the officer was guilty of gross negligence or bad faith; and (2) the complainant must clearly and convincingly prove such unlawful acts, negligence or bad faith.³⁹

Thus, in Illegal Recruitment, a corporate officer or director may be held personally liable for corporate acts if it is proven that he or she assented to patently unlawful acts of the corporation or that the said officer or director was guilty of gross negligence and bad faith.

Based on the language of Section 6(m) of RA 8042, the elements of Illegal Recruitment through failure to reimburse documentation and processing expenses, are:

1. The offender (whether or not a POEA-licensed or authorized recruiter or agency), promises or gives the distinct impression that he or she has the capacity to deploy workers for employment abroad;
2. The applicant pays money to the offender in connection with documentation and processing fees for purposes of deployment;
3. The deployment does not take place without the applicant's fault; and,
4. The offender fails to reimburse the documentation and processing expenses incurred by the applicant.

³⁷ *Heirs of Fe Tan Uy v. International Exchange Bank*, 703 Phil. 477, 485-486 (2013).

³⁸ *Id.*

³⁹ *Id.* at 486.

The Court affirms Rios' conviction for Large Scale Illegal Recruitment under Section 6(m) of RA 8042 committed against Tiglao, Dacillo, Milanes, Papio and Custodio. As regards the offense purportedly committed by Rios against complainants De Mata, Arevalo and Agcaoili, the Court holds that Rios' guilt was not proven beyond reasonable doubt.

In their testimonies, De Mata and Arevalo attested that it was Maborang who transacted with them, collected their money, and failed to reimburse them. De Mata testified:

[Prosecutor Fernandez: (To the Witness)]

Q After having filled up an application form and having paid the medical examination fee of P4,000, what else did you do, Mr. Witness?

A After that we underwent a medical examination, sir and Ellen Maborang told us to pay the placement fee after one week.

Q And did you pay for that?

A I paid initially to Ellen Maborang the amount of P40,000, sir.

Q What was that P 40,000.00for? (*sic*)

A For the initial payment of the placement fee for Taiwan, sir.

Q Did you ask for a receipt, Mr. Witness?

A Ellen Maborang refused to issue a receipt, sir.

x x x x

Q After having complied with all the requirements by Ellen Maborang, what happened to your application for job abroad?

A In the month of December, we were asked to give the full payment, sir because I was able to give P40,000 already, so I added P50,000 as I really wanted to be deployed in Taiwan, sir.

Q And who received the P50,000 from you?

A It was Ellen Maborang who received the money from me, sir but I told Ellen Maborang that I will be paying directly the amount to the cashier, but she told me that she would just be the one who will receive it, sir.

Q Did you actually accede to her Order?

A Yes, sir.

Q Do you have any evidence or receipt to show that Ellen Maborang receive that P50,000 to (*sic*) you?

A She also did not issue any receipt, sir.

Q So what happened after you have complied with all the requirements and the payment of P90,000?

A After paying that P50,000 we kept on going to the agency, sir but Ellen Maborang told us that whenever we will go there, she should be there because she was the one who introduced us to the agency whenever we will go there, sir until nothing happened to their promise of deployment.

x x x x

Q When nothing happened after the second medical examination, what did you do next, if any?

A After two (2) months of the second medical examination, I asked Ellen Maborang if she really gave the money to Isabel Rios, sir and she answered in the affirmative.

Q And so what was your reaction after that comment from Ellen Maborang?

A We were then got panic (*sic*) and we thought that she was just cheating us, sir, "*nagpanic po kasi parang lokohan na po yong sa amin*", so we decided to go to the office of the POEA to file a complaint there. And at the POEA we found out that the agency of Isabel Rios is in good standing, sir but we were told that the job order which was being offered to us by Ellen Maborang was good only for two persons, but Ellen Maborang told us that they needed for ten persons, sir.

Q Did you ask for a certification from the POEA to the effect that accused Isabel Rios, Ana Espiritu and Ellen Maborang were not licensed to recruit workers abroad?

A Yes, sir we were issued a certification from the POEA that the agency of Isabel Rios is licensed.

x x x x

Q So after POEA Mr. Witness, what else did you do in connection with these criminal cases?

A Because the money that we gave we just borrowed, we decided to withdraw the same from the agency but Ellen Maborang was scared to show herself to us.

Q In what way that Ellen Maborang got afraid of or scared of you?

A When we last saw her at the medical examination, sir she was almost hesitant in showing herself to us because she said that she don't (*sic*) know what will be doing in case we would be seeing each other at the agency, sir.

Q And so what did you do after you failed to refund your money from Ellen Maborang?

A We went to the agency where we would be withdrawing, sir.

X X X X

Q What is the name of that agency?

A Green Pastures, sir.

Q What happened when you went back to Green Pastures International Staffing Incorporated or the agency of the accused?

A That was where we found out that it was only P35,000 which Ellen Maborang remitted to the agency of Isabel Rios, sir.

X X X X

Q By the way, what was the role of Ellen Maborang in the agency of Isabel Rios, the Green Pastures International Staffing Incorporated?

A Recruiter, sir.

Q What was her specific job in that office?

A Recruiting applicants for work abroad, sir.

Q So after you went back to the recruitment agency, what happened next, Mr. Witness?

A When I came to know, sir that only the amount of P35,000 was remitted by Ellen Maborang to Isabel Rios, I got shock (*sic*) and I didn't know what to do, sir.

Q When you got shock (*sic*), what did you do to pursue your goal of recovering your money?

A I talked to Ellen Maborang, sir and I asked her about the remaining money which I paid.

Q What was the response of Ellen Maborang?

A She said that she also has a fund in the agency of Isabel Rios, sir.

Q And what happened next, did you make any comment?

A I told her that I have nothing to do with her fund, sir I just asked her to return my money because I only just borrowed it from somebody.

Q Was she able to return the money?

A No, sir.⁴⁰

Arevalo testified similarly as regards her situation:

[Prosecutor Fernandez: (To the Witness)]

[Q] How did you come to know Isabel Rios?

⁴⁰ TSN, February 2, 2010, pp. 13-27.

A I was not able to see her when I was applying before, sir, but I came to know her thru my companions.

Q So when you learned about Isabel Rios thru your companions, what did you do next?

A We had already filed a case before the Department of Justice (DOJ, *sic*), but I never seen (*sic*) her then, sir and it was only here that I saw her.

Q You said that you learned about Isabel Rios thru your companions. Under what circumstances did you come to know Isabel Rios, thru your companions?

A She was pointed here to me by Kuya Michael when we had a hearing here, sir.

Q Madam Witness when we start at the beginning, when no case yet has been filed by you, from the start of (*sic*) the beginning which brought you to their office where you filed an application form?

A We filled up an application form in their agency, sir.

Q Where was that?

A In their agency, sir.

Q Where is it located, Pasay, Manila, Quezon, Mindanao, where?

A At Buendia in Pasay City, sir.

Q Who gave you that application form?

A Ellen Maborang handed to us the application form, sir which came from their office

Q Do you know when was that?

A Year 2007, sir.

Q 2007?

A Yes, sir.

x x x x

Q After filling up the application form, what did you do next, Madam Witness?

A The application forms were taken from us by Ellen Maborang, sir and were given to the employees of Isabel Rios.

Q So after that what happened next, if any?

A We were asked to return, sir.

Q Did you return?

A Yes, sir.

- Q What happened when you returned in their office?
- A Monies were taken from us, sir then we were given a certification for us to undergo PDOS.
- Q You said you gave monies, how much did you give?
- A Php60,000.00.
- Q What was that Php60,000.00 for?
- A As placement fee, sir.
- Q Who asked you for Php60,000.00?
- A Ellen Maborang, sir.
- x x x x
- Q So what is the relation of Ellen Maborang with the agency where you applied for a job?
- A She was an agent in that agency, sir.
- Q That's how you knew Ellen Maborang?
- A Yes, sir.
- Q Do you know if Ellen Maborang was an employee in that agency?
- A She was not an employee, sir only an agent.
- Q So after filling up an application form and after paying Php60,000 what happened next?
- A We were informed that we would just be called up, sir and because they were still waiting for the MOPA.
- Q Who told you that?
- A Ellen Maborang, sir.
- Q Were you eventually called up by Ellen Maborang?
- A She was just sending us text messages, sir whenever we are needed at the agency.
- Q And so what happened to your application thru Ellen Maborang?
- A It was just in the agency, sir and was just waiting for the MOPA.
- Q Until now you are still waiting for your application?
- A I am no longer hoping that I would still be able to leave, sir, "*Hindi na po ako umaasa*".

x x x x



Q In all your dealings with that alleged recruitment agency you dealt only with Ellen Maborang?

A Yes, sir.

Q Did you have any dealings with accused Isabel Rios?

A None, sir.⁴¹

Thus, both De Mata and Arevalo testified that they transacted with Maborang and they were aware that she was not an employee of Green Pastures. They also both attested that they gave their payments directly to Maborang and not to Green Pastures. It was also Maborang who failed to reimburse the money they paid. Accordingly, Rios cannot be held liable for any offense against De Mata and Arevalo as she had no direct involvement in the transactions between them and Maborang. Arevalo even admitted that she only came to know Rios during the trial of the case.

With regard to complainant Agcaoili, the prosecution did not present him as a witness and did not submit any documentary evidence to prove charges in connection to him. There was not an iota of evidence presented as regards the offense allegedly committed against the complainant Agcaoili. Thus, Rios cannot likewise be held liable for any alleged offense committed against him.

As to Rios' conviction in connection with the complainants Tiglao, Dacillo, Milanés, Papio and Custodio, the Court affirms the CA Decision. Rios herself admitted that said complainants applied for deployment with Green Pastures agency but they were not deployed. She testified as follows:

[Atty. Florante A. Miano (To the Witness)]

Q Are you aware that you are charged before this Honorable Court for the crime of Illegal Recruitment and Estafa?

A Yes, sir.

Q And the complainants in the Illegal Recruitment cases are Liwayway Tiglao, Rico Dacillo, Eduardo Milanés, Marlone S. Papio and Michael Custodio. Do you remember these names?

A Yes, sir.

Q And they were the complainants in both cases of Illegal Recruitment and Estafa?

x x x x

Q And you were supposed to deploy these people especially that your office had already received payments, correct?

⁴¹ TSN, March 2, 2010, pp. 9-28.

A Yes, sir.

Q I would like you to explain to this Court why your office was not able to deploy them?

A During that time they applied in our office sir, that was way back 2007, we secured a job order for them from Taiwan, but then, the economic (*sic*) of Taiwan suffered a problem. So supposed to be the employer who will hire them, sir, stopped hiring people because they have already sent OFW's during that time.

Q What else happened?

A And then we advised our staff to tell the applicants to wait for the advices from the Taiwan employer.

Q And you are referring to all the complainants in these cases?

A Some of the applicants.

x x x x

[Q] Madam Witness, your company issued a Board Resolution No. 4 series 2009, admitting that the claims of Liwayway Tiglao in the amount of P70,000; Rico Dacillo P70,000; Eduardo Millanes P80,000; Marlone S. Papio P55,000; and Michael Custodio P60,000 have been received by your office and in fact your company was willing to reimburse these amounts to them. But what happened to Victoriano Agcaoili, Jr., why is Agcaoili not included?

A The record bears that he did not pay any amount to the office.

Q Also with respect to Mylene U. Arevalo?

A Yes, sir.

Q What about Elmer Q. De Mata?

A Same with him, sir, no record of payment.

Q But they claimed that these applicants paid to your office thru some, I think thru one of the accused. I think Ellen Maborrang?

A The only staff that I knew, sir, is Ana Espiritu.

Q In other words, Ellen Maborrang is not your staff?

A No, sir.⁴²

Rios herself admitted in her testimony that Green Pastures agency received varying amounts from complainants Tiglao, Dacillo, Milanese, Papio and Custodio for purposes of deployment but their deployment did not take place. Complainants Tiglao, Dacillo, Milanese, Papio and Custodio

⁴² TSN, May 24, 2011, pp. 4-11.

consistently testified that they were not reimbursed for the amounts they had paid despite their non-deployment.

Section 6(m) of RA 8042 criminalizes the failure to reimburse documentation and processing expenses incurred by the applicant in case of non-deployment, and not the failure to deploy, which is covered by a different provision. The law thus makes it incumbent upon recruitment agencies, under pain of criminal sanction, to promptly reimburse applicants when they are not deployed without their fault, as it is the agency itself that knows of the schedule of deployment, persons to be deployed, failure to deploy, and the reasons therefor.

In *People v. Molina*,⁴³ the Court convicted the president of the recruitment agency under Section 6(m) of RA 8042. The Court held:

Moreover, Section 6, paragraph (m) of R.A. No. 8042 provides that in case of juridical persons, the officers having control, management or direction of their business shall be liable. Accused-appellant, as President of the recruitment agency, is therefore liable for illegal recruitment in large scale for failure to reimburse the expenses incurred by private complainants in connection with their documentation and processing for purposes of deployment to South Korea, which did not actually take place without their fault under Section 6, paragraph (m) of R.A. No. 8042.⁴⁴

As president and general manager of Green Pastures, Rios had control, management, and direction of the business. She knew, or ought to have known, of the failure to deploy the applicants without their fault and the need to reimburse their documentation and placement fees. Despite this, Rios and Green Pastures did not reimburse the applicants, prompting the latter to file the present cases. While partial reimbursements were made to Tigalo, Dacillo, Milanés, Papio and Custodio, the reimbursements were made only after the case had been filed in court. There was thus no genuine effort on the part of Green Pastures and Rios to comply with the law and immediately reimburse the complainants for all their documentation and processing expenses after they were not deployed for work abroad.

Thus, the Court affirms Rios' conviction for Illegal Recruitment committed under Section 6(m) of RA 8042, against complainants Tiglao, Dacillo, Milanés, Papio and Custodio. As the offense was committed against three or more persons, the Court also affirms that the same was committed in Large Scale.

As to the lack of receipts, the Court previously ruled in *People v. Alvarez*.⁴⁵

⁴³ 826 Phil. 928 (2018).

⁴⁴ Id. at 945.

⁴⁵ 436 Phil. 255 (2002).

In illegal recruitment, mere failure of the complainant to present written receipts for money paid for acts constituting recruitment activities is not fatal to the prosecution, provided the payment can be proved by clear and convincing testimonies of credible witnesses.⁴⁶

Thus, the lack of official receipts is not fatal to prove the existence of Illegal Recruitment as long as there is testimony from convincing and credible witnesses, as in this case. Notably, the duty to issue official receipts is on the recruitment agency and the recruiter's failure to issue receipts should not be taken against the applicants or claimants.

The Court also modifies the amount to be awarded to Custodio. As found by the CA, Custodio paid a total of ₱140,000.00 for his documentation and placement fees.⁴⁷ However, in the dispositive portion of the CA Decision, he was awarded only ₱100,000.00.⁴⁸ Thus, the Court modifies his award to ₱140,000.00.

The Estafa cases

The Court acquits Rios in the Estafa cases.

Rios was charged and convicted for eight counts of Estafa under Article 315(2)(a) of the RPC, which provides for one of the modes of committing Estafa:

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.

The elements of Estafa by means of false pretenses or deceit were enumerated by the Court in *Sy v. People*:⁴⁹

x x x (a) that there must be a false pretense or fraudulent representation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage.⁵⁰

In the instant cases, the element of false pretense or fraudulent representations is lacking. Green Pastures was a duly licensed recruitment

⁴⁶ Id. at 257.

⁴⁷ See CA Decision, *rollo*, pp. 14-15; see also Custodio's Testimony, TSN, April 15, 2010, p. 8.

⁴⁸ Id. at 28-29.

⁴⁹ 632 Phil. 276 (2010).

⁵⁰ Id. at 284.

agency registered with the POEA, as shown in its License.⁵¹ Moreover, the Job Order Balance Report⁵² issued by the POEA shows that Green Pastures had 24 approved job orders for Taiwan for the period 2007-2008. Thus, Rios and Green Pastures possessed the qualifications and business transactions necessary to deploy workers to Taiwan. As held by the CA, the prosecution did not present any document from DOLE during trial to establish the reason for the failure to deploy the private complainants. Thus, it cannot be assumed that the same was due to the fault of the agency.

As the main element of false pretense is lacking, the Court acquits Rios of the offense and the penalty therefor is deleted. While it is settled jurisprudence that a person may be separately charged and convicted with Illegal Recruitment under RA 8042 and Estafa under Article 315(2), for the same acts, conviction is not automatic as the said crimes have different elements. In *People v. Cortez*,⁵³ the Court held:

In this jurisdiction, it is settled that a person who commits illegal recruitment may be charged and convicted *separately* of illegal recruitment under the Labor Code and estafa under par. 2 (a) of Art. 315 of the Revised Penal Code. The offense of illegal recruitment is *malum prohibitum* where the criminal intent of the accused is not necessary for conviction, while estafa is *malum in se* where the criminal intent of the accused is crucial for conviction. Conviction for offenses under the Labor Code does not bar conviction for offenses punishable by other laws. Conversely, conviction for estafa under par. 2 (a) of Art. 315 of the Revised Penal Code does not bar a conviction for illegal recruitment under the Labor Code. It follows that one's acquittal of the crime of estafa will not necessarily result in his acquittal of the crime of illegal recruitment in large scale, and *vice versa*.⁵⁴

In the same manner, a conviction for Illegal Recruitment does not automatically result to a conviction for Estafa. The prosecution must still prove the elements of the offense. Moreover, in Estafa through deceit or false pretenses, the fraud must have been executed prior to or simultaneous with the commission of the fraud. In this case, Rios and her agency had the qualifications and capacity to deploy workers abroad. The offense she committed was in her failure to reimburse the documentation and processing expenses incurred by the applicants when they were not deployed without their fault. Unfortunately for accused Rios, the acquittal for Estafa has no bearing on her sentence as the penalty for Large Scale Illegal Recruitment under Section 7(b) is Life Imprisonment.

⁵¹ See Folder of Exhibits, Exhibit 3, p. 17.

⁵² See *id.*, Exhibits 5-a to 5-x, pp. 19-23.

⁵³ 374 Phil. 575 (1999).

⁵⁴ *Id.* at 586.



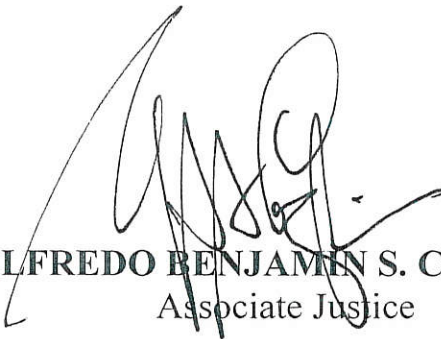
WHEREFORE, the Decision dated April 23, 2015 of the Court of Appeals in CA G.R. CR-HC No. 06023 is **AFFIRMED WITH MODIFICATION**. The Court **RESOLVES** to:

1. **DECLARE** accused-appellant ISABEL RIOS y CATAGBUI guilty of LARGE SCALE ILLEGAL RECRUITMENT as defined under Section 6(m) in relation to Section 7(b) of Republic Act No. 8042 for which she is sentenced to suffer LIFE IMPRISONMENT and to pay a FINE of ₱500,000.00.
2. **ORDER** Isabel Rios y Catagbui to REIMBURSE the following complainants the respective amounts, subject to legal interest of six percent (6%) per annum from finality of judgment until full payment:

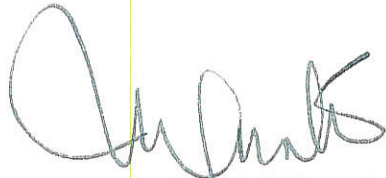
Eduardo Milanes	₱95,000.00
Rico Dacillo	₱95,000.00
Liwayway Tiglao	₱80,000.00
Michael Custodio	₱140,000.00
Marlone Papio	₱145,000.00

3. **ACQUIT** Isabel Rios y Catagbui in the Estafa cases, particularly in CC No. R-PSY-0900779-CR, CC No. R-PSY-0900780-CR, CC No. R-PSY-0900781-CR, CC No. R-PSY-0900782-CR, CC No. R-PSY-0900783-CR, CC No. R-PSY-0900784-CR, CC No. R-PSY-0900785-CR and CC No. R-PSY-0900786-CR. The penalties in relation to the Estafa cases are **DELETED**.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson

(On official leave)
JOSE C. REYES, JR.
Associate Justice



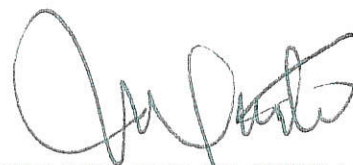
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice

