



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 187052

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

MELISSA CHUA a.k.a. Clarita Ng
Chua,
Accused-Appellant.

Promulgated:

13 SEP 2012.

X-----X

DECISION

VILLARAMA, JR., J.:

Before us is an appeal from the September 15, 2008 Decision¹ of the Court of Appeals in CA-G.R. CR-H.C. No. 01006. The Court of Appeals had affirmed with modification the Decision² of the Regional Trial Court (RTC) of Manila, Branch 33, in Criminal Case No. 03-217999-403. The RTC found appellant Melissa Chua, a.k.a. Clarita Ng Chua, guilty beyond reasonable doubt of illegal recruitment in large scale and four counts of *estafa*. The Court of Appeals modified the penalty imposed upon appellant for each count of *estafa* to an indeterminate penalty of imprisonment for 4 years and 2 months of *prision correccional*, as minimum, to 13 years of *reclusion temporal*, as maximum.

¹ *Rollo*, pp. 2-16. Penned by Associate Justice Romeo E. Barza, with Associate Justices Mariano C. Del Castillo (now a member of this Court) and Arcangelita M. Romilla-Lontok concurring.

² *CA rollo*, pp. 14-18. The RTC decision was rendered on March 28, 2005 and penned by Judge Reynaldo G. Ros.

Appellant Melissa Chua was charged on May 6, 2003, with the crime of illegal recruitment in large scale in an Information³ which alleged:

That on or about and during the period comprised between July 29, 2002 and August 20, 2002, both dates inclusive, in the City of Manila, Philippines, the said accused, representing herself to have the capacity to contract, enlist and transport Filipino workers overseas particularly to Taiwan, did then and there wilfully, unlawfully, for fee, recruit and promise employment/job placement to REY P. TAJADAO, BILLY R. DA[N]AN,⁴ ROYLAN A. URSULUM and ALBERTO A. AGLANAO without first having secured the required license from the Department of Labor and Employment as required by law, and charge or accept directly or indirectly from said complainants various amounts as placement fees in consideration for their overseas employment, which amounts are in excess of or greater than that specified in the schedule of allowable fees prescribed by the POEA, and without valid reasons and without the fault of said complainants, failed to actually deploy them and failed to reimburse expenses incurred in connection with their documentation and processing for purposes of their deployment.

Contrary to law.

Appellant was also charged with four counts of *estafa* in separate Informations, which, save for the date and the names of private complainants, uniformly read:

That on or about August 10, 2002, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously defraud ALBERTO A. AGLANAO in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representation which she made to said ALBERTO A. AGLANAO prior to and even simultaneous with the commission of the fraud, to the effect that she [has] the power and capacity to recruit and employ the latter in Taiwan as a factory worker and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, induced and succeeded in inducing the said ALBERTO A. AGLANAO to give and deliver, as in fact he gave and delivered to the said accused the amount of P80,000.00 on the strength of the said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact she did obtain the amount of P80,000.00 which amount, once in her possession, with intent to defraud, they wilfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of said ALBERTO A. AGLANAO in the aforesaid amount of P80,000.00, Philippine Currency.

Contrary to law.⁵

³ Id. at 7.

⁴ Sometimes spelled as “Daunan” or “Dauan” in other parts of the records.

⁵ Records, p. 99.

On arraignment, appellant pleaded not guilty to all charges. A joint trial of the cases ensued.

At the trial, private complainant Rey P. Tajadao testified that in August 2002, his fellow complainant, Alberto A. Aglanan, introduced him to appellant Chua. By then, Aglanan had already submitted his application for employment abroad with appellant. Since Tajadao was also interested to work overseas, he suggested that Tajadao apply as well.

Soon after, Tajadao met with appellant, who offered him a job as a factory worker in Taiwan for deployment within the month. Appellant then required him to undergo medical examination and pay a placement fee of ₱80,000. Chua assured Tajadao that whoever pays the application fee the earliest can leave sooner. Thus, Tajadao delivered to appellant staggered payments of ₱40,000, ₱35,000 and ₱5,000 at the Golden Gate International (Golden Gate) Office in Paragon Tower, Ermita, Manila. Said payments are evidenced by a voucher⁶ signed by appellant.

After completing payment, Tajadao was made to sign a contract containing stipulations as to salary and conditions of work. On several occasions, thereafter, he returned to appellant's office to follow-up on his application. After several visits, however, Tajadao noticed that all the properties of Golden Gate in its Paragon Tower Office were already gone.

Tajadao filed a complaint for illegal recruitment against appellant before the Philippine Overseas Employment Agency (POEA). It was only then that he learned that appellant Chua was not licensed to recruit workers for overseas employment.

Another private complainant, Billy R. Danan, testified that Chua also offered employment abroad but failed to deploy him. He recalled meeting appellant on August 6, 2002 at the Golden Gate Office in Ermita, Manila. Danan inquired about the prospect of finding work in Taiwan as a factory

⁶ Id. at 10.

worker, and appellant confirmed there was a standing “job order.” The latter advised Danan to obtain a passport, undergo medical examination, secure an NBI clearance and prepare the amount of ₱80,000.

On August 10, 2002, Danan paid appellant in full as evidenced by a cash voucher signed by the latter. A month passed, however, and he was still unable to leave for Taiwan. Appellant informed Danan that his departure would be re-scheduled because Taiwan had suspended admission of overseas workers until after the festival. After appellant advanced this explanation several times, Danan decided to verify whether she was licensed to recruit. Upon learning otherwise, Danan lodged a complaint for illegal recruitment against appellant with the POEA.

The third private complainant, Alberto Aglanao, testified that he met appellant Chua on August 5, 2002. Like Tajadao and Danan, Aglanao applied for work as a factory worker in Taiwan. Appellant similarly assured Aglanao of employment abroad upon payment of ₱80,000. But despite payment⁷ of said amount on August 10, 2002, appellant failed to deploy Aglanao to Taiwan.

Roylan Ursulum,⁸ the fourth private complainant, testified that he too went to the Golden Gate Office in Ermita, Manila to seek employment as a factory worker. He was introduced by Shirley Montano to appellant Chua. The latter told Ursulum that the first applicants to pay the placement fee of ₱80,000 shall be deployed ahead of the others. Thus, Ursulum obtained a loan of ₱80,000 to cover the placement fee, which he allegedly gave appellant in two installments of ₱40,000 each. As with the rest of the private complainants, Ursulum never made it to Taiwan. Ursulum did not submit proof of payment but presented, instead, ten text messages on his mobile phone supposedly sent by appellant. One of said text messages reads, “*Siguro anong laking saya nyo pag namatay na ko.*”

⁷ Id. at 14.

⁸ Also referred to as Roylan Ursulan in other parts of the records.

The prosecution likewise presented as witness Severino Maranan, Senior Labor Employment Officer of the POEA. Maranan confirmed that appellant Chua was neither licensed nor authorized to recruit workers for overseas employment. In support, he presented to the court a certification issued by the POEA to that effect.

In her defense, appellant Chua denies having recruited private complainants for overseas employment. According to appellant, she was only a cashier at Golden Gate, which is owned by Marilen Callueng. However, she allegedly lost to a robbery her identification card evidencing her employment with the agency. Appellant denied any knowledge of whether the agency was licensed to recruit workers during her tenure as it has been delisted.

In a Decision dated March 28, 2005, the RTC of Manila, Branch 33, found appellant Melissa Chua, a.k.a. Clarita Ng Chua, guilty beyond reasonable doubt of illegal recruitment in large scale and four counts of *estafa*. The *fallo* of the RTC decision reads:

WHEREFORE, the prosecution having established the guilt of the accused beyond reasonable doubt, judgment is hereby rendered CONVICTING the accused as principal in the crime of illegal recruitment in large scale and estafa (four counts) and she is sentenced to suffer the penalty of LIFE IMPRISONMENT and a fine of Five Hundred Thousand Pesos (Php500,000.00) for illegal recruitment in large scale; and the indeterminate penalty of four (4) years and two (2) months of prision [correccional], as minimum, to Twelve (12) years of prision mayor as maximum for EACH count of Estafa.

The accused is also ordered to pay each of the complainant[s] the amount of P80,000.00.

In the service of the sentence, the accused is credited with a x x x the full extent of her [preventive] imprisonment if she agrees in writing to observe the same disciplinary rules imposed upon convicted prisoners; otherwise, only 4/5 of the time of such preventive imprisonment shall be credited to her.

SO ORDERED.⁹

The trial court relied on the testimony of Severino Maranan, Senior

⁹ CA rollo, p. 18.

Labor Employment Officer of the POEA, that appellant is not licensed to recruit workers for overseas employment at the time she promised but failed to place the four private complainants for work abroad. It accorded greater weight to the testimonies of private complainants who positively identified appellant as the person who recruited them for employment in Taiwan and received the placement fees.

The court *a quo* likewise found appellant guilty beyond reasonable doubt of *estafa* for misrepresenting herself as having the power and capacity to recruit and place private complainants as factory workers in Taiwan. Such misrepresentation, the trial court stressed, induced private complainants to part with their money. The RTC brushed aside appellant's defense that she was merely a cashier of Golden Gate and that the same is owned by Marilen Callueng. It gave little weight to the receipts submitted by appellant to prove that she turned over the placement fees to Callueng. The trial court observed nothing in said receipts indicating that the money came from private complainants.

Dissatisfied, appellant Chua filed a Notice of Appeal¹⁰ on April 15, 2005.

By Decision dated September 15, 2008, the Court of Appeals affirmed with modification the RTC ruling. It modified the penalty for each of the four counts of *estafa* by imposing upon appellant an indeterminate sentence of 4 years and 2 months of *prision correccional*, as minimum, to 13 years of *reclusion temporal*, as maximum, for each count of *estafa*.

The appellate court held that the prosecution has established by proof beyond reasonable doubt that appellant had no license to recruit at the time she promised employment to and received placement fees from private complainants. It dismissed appellant's defense that she was only a cashier of Golden Gate and that she remitted the placement fees to "the agency's treasurer." The Court of Appeals explained that in order to hold a person

¹⁰ Id. at 19.

liable for illegal recruitment, it is enough that he or she promised or offered employment for a fee, as appellant did.

The appellate court held further that the same pieces of evidence which establish appellant's commission of illegal recruitment also affirm her liability for *estafa*. It pointed out that appellant defrauded private complainants when she misrepresented that they would be hired abroad upon payment of the placement fee. The Court of Appeals perceived no ill motive on the part of private complainants to testify falsely against appellant.

Lastly, the appellate court modified the penalty imposed by the trial court upon appellant Chua for each count of *estafa*. It raised the maximum period of appellant's indeterminate sentence from 12 years of *prision mayor* to 13 years of *reclusion temporal*.

On October 6, 2008, appellant Chua elevated the case to this Court by filing a Notice of Appeal.¹¹

In a Resolution¹² dated July 1, 2009, we required the parties to file their respective supplemental briefs, if they so desire. On August 26, 2009, appellant Chua filed a Manifestation (In lieu of Supplemental Brief)¹³ by which she repleaded and adopted all the defenses and arguments raised in her Appellant's Brief.¹⁴ On September 3, 2009, the Office of the Solicitor General, for the People, filed a Manifestation¹⁵ that it will no longer file a supplemental brief since it has discussed in its Appellee's Brief¹⁶ all the matters and issues raised in the Appellant's Brief.

Before us, appellant Melissa Chua presents a lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-
APPELLANT GUILTY OF THE OFFENSE OF ILLEGAL
RECRUITMENT IN LARGE SCALE AND FOUR (4) COUNTS OF

¹¹ *Rollo*, pp. 17-18.

¹² *Id.* at 21-22.

¹³ *Id.* at 24-26.

¹⁴ *CA rollo*, pp. 31-41.

¹⁵ *Rollo*, pp. 28-29.

¹⁶ *CA rollo*, pp. 55-73.

ESTAFADA DESPITE THE INSUFFICIENCY OF THE EVIDENCE FOR THE PROSECUTION.¹⁷

The Office of the Solicitor General, for the people, submits that it has established all the elements necessary to hold appellant Chua liable for illegal recruitment in large scale and *estafa*. It cites the testimony of Severino Maranan, Senior Labor Employment Officer of the POEA, and the certification issued by Felicitas Q. Bay, Director II of the POEA, to the effect that appellant was not authorized to engage in recruitment activities. The OSG argues against appellant's defense that she was only a cashier of Golden Gate on the argument that her act of representing to the four private complainants that she could send them to Taiwan as factory workers constitutes recruitment. It stresses that the crime of illegal recruitment in large scale is *malum prohibitum*; hence, mere commission of the prohibited act is punishable and criminal intent is immaterial. Lastly, the OSG points out that appellant failed to show any ill motive on the part of private complainants to testify falsely against her.

For her part, appellant Chua maintains that she was merely a cashier of Golden Gate International. She disowns liability for allegedly "merely acting under the direction of [her] superiors"¹⁸ and for being "unaware that [her] acts constituted a crime."¹⁹ Appellant begs the Court to review the factual findings of the court *a quo*.

The crime of illegal recruitment is defined and penalized under Sections 6 and 7 of Republic Act (R.A.) No. 8042, or the Migrant Workers and Overseas Filipinos Act of 1995, as follows:

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,

¹⁷ Id. at 33.

¹⁸ Id. at 39-40.

¹⁹ Id. at 40.

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, x x x:

x x x x

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.

SEC. 7. *Penalties.* –

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) 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.

In order to hold a person liable for illegal recruitment, the following elements must concur: (1) the offender undertakes any of the activities within the meaning of “recruitment and placement” under Article 13(b)²⁰ of the Labor Code, or any of the prohibited practices enumerated under Article 34²¹ of the Labor Code (now Section 6 of Republic Act No. 8042) and (2)

²⁰ “Recruitment and placement” refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: *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.

²¹ **ART. 34. Prohibited practices.** - It shall be unlawful for any individual, entity, 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, 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 this Code;

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

the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers.²² In the case of illegal recruitment in large scale, a third element is added: that the offender commits any of the acts of recruitment and placement against three or more persons, individually or as a group.²³ All three elements are present in the case at bar.

Inarguably, appellant Chua engaged in recruitment when she represented to private complainants that she could send them to Taiwan as factory workers upon submission of the required documents and payment of the placement fee. The four private complainants positively identified appellant as the person who promised them employment as factory workers in Taiwan for a fee of ₱80,000. More importantly, Severino Maranan the Senior Labor Employment Officer of the POEA, presented a Certification dated December 5, 2002, issued by Director Felicitas Q. Bay, to the effect that appellant Chua is not licensed by the POEA to recruit workers for overseas employment.

The Court finds no reason to deviate from the findings and conclusions of the trial court and appellate court. The prosecution witnesses were positive and categorical in their testimonies that they personally met appellant and that the latter promised to send them abroad for employment. In fact, the substance of their testimonies corroborate each other on material points, such as the amount of the placement fee, the country of destination

(e) To influence or to attempt to influence any person or entity not to employ any worker who has 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 or by his duly authorized representatives;

(h) To fail to file 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;

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

(j) 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; and

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

²² *People v. Espenilla*, G.R. No. 193667, February 29, 2012, p. 3.

²³ *Id.*

and the nature of work. Without any evidence to show that private complainants were propelled by any ill motive to testify falsely against appellant, we shall accord their testimonies full faith and credit. After all, the doctrinal rule is that findings of fact made by the trial court, which had the opportunity to directly observe the witnesses and to determine the probative value of the other testimonies, are entitled to great weight and respect because the trial court is in a better position to assess the same, an opportunity not equally open to the appellate court.²⁴ The absence of any showing that the trial court plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case, or that its assessment was arbitrary, impels the Court to defer to the trial court's determination according credibility to the prosecution evidence.²⁵

Appellant cannot escape liability by conveniently limiting her participation as a cashier of Golden Gate. The provisions of Article 13(b) of the Labor Code and Section 6 of R.A. No. 8042 are unequivocal that illegal recruitment may or may not be for profit. It is immaterial, therefore, whether appellant remitted the placement fees to "the agency's treasurer" or appropriated them. The same provision likewise provides that the persons criminally liable for illegal recruitment are the principals, accomplices and accessories. Just the same, therefore, appellant can be held liable as a principal by direct participation since she personally undertook the recruitment of private complainants without a license or authority to do so. Worth stressing, the Migrant Workers and Overseas Filipinos Act of 1995 is a special law, a violation of which is *malum prohibitum*, not *mala in se*. Intent is thus, immaterial²⁶ and mere commission of the prohibited act is punishable.

Furthermore, we agree with the appellate court that the same pieces of evidence which establish appellant's liability for illegal recruitment in large scale likewise confirm her culpability for *estafa*.

²⁴ *People v. Calonge*, G.R. No. 182793, July 5, 2010, 623 SCRA 445, 455.

²⁵ *People v. Ocdan*, G.R. No. 173198, June 1, 2011, 650 SCRA 124, 146.

²⁶ *People v. Chua*, G.R. No. 184058, March 10, 2010, 615 SCRA 132, 141-142.

It is well-established in jurisprudence that a person may be charged and convicted for both illegal recruitment and *estafa*. The reason therefor is not hard to discern: illegal recruitment is *malum prohibitum*, while *estafa* is *mala in se*. In the first, the criminal intent of the accused is not necessary for conviction. In the second, such intent is imperative. *Estafa* under Article 315, paragraph 2(a) of the Revised Penal Code is committed by any person who defrauds another by using fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of similar deceits executed prior to or simultaneously with the commission of fraud.²⁷

The elements of *estafa* by means of deceit are the following: (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.²⁸

In this case, the prosecution has established that appellant defrauded the complaining witnesses by leading them to believe that she has the capacity to send them to Taiwan for work, even as she does not have a license or authority for the purpose. Such misrepresentation came before private complainants delivered ₱80,000 as placement fee to appellant. Clearly, private complainants would not have parted with their money were it not for such enticement by appellant. As a consequence of appellant's false pretenses, the private complainants suffered damages as the promised employment abroad never materialized and the money they paid were never recovered.²⁹

²⁷ Id. at 142, citing *People v. Comila*, G.R. No. 171448, February 28, 2007, 517 SCRA 153, 167.

²⁸ *Sy v. People*, G.R. No. 183879, April 14, 2010, 618 SCRA 264, 271.

²⁹ Id.

In an effort to exculpate herself, appellant presented in evidence 11 vouchers³⁰ amounting to ₱314,030, which was allegedly received by Marilen Callueng, the supposed owner of Golden Gate. Notably, the dates on which said vouchers were issued and the amounts purportedly remitted to Callueng by way thereof do not correspond with the placement fee given by private complainants and the dates on which they paid the same to appellant. For instance, private complainants Aglanan and Danan delivered ₱80,000 to appellant on August 10, 2002 but none of the vouchers presented by appellant was issued on said date. On August 20, 2002, private complainant Tajadao paid ₱40,000 to appellant but the latter's voucher for said date covers only ₱22,480. More importantly, there is nothing in appellant's vouchers to indicate that the amounts listed therein were received from private complainants. On the other hand, while the vouchers presented by private complainants Aglanan, Danan and Tajadao do not bear their names, they could not have come into possession of said form except through appellant. Hence, appellant admitted in open court that she received ₱80,000 from private complainants and that she was authorized to issue receipts, thus:

ATTY: BETIC:

Q: Were you authorized to issue receipts in behalf of that Agency?

A: yes, Sir.

x x x x

Q: Now, you said that you were employed with Golden Gate Agency owned and operated by Marilen Cal[l]ueng, and as a cashier did you [happen] to come across private complainants, Billy R. Da[n]an, Alberto Aglanan and Rey Tajadao?

A: Yes, Sir before they were asked to [sign] a contract they paid to me.

Q: Do you know how much were paid or given [by] the persons I have mentioned?

A: Eighty Thousand Pesos Only (P80,000.00) Sir.

Q: Each?

A: Yes, Sir.³¹

³⁰ Records, pp. 109-120.

³¹ TSN, July 26, 2004, pp. 5-6.

Be that as it may, we take exception as regards private complainant Roylan Ursulum. The Court finds that the prosecution failed to establish the presence of the third and fourth elements of *estafa* as regards the incident with Roylan Ursulum. While Ursulum claims that he delivered to Chua two installments of ₱40,000 each on July 29, 2002 and August 3, 2002, he failed to produce receipts to substantiate the same. Instead, Ursulum relies on ten text messages allegedly sent by appellant as evidence of their transaction. Out of said series of messages, Ursulum presented only one which reads, “*Siguro anong laking saya nyo pag namatay na ko.*” Notably, the prosecution did not present evidence to confirm whether said text message actually emanated from appellant. Assuming *arguendo* that it did, still, said message alone does not constitute proof beyond reasonable doubt that appellant was able to obtain ₱80,000 from Ursulum as a result of her false pretenses.

Unlike in illegal recruitment where profit is immaterial, a conviction for *estafa* requires a clear showing that the offended party parted with his money or property upon the offender’s false pretenses, and suffered damage thereby. In every criminal prosecution, the State must prove beyond reasonable doubt all the elements of the crime charged and the complicity or participation of the accused.³² It is imperative, therefore, that damage as an element of *estafa* under Article 315, paragraph 2(a) be proved as conclusively as the offense itself. The failure of the prosecution to discharge this burden concerning the *estafa* allegedly committed against Ursulum warrants the acquittal of appellant on the said charge.

Now on the matter of the appropriate penalty. Under Section 6, R.A. No. 8042, illegal recruitment when committed in large scale shall be considered as an offense involving economic sabotage. Accordingly, it shall be punishable by life imprisonment and a fine of not less than ₱500,000 nor more than ₱1,000,000. The law provides further that the maximum penalty shall be imposed if illegal recruitment is committed by a non-licensee or

³² *Llamas v. Court of Appeals*, G.R. No. 149588, August 16, 2010, 628 SCRA 302, 308.

non-holder of authority.

In the case at bar, the trial court imposed upon appellant Chua the penalty of life imprisonment and a fine of ₱500,000. However, considering that appellant is a non-licensee or non-holder of authority, we deem it proper to impose upon her the maximum penalty of life imprisonment and fine of ₱1,000,000.

Meanwhile, the penalty for *estafa* under Article 315 of the Revised Penal Code is *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over ₱12,000 but does not exceed ₱22,000. If the amount exceeds ₱22,000, the penalty shall be imposed in its maximum period, adding one year for each additional ₱10,000. But, the total penalty imposed shall not exceed 20 years.

The range of penalty provided for in Article 315 is composed of only two periods. Thus, to get the maximum period of the indeterminate sentence, the total number of years included in the two periods should be divided into three equal periods of time, forming one period for each of the three portions. The maximum, medium and minimum periods of the prescribed penalty are therefore:

Minimum period - 4 years, 2 months and 1 day to 5 years, 5 months and 10 days

Medium period - 5 years, 5 months and 11 days to 6 years, 8 months and 20 days

Maximum period - 6 years, 8 months and 21 days to 8 years.³³

In this case, the amount by which appellant defrauded private complainants Aglanan, Danan and Tajadao is ₱80,000, which exceeds ₱22,000. Hence, the penalty should be imposed in the maximum period of 6 years, 8 months and 21 days to 8 years. Since the total amount of fraud in this case exceeds the threshold amount of ₱22,000 by ₱58,000, an additional penalty of five years imprisonment should be imposed. Thus, the maximum

³³ *Pucay v. People*, G.R. No. 167084, October 31, 2006, 506 SCRA 411, 424-425.

period of appellant's indeterminate sentence should be 13 years of *reclusion temporal*.

The minimum period of the indeterminate sentence, on the other hand, should be within the range of penalty next lower to that prescribed by Article 315, paragraph 2(a) of the Revised Penal Code for the crime committed. The penalty next lower to *prision correccional* maximum to *prision mayor* minimum is *prision correccional* minimum (6 months and 1 day to 2 years and 4 months) to *prision correccional* medium (2 years, 4 months and 1 day to 4 years and 2 months). Thus, the appellate court correctly modified the minimum period of appellant's sentence to 4 years and 2 months of *prision correccional*.

WHEREFORE, the appeal is **PARTLY GRANTED**. Appellant Melissa Chua, a.k.a. Clarita Ng Chua is **ACQUITTED** of one count of *estafa* filed by private complainant Roylan Ursulum in Criminal Case No. 03-217999-403.

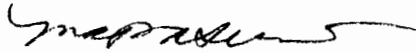
The Decision dated September 15, 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 01006 is **AFFIRMED with MODIFICATION** in that the appellant is ordered to pay a fine of ₱1,000,000 and to indemnify each of the private complainants Alberto A. Aglanan, Billy R. Danan and Rey P. Tajadao in the amount of ₱80,000.

With costs against the accused-appellant.

SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



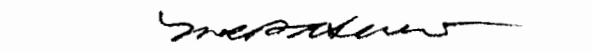
LUCAS P. BERSAMIN
Associate Justice



BIENVENIDO L. REYES
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.



MARIA LOURDES P. A. SERENO
Chief Justice