

FIRST DIVISION

[G.R. No. 173792, August 31, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSARIO "ROSE" OCHOA, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For Our consideration is an appeal from the Decision^[1] dated March 2, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00888, which affirmed with modification the Decision^[2] dated April 17, 2000 of the Regional Trial Court (RTC), Quezon City, Branch 104, in Criminal Case Nos. 98-77300 to 98-77303. The RTC found accused-appellant Rosario "Rose" Ochoa (Ochoa) guilty of illegal recruitment in large scale, as defined and penalized under Article II, Section 6 in relation to Section 7(b) of Republic Act No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995," in Criminal Case No. 98-77300; and of the crime of estafa, as defined and penalized in Article 315, paragraph 2(a) of the Revised Penal Code, in Criminal Case Nos. 98-77301, 98-77302, and 98-77303.

The Information filed before the RTC and docketed as Criminal Case No. 98-77300, charged Ochoa with illegal recruitment in large scale, allegedly committed as follows:

That on or about the period covering the months of February 1997 up to April 1998 or immediately before or subsequent thereto in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above name accused, did then and there willfully, unlawfully and feloniously recruit **Robert Gubat, Junior Agustin, Cesar Aquino, Richard Luciano, Fernando Rivera, Mariano R. Misleng, Helen B. Palogo, Joebert Decolongon, Corazon S. Austria, Cristopher A. Bermejo, Letecia D. Londonio, Alma Borromeo, Francisco Pascual, Raymundo A. Bermejo and Rosemarie A. Bermejo** for a consideration ranging from **P2,000.00** to **P32,000.00** or a total amount of **P124,000.00** as placement fee which the complainants paid to herein accused without the accused having secured the necessary license from the Department of Labor and Employment.^[3] (Emphases supplied.)

Three other Informations were filed before the RTC and docketed as Criminal Case Nos. 98-77301, 98-77302, and 98-77303, this time charging Ochoa with three counts of estafa, committed separately upon three private complainants Robert Gubat (Gubat), Cesar Aquino (Cesar), and Junior Agustin (Agustin), respectively. The Information in Criminal Case No. 98-77301 accuses Ochoa of the following acts

constituting estafa:

That on or about March 3, 1998 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above name accused did then and there willfully, unlawfully and feloniously recruit and promise employment in Taiwan to one **ROBERT GUBAT** for a consideration of **P18,800.00** as placement fee, knowing that she has no power, capacity or lawful authority whatsoever and with no intention to fulfill her said promise, but merely as pretext, scheme or excuse to get and exact money from said complainant, as she did in fact collect and received the amount of P18,800.00 from said Robert Gubat, to his damage and prejudice.^[4] (Emphases supplied.)

The two other Informations for estafa were similarly worded as the aforementioned Information, except as to the name of the private complainants and the amount purportedly collected by Ochoa from them, particularly:

Docket No.	Private Complainant	Amount Collected
Criminal Case No. 98-77302 ^[5]	Cesar Aquino	P19,000.00
Criminal Case No. 98-77303 ^[6]	Junior Agustin	P32,000.00

As prayed for by the State Prosecutor, all four criminal cases against Ochoa before the RTC were consolidated. When arraigned, Ochoa pleaded not guilty. Thereafter, joint trial of the four criminal cases ensued.

The prosecution presented as witnesses Cory Aquino (Cory) of the Philippine Overseas Employment Agency (POEA) and private complainants Gubat, Agustin, Francisco Pascual (Pascual), Rosemarie Bermejo (Rosemarie), Cesar, Christopher Bermejo (Christopher), Joebert Decolongon (Decolongon), and Fernando Rivera (Rivera).

According to private complainants, they were recruited by Ochoa from January to March 1998 for various jobs in either Taiwan or Saudi Arabia, under the following circumstances:

1. In the second week of February 1998, Ochoa was introduced to Robert Gubat, a licensed electrical engineer and a resident of Pulang Lupa, Las Piñas, through a certain Nila, Gubat's neighbor, who had a pending application for work abroad with Ochoa. Ochoa talked to Gubat on the telephone, and during their conversation, Ochoa told Gubat that one of her applicants was already leaving for Taiwan. Per Ochoa's instruction, Gubat met with Francisco Pascual, who accompanied him to Ochoa's house in San Bartolome, Novaliches, Quezon City, and personally introduced Gubat to Ochoa. Gubat submitted his résumé to Ochoa, which Ochoa would bring to Axil International Agency where Ochoa was working as a recruiter. Right after browsing through Gubat's résumé, Ochoa informed Gubat that as an engineer,

Gubat was qualified to work as a factory supervisor and could leave for Taiwan in two weeks or in March 1998. Ochoa also told Gubat that the total application expenses would amount to ₱100,000.00, and the downpayment was ₱50,000.00. Gubat was able to actually pay Ochoa ₱18,800.00 as reservation fee at the agency; processing fee for Gubat's papers at the Department of Foreign Affairs (DFA), Malacañang, and Embassy of Taiwan; and medical examination fee. Ochoa, however, only issued to Gubat three receipts, dated March 3, March 31, and April 6, all in the year 1998, in the amount of P5,000.00 each or a total of P15,000.00. Gubat started to worry when he was not able to leave for abroad as Ochoa promised and when she failed to show up at their arranged meetings. When Gubat was finally able to talk to Ochoa, Ochoa again promised him that he would be leaving for abroad soon. Despite Ochoa's renewed promise, Gubat was still not able to leave the country. Gubat then demanded that Ochoa return his documents and money. When Ochoa failed to comply with his demand, Gubat filed a report against Ochoa at Barangay (Brgy.) San Bartolome, Novaliches, Quezon City. On May 21, 1998, he met the other private complainants^[7] who had similar complaints against Ochoa. When nothing came out of the confrontation with Ochoa at Brgy. San Bartolome, Gubat and the other private complainants filed a joint complaint against Ochoa before the National Bureau of Investigation (NBI).^[8]

2. The paths of Junior Agustin and Ochoa crossed on February 2, 1998. Agustin, a farmer, was staying at the home of Pascual, his cousin, at No. 4 Gulod, Novaliches, Quezon City. When Ochoa arrived at Pascual's home, Pascual introduced Ochoa to Agustin as a recruiter for overseas workers in Taiwan. Interested in working abroad, Agustin submitted his bio-data to Ochoa at the latter's residence at Phase 1, Lot 3, San Bartolome, Novaliches, Quezon City. Ochoa promised Agustin that he would be fielded as a factory worker in Taiwan for three years, earning a monthly salary of P18,000.00. Ochoa then informed Agustin that the total placement fee for Taiwan is P80,000.00. Agustin initially paid Ochoa the sum of P28,000.00 as processing fee. Ochoa then promised that Agustin could leave for Taiwan in two months. However, the two months passed, but there was still no overseas employment for Agustin. Agustin was compelled to file a complaint against Ochoa at Brgy. San Bartolome, Novaliches, Quezon City. Agustin met the other private complainants during the *barangay* hearing on May 21, 1998. Ochoa was also present at said hearing. Given the unsuccessful *barangay* hearing, Agustin and the other private complainants lodged a complaint against Ochoa before the NBI.^[9]

3. Francisco Pascual, presently jobless and a resident of Gulod, Novaliches, Quezon City, learned from a neighbor of one Mrs. Bermejo that her son was being helped by Ochoa, a recruiter, to find a job abroad. Pascual went to Mrs. Bermejo's house in January 1998, and met Ochoa for the first time. Ochoa invited Pascual to apply for a job abroad, saying that the latter could leave within two weeks. During Pascual's visit at Ochoa's house at Blk. 1, Lot 1, San Bartolome, Novaliches, Quezon City, Ochoa promised Pascual employment as a driver salesman in Saudi Arabia, with a monthly salary of P18,000.00. Ochoa told Pascual that the placement fee would be P7,000.00 and that Pascual should already have his medical examination so that the position in Saudi Arabia could be reserved for him. Since his visa had not yet arrived, Pascual did not pay any placement fee to Ochoa. Pascual did undergo medical examination at St. Peter Medical Clinic in Ermita, Manila, for which he paid P2,600.00 to Ochoa. Pascual though did not receive the results of his medical examination because according to Ochoa, the same was withheld by the clinic.

Despite Ochoa's promises, Pascual was not able to leave for Saudi Arabia. At that time, Pascual was still employed as a Field Coordinator with Selecta, but because of his frequent absences, spent following-up on his application for work abroad, he was fired. Pascual filed a complaint against Ochoa at Brgy. San Bartolome, Novaliches, Quezon City. As nothing happened during the confrontation with Ochoa at the *barangay* hearing on May 21, 1998, Pascual and the other private complainants filed a complaint before the NBI.^[10]

4. Rosemarie Bermejo came to know of Ochoa through Rivera, a friend of Rosemarie's mother. Rosemarie first met Ochoa at the latter's home in Quezon City sometime in January 1998. Rosemarie was promised by Ochoa employment for three years in Saudi Arabia as clerk/typist, earning US\$400.00. Rosemarie was also instructed by Ochoa to have a medical examination and secure a passport and NBI clearance. Rosemarie and her brothers, who also applied for jobs abroad, were accompanied by Ochoa to the St. Peter Medical Clinic in Malate, Manila for their medical examination on February 27, 1998. Rosemarie and her brother each handed over to Ochoa P2,600.00 for their medical examinations, and it was Ochoa who gave the payment to the clinic. Rosemarie and her brothers then spent P55.00 each to secure NBI clearances for travel abroad. In addition, Rosemarie gave Ochoa P5,500.00 on April 17, 1998; and although not secured by a receipt, said payment was witnessed by Rosemarie's mother and Imelda Panuga, the landlord of Rosemarie's mother, who lent Rosemarie the P5,500.00. During their initial meeting in January 1998, Ochoa said that Rosemarie could already leave for abroad in two weeks. Since Rosemarie was not able to complete the requirements, her departure for Saudi Arabia was moved to April 19, 1998. On April 19, 1998, Ochoa requested Rosemarie to go to the office of Al Arab Agency located at Jalandoni Building, Ermita, Manila, to which Ochoa was purportedly connected. Rosemarie waited at the Al Arab Agency until noon, but no one came to pick her up. Later, at the same day, Ochoa invited Rosemarie to her house for the birthday celebration of her father. There, Ochoa explained that Rosemarie was unable to leave for Saudi Arabia because the Al Arab Agency has yet to secure Rosemarie's Overseas Employment Certificate (OEC). Ochoa advised Rosemarie to stay at the rented apartment of Rosemarie's mother because it was close to Ochoa's house and would be more convenient as Rosemarie could leave for abroad any day soon. When none of Ochoa's promises came to fruition, Rosemarie, together with the other private complainants, first sought redress from Brgy. San Bartolome, Novaliches, Quezon City, and then from the NBI.^[11]

5. It was Pascual who introduced Cesar Aquino, a resident of Cubao, to Ochoa at the latter's residence in San Bartolome, Novaliches, Quezon City, sometime in February 1998. When Cesar directly asked Ochoa if she was a recruiter, the latter answered in the affirmative. Cesar applied to work as a factory worker in Taiwan. Ochoa told Cesar that as a factory worker, he could earn at least P15,000.00 a month. On March 13, 1998, Cesar handed over P17,000.00 to Ochoa to cover his processing fee and medical examination. On the same day, Cesar had his medical examination at St. Peter Medical Clinic. Ochoa then promised that Cesar could leave two weeks thereafter. When two weeks had passed and he was not able to leave for Taiwan, Cesar demanded that Ochoa return his money. Ochoa failed to comply with Cesar's demand, and Cesar instituted a complaint against Ochoa at Brgy. San Bartolome, Novaliches, Quezon City. At the hearing attended by Ochoa, Cesar, and the other private complainants before the *Barangay Lupon*, Ochoa signed a *Kasunduan*,

agreeing to return the money to private complainants. Again, Ochoa failed to fulfill her promise to return the money paid by Cesar, thus, the latter, together with the other complainants, filed a complaint with the NBI.^[12]

6. Christopher Bermejo met Ochoa at the house of his mother in Novaliches, Quezon City in January 1998. Also present at the house were Fernando Bermejo, Christopher's brother, and Richard Luciano. Ochoa promised that after a week, Christopher would already be deployed to Saudi Arabia as an accountant, earning 250-350 Saudi Riyals. As a result, Christopher immediately resigned from his job at the Development Bank of the Philippines (DBP). Christopher's mother paid Ochoa P5,000.00 as processing fee for Christopher's application. A week passed and Ochoa failed to send Christopher to Saudi Arabia for work. When Rosemarie and Raymundo Bermejo (Raymundo), Christopher's sister and brother, respectively, also failed to leave for work abroad as promised by Ochoa, Christopher, Rosemarie, and their mother went to see Ochoa at an office at the Jalandoni Building, Ermita, Manila. Ochoa explained that Christopher and his siblings could not leave yet because there are other documents that still need to be accomplished. Ochoa said that she would just notify Christopher and his siblings of their scheduled departure. When they still did not receive any notification from Ochoa, Rosemarie, Raymundo, and their mother returned to the office at the Jalandoni Building and found out that their placement fees were not given to said office. Christopher joined the other private complainants in filing a complaint against Ochoa before the NBI.^[13]

7. Joebert Decolongon is a resident of Sta. Maxima, Gulod, Novaliches, Quezon City, and works as a bus conductor. Decolongon was introduced to Ochoa by Rivera, Decolongon's friend, at Rivera's house on Villareal Street, Gulod, Novaliches. Ochoa informed Decolongon that there was a vacancy for the position of janitor in Saudi Arabia, with a monthly salary of 800 Saudi Riyals. Decolongon submitted his application, birth certificate, and passport to Ochoa. Ochoa also went to Decolongon's house and collected from Decolongon's wife the initial amount of P2,000.00 as placement fee. The rest of Decolongon's placement fees would be paid by one-month salary deduction. Trusting Ochoa, neither Decolongon nor his wife demanded a receipt. When Ochoa failed to deploy Decolongon for employment abroad, Decolongon too filed a complaint against Ochoa before Brgy. San Bartolome, Novaliches, Quezon City. Without a successful resolution at the *barangay* level, Decolongon joined the private complainants in filing a complaint against Ochoa before the NBI.^[14]

8. Sometime in January 1998, Ochoa was accompanied by a certain Amy to Fernando Rivera's residence at 27 Villareal Street, Novaliches, Quezon City. Ochoa first talked to Rivera's mother who had previously worked abroad. Ochoa then also offered work to Rivera, either as tea boy or janitor in the army in Riyadh, Saudi Arabia. Rivera chose to work as a tea boy, with a salary of 800 to 1,000 Saudi Riyals. Ochoa said that Rivera would be deployed in the first week of February 1998. Ochoa required Rivera to submit NBI clearance, passport, and pictures, but Rivera submitted only his NBI clearance. In January 1998, Rivera paid Ochoa P2,000.00 as she would be the one to secure Rivera's passport. In March 1998, Rivera handed over his ring and necklace, worth of P10,000.00, to Ochoa to cover his processing and medical examination fees. Rivera did not require a receipt from Ochoa because he trusted Ochoa, who was his mother's friend. When Rivera failed to leave in February 1998, Ochoa explained that Rivera's departure was postponed