

## SECOND DIVISION

[ G.R. No. 193667, February 29, 2012 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIAVIC  
ESPENILLA Y MERCADO, APPELLANT.**

### R E S O L U T I O N

**BRION, J.:**

We resolve the appeal, filed by accused Mariavic Espenilla y Mercado (*appellant*), from the April 20, 2010 decision of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 03692.<sup>[1]</sup>

#### The RTC Ruling

In its July 22, 2008 decision,<sup>[2]</sup> the Regional Trial Court (RTC) of Parañaque City, Branch 274, convicted the appellant of large scale illegal recruitment<sup>[3]</sup> and two (2) counts of estafa.<sup>[4]</sup> The trial court believed the testimonies of complainants Loreto Cueto y Perez, Mariel Alviar y Nerpio and Mario Pagcaliwagan, pointing to the appellant as the person who recruited them and promised them employment in Ireland, in exchange for sums of money. The court also rejected the subsequent recantations of Alviar and Pagcaliwagan. It found that the appellant was not licensed to recruit workers for overseas employment, per the May 23, 2006 Certification of the Philippine Overseas Employment Administration.<sup>[5]</sup> It noted that the appellant defrauded Cueto and Alviar in the amounts of P20,000.00 and P15,000.00, respectively, thereby disregarding the appellant's uncorroborated denial. It acquitted the appellant of the crime of estafa committed against Pagcaliwagan since the latter admitted that he recovered his money from the appellant.

For the crime of illegal recruitment, the RTC sentenced the appellant to suffer the penalty of life imprisonment and ordered her to pay a P500,000.00 fine, with the accessory penalties of civil interdiction and perpetual absolute disqualification from the right of suffrage. For the two (2) counts of estafa, it sentenced the appellant to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to four (4) years, two (2) months and one (1) day of *prision correccional*, as maximum, for each count, and to indemnify Cueto and Alviar the amounts of P20,000.00 and P15,000.00, respectively.

#### The CA Ruling

On intermediate appellate review, the CA affirmed the RTC's decision, giving full respect to the RTC's calibration of the testimonies of the witnesses, but deleted the accessory penalties of civil interdiction and perpetual absolute disqualification from the right of suffrage. It also modified the appellant's indeterminate penalty for the two (2) counts of estafa to two (2) years, four (4) months and one (1) day of *prision*

*correccional*, as minimum, to five (5) years, five (5) months and eleven (11) days of *prision correccional*, as maximum, for each count.<sup>[6]</sup>

We now rule on the final review of the case.

### **Our Ruling**

#### ***We dismiss the appeal.***

We find no reason to reverse the findings of the RTC, as affirmed by the CA. The appellant is guilty of large scale illegal recruitment. The essential elements of large scale illegal recruitment, to wit: a) the offender has no valid license or authority required by law to enable him to lawfully engage in recruitment and placement of workers; b) the offender undertakes any of the activities within the meaning of "recruitment and placement" under Article 13(b) of the Labor Code, or any of the prohibited practices enumerated under Article 34 of the said Code (now Section 6 of Republic Act No. 8042); and c) the offender committed the same against three (3) or more persons, individually or as a group,<sup>[7]</sup> are present in this case. The prosecution adduced proof beyond reasonable doubt that the appellant enlisted the three (3) complainants for overseas employment without any license to do so.

The RTC and the CA correctly rejected the subsequent recantations of Alviar and Pagcaliwagan since these were made a year after their testimonies in court.<sup>[8]</sup> Also, Alviar failed to offer any explanation for her change of mind,<sup>[9]</sup> while Pagcaliwagan admitted that he recanted because the appellant returned the money he paid.<sup>[10]</sup> We have often stressed that recantations are frowned upon since a recantation is exceedingly unreliable; it is easily secured from a poor and ignorant witness, usually through intimidation or for monetary consideration.<sup>[11]</sup>

The penalty for large scale illegal recruitment is life imprisonment and a fine of not less than P500,000.00 nor more than P1,000,000.00.<sup>[12]</sup> Thus, the RTC and the CA correctly imposed upon the appellant the penalty of life imprisonment and a P500,000.00 fine. The CA correctly deleted the accessory penalties of civil interdiction and perpetual absolute disqualification from the right of suffrage imposed by the RTC since such additional penalty is not part of the prescribed penalty for the offense.<sup>[13]</sup>

The appellant is also guilty of two (2) counts of estafa. The essential elements of estafa, to wit: (a) that the accused defrauded another by abuse of confidence or by means of deceit, and (b) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person,<sup>[14]</sup> are present in this case. The prosecution adduced proof beyond reasonable doubt that the complainants shelled out processing fees to the appellant due to her false representations of overseas jobs, which did not materialize.

The appellant defrauded Cueto and Alviar in the amounts of P20,000.00 and P15,000.00, respectively. When the amount defrauded is over P12,000.00 but does not exceed P22,000.00, the imposable penalty is *prision correccional* maximum to *prision mayor* minimum.<sup>[15]</sup> Applying the Indeterminate Sentence Law (*ISL*), we take the minimum term from the penalty next lower than the minimum prescribed