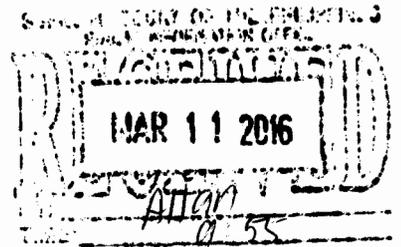




Republic of the Philippines  
**Supreme Court**  
 Manila



**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiffs-Appellees,

**G.R. No. 170192**

Present:

- versus -

SERENO, C.J.,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PERLAS-BERNABE, and  
 JARDELEZA, JJ.

**MARISSA BAYKER,**  
 Accused-Appellant.

Promulgated:

**FEB 10 2016**

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**DECISION**

**BERSAMIN, J.:**

An illegal recruiter can be liable for the crimes of illegal recruitment committed in large scale and *estafa* without risk of being put in double jeopardy, provided that the accused has been so charged under separate informations.

**The Case**

The accused-appellant assails the decision promulgated on July 28, 2005,<sup>1</sup> whereby the Court of Appeals (CA) affirmed her conviction for illegal recruitment and *estafa*, as follows:

**WHEREFORE**, for lack of merit, the petition is **DISMISSED** and the Joint Decision dated August 27, 2002 of the Regional Trial Court,

<sup>1</sup> *Rollo*, pp. 3-23; penned by Associate Justice Portia Aliño-Hormachuelos, and concurred in by Associate Justice Juan Q. Enriquez, Jr. and Associate Justice Vicente Q. Roxas.

Branch 138 of Makati City is **AFFIRMED** with **MODIFICATIONS**. In Criminal Case No. 01-1780 for Illegal Recruitment, the fine imposed is hereby **REDUCED** to ₱100,000.00 and in Criminal Case No. 01-1781 for Estafa, appellant is sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum to nine (9) years of *prision mayor* as maximum.

SO ORDERED.<sup>2</sup>

### Antecedents

The Office of the City Prosecutor of Makati filed in the Regional Trial Court (RTC) in Makati the following amended informations against the accused-appellant and her two co-accused, namely: Nida Bermudez and Lorenz Langreo, alleging thusly:

#### Criminal Case No. 01-1780 Illegal Recruitment

That in or about during the month of January, 2001 up to the 23<sup>rd</sup> day of July, 2001, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, and who have no authority to recruit workers for overseas employment, did then and there willfully, unlawfully and feloniously promise and recruit complainants, Basilio T. Miparanum, Virgilio T. Caniazares and Reynaldo E. Dahab, overseas job abroad and in consideration of said promise, said complainants paid and delivered to accused the amount of ₱52,000.00, ₱10,000.00 and ₱5,000.00, respectively as processing fees of their papers, but on the promise[d] dates of departure, accused failed to send the complainants abroad and despite demands to reimburse or return the amount of ₱52,000.00, ₱10,000.00 and ₱5,000.00 which complainants paid as processing fees, accused did then and there refuse and fail to reimburse or return to complainants the aforesaid amounts of ₱52,000.00, ₱10,000.00 and ₱5,000.00.

CONTRARY TO LAW.<sup>3</sup>

#### Criminal Case No. 01-1781 *Estafa*

That on or about the 9<sup>th</sup> day of April, 2001 up to July 23, 2001, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, by means of false pretense and fraudulent misrepresentations, defrauded Basilio T.

<sup>2</sup> Id. at 22-23.

<sup>3</sup> Records, p. 79.

Miparanum by previous of [sic] simultaneous act, that is; By pretending to possess power, influence, qualification authority, transactions or capacity to recruit and deploy said Basilio T. Miparanum for overseas job, which representations or manifestations the accused knew to be false and fraudulent as they have no authorities to recruit from the POEA and they have no principal employer and was merely intended to convince Basilio T. Miparanum to part his money in the amount of ₱52,000.00, in consideration thereof, as in fact complainant Basilio T. Miparanum paid the said amount to the accused relying on such false manifestation and/or representations to the damage and prejudice of complainant Basilio T. Miparanum in the aforesaid amount of ₱52,000.00.

CONTRARY TO LAW.<sup>4</sup>

Only the accused-appellant and Langreo were arrested because Bermudez, who eluded arrest, continues to remain at large. However, the trial proceeded only against the accused-appellant because of the lack of notification of subsequent proceedings to Langreo.<sup>5</sup>

The State presented four witnesses, namely: Virgilio Caniazares, Reynaldo Dahab, Basilio Miparanum and PO3 Raul Bolido.

Caniazares testified that he and Dahab had met the accused-appellant at the house of a friend in Makati City in January 2001, and she had then represented herself to be recruiting workers for overseas employment, probably as hotel porters in Canada;<sup>6</sup> that on January 27, 2001, he had gone to her residence in Pembo, Makati City to pay ₱4,000.00 for his medical examination, and she had then accompanied him to the Medical Center in Ermita, Manila for that purpose;<sup>7</sup> that on March 30, 2001, she had gone to his house to inform him that he would be deployed as a seaman instead but that he had to pay ₱6,000.00 more; that he had paid the ₱6,000.00 to her, for which she had issued a receipt; that two weeks thereafter, she had called him about his deployment on April 21, 2001; that on the promised date, he had gone to her office at GNB Marketing in Makati but no one was around; that he had then proceeded to her house, and she had then told him that his seaman's application would not push through; that the two of them had then proceeded to her office bringing all his certificates of employment, and that it was there that she had introduced him to her manager, the accused Bermudez, who promised his deployment in Hongkong within two weeks; that because he had not been deployed as promised, he had gone to the Philippine Overseas Employment Administration (POEA), where he had learned that the accused, Bermudez and Langreo, had not been issued the license to recruit and place people overseas; and that he had then decided to

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<sup>4</sup> Id. at 83.

<sup>5</sup> Id. at 385.

<sup>6</sup> TSN dated October 15, 2001, pp. 4-7.

<sup>7</sup> Id. at 8-10

charge them all with illegal recruitment and *estafa* in the Philippine National Police Crime Investigation and Detection Group (PNP-CIDG) in Camp Crame, Quezon City.<sup>8</sup>

Dahab declared that on January 27, 2001, he had met the accused-appellant at the Guadalupe Branch of Jollibee to pay ₱2,500.00 for his medical examination; that a week later, he had undergone the three-day training in Mandaluyong City, for which he paid ₱2,500.00; that she had then demanded from him the placement fee of ₱25,000.00; and that after he had not been able to raise the amount, he never saw her again; and that Caniazares soon called him to urge that he should complain against the accused in the PNP-CIDG.<sup>9</sup>

According to Miparanum, he met the accused-appellant through Caniazares, who was his cousin. Caniazares arrived at his house with her in tow in order to borrow money for his placement fee. On that occasion, she told Miparanum that she could help him find work abroad and even leave ahead of Caniazares if he had the money. Convinced, Miparanum went to her residence on April 11, 2001 to apply as a seaman. On April 17, 2001, he delivered to her ₱6,000.00 for his seaman's book. She again asked an additional ₱6,000.00 for the seaman's book, and ₱40,000.00 as the placement fee. On April 20, 2001, Miparanum went to her office where he met Bermudez. There, he handed the ₱46,000.00 to the accused-appellant but it was Bermudez who issued the corresponding receipt. The accused-appellant and Bermudez told him to wait for his deployment to Hongkong as an ordinary seaman within two weeks. Miparanum followed up on his application after two weeks, but was instead made to undergo training, and he paid ₱2,700.00 for his certificate. Sensing that he was being defrauded, Miparanum later proceeded to file his complaint at the PNP-CIDG.<sup>10</sup>

PO3 Raul Bolido of the PNP-CIDG recalled that in July, 2001, the complainants went to Camp Crame to file their complaints against the accused-appellant, Bermudez and Langreo. PO3 Bolido, along with SPO4 Pedro Velasco and Team Leader Police Inspector Romualdo Iringan, conducted an entrapment operation against the accused. They prepared 10 marked ₱100 bills dusted with ultraviolet powder and gave the same to Miparanum. On July 23, 2001, the entrapment team proceeded with Miparanum to Jollibee-Guadalupe where Miparanum was to meet the accused-appellant. The team immediately arrested her upon her receiving the marked bills. The PNP Crime Laboratory conducted its examination for

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<sup>8</sup> Id. at 12-21.

<sup>9</sup> Id. at 29-34.

<sup>10</sup> TSN dated November 5, 2001, pp. 4-23.

traces of ultraviolet powder on her person, and the results of the examination were positive for the presence of ultraviolet powder.<sup>11</sup>

In contrast, the accused-appellant pointed to Langreo and Bermudez who had operated GNB Marketing Agency. She claimed to have met Miparanum at Jollibee-Guadalupe only for the purpose of bringing him to Bermudez. She refused to receive the money being handed to her by Miparanum because she did not demand for it, but the four policemen suddenly arrested her, and one of them rubbed his arm against her forearm.<sup>12</sup>

The accused-appellant presented two witnesses, namely: Adelaida Castel and Edith dela Cruz. Castel testified that she had known the accused-appellant for almost five years; that being then present during the meeting between the accused-appellant and Caniazares she did not hear the accused-appellant representing herself as a legitimate recruiter to the latter; that she had been present when Miparanum delivered the ₱40,000.00 to Bermudez; and that prior to the entrapment of the accused-appellant, Caniazares had called their house three times to ask the accused-appellant to accompany him to the house of Bermudez.<sup>13</sup> On her part, dela Cruz attested that she had known the accused-appellant since March, 2001 because they had worked together in a handicraft factory; that she did not know if the accused-appellant had been a recruiter; that it was Langreo who had been the recruiter because he had recruited her own daughter; and that she did not know anything about the transactions between the accused-appellant and the complaining witnesses.<sup>14</sup>

Subsequently, Dahab recanted his testimony, and stated that he had only requested assistance from the accused-appellant regarding his medical examination. He insisted that he had voluntarily paid ₱5,000.00 to her, and she had then paid the amount to the Medical Center for his medical examination.<sup>15</sup>

### **Ruling of the RTC**

On August 27, 2002, the RTC rendered its ruling, disposing:

WHEREFORE, judgment is rendered as follows –

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<sup>11</sup> TSN dated November 19, 2001, pp. 5-15.

<sup>12</sup> *Rollo*, p. 11.

<sup>13</sup> TSN dated March 11, 2002, pp. 3-16.

<sup>14</sup> TSN dated April 29, 2002, pp. 243-246.

<sup>15</sup> TSN dated January 22, 2002, pp. 3-7.

a) In Criminal Case No. 01-1780 the Court finds the evidence of the Prosecution sufficient to establish the guilt of Marissa Bayker beyond reasonable doubt for having violated Section 6(m) of Republic Act No. 8042 (The Migrant Workers and Overseas Filipino Act of 1995) and applying Section 7 of the same Act, which directs imposition of the maximum penalty if the offender is a non-licensee or non-holder of authority, she is sentenced to suffer the penalty of life imprisonment and to pay a fine of One Million Pesos. She is further ordered to indemnify Virgilio Caniazares of ₱6,000.00, Reynaldo Dahab P2,500.00 and Basilio Miparanum of ₱12,000.00.

b) In Criminal Case No. 01-1781, the Court finds the evidence of the Prosecution sufficient to establish the guilt of Marissa Bayker beyond reasonable doubt for the crime of estafa defined and penalized under Article 315 2(a) of the Revised Penal Code and she is sentenced to suffer the penalty of imprisonment for FOUR (4) YEARS, NINE (9) MONTHS and ELEVEN (11) DAYS of prision correccional to NINE (9) YEARS of prision mayor. She is further ordered to pay Basilio Miparanum ₱40,000.00.

No pronouncement as to costs.

x x x x

SO ORDERED.<sup>16</sup>

### Judgment of the CA

On July 28, 2005, the CA affirmed the convictions of the accused-appellant by the RTC,<sup>17</sup> viz.:

**WHEREFORE**, for lack of merit, the petition is **DISMISSED** and the Joint decision dated August 27, 2002 of the Regional Trial Court, Branch 138 of Makati City is **AFFIRMED** with **MODIFICATIONS**. In Criminal Case No. 01-1780 for Illegal Recruitment, the fine imposed is hereby **REDUCED** to ₱100,000.00 and in Criminal Case No. 01-1781 for Estafa, appellant is sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum to nine (9) years of *prision mayor* as maximum.

**SO ORDERED.**

The CA opined that the Prosecution had established the elements of illegal recruitment in large scale by proving that the accused-appellant lacked the authority or license to engage in recruitment and placement,<sup>18</sup> and had promised the complainants employment abroad and had then received

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<sup>16</sup> CA rollo, pp. 27-28.

<sup>17</sup> Supra note 1, at 22-23.

<sup>18</sup> Rollo, p. 15.

money from them;<sup>19</sup> and that the Prosecution had also established the *estafa* by showing that she had misrepresented to Miparanum about her power and authority to deploy him for overseas employment, thereby inducing him to part with his money.

Hence, this appeal.

### Issues

The accused-appellant assigns the following errors to the CA, to wit:

#### I

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED DESPITE THE PATENT WEAKNESS OF THE PROSECUTION'S DEFENSE

#### II

THE LOWER COURT ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT

#### III

THE LOWER COURT ERRED IN NOT GIVING WEIGHT AND CREDENCE TO THE RETRACTIONS MADE BY COMPLAINANT REYNALDO DAHAB<sup>20</sup>

The accused-appellant insists on her innocence, and points to Langreo and Bermudez as the persons who had directly engaged in illegal recruitment. She argues that her participation had been limited to signing the receipts as a witness, and to receiving payments for the medical examinations;<sup>21</sup> that the CA and the RTC had disregarded the recantation by Dahab; and that had the evidence been limited to the testimonies of Caniazares and Miparanum, she would have only been liable for simple illegal recruitment.<sup>22</sup>

Did the CA correctly affirm the conviction of the accused-appellant for the crimes of illegal recruitment in large scale and *estafa*?

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<sup>19</sup> Id. at 15-19.

<sup>20</sup> CA *rollo*, p. 48.

<sup>21</sup> Id. at 57-58.

<sup>22</sup> Id. at 59.

## Ruling of the Court

We affirm the assailed judgment of the CA.

### I

#### Illegal Recruitment Committed in Large Scale

Illegal recruitment is committed by a person who: (a) undertakes any recruitment activity defined under Article 13(b) or any prohibited practice enumerated under Article 34 and Article 38 of the *Labor Code*; and (b) does not have a license or authority to lawfully engage in the recruitment and placement of workers.<sup>23</sup> It is committed in large scale when it is committed against three or more persons individually or as a group.<sup>24</sup>

The CA properly affirmed the conviction of the accused-appellant by the RTC for illegal recruitment committed in large scale because she had committed acts of recruitment against at least three persons (namely: Canizares, Dahab, and Miparanum) despite her not having been duly licensed or authorized by the Philippine Overseas Employment Administration (POEA) for that purpose.

The accused-appellant's insistence on her very limited participation in the recruitment of the complainants did not advance or help her cause any because the State established her having personally promised foreign employment either as hotel porters or seafarers to the complainants despite her having no license or authority to recruit from the POEA. The records made it clear enough that her participation was anything but limited, for she herself had accompanied them to their respective medical examinations at their own expense. In addition, she herself brought them to GNB Marketing and introduced them to her co-accused. In this regard, the CA pointedly observed:

The evidence established that without any license or authority to do so, appellant promised private complainants overseas employment in regard to which she required them to undergo medical examination and training and collected fees or payments from them, while repeatedly assuring that they would be deployed abroad. On appellant's contention

<sup>23</sup> *Nasi-Villar v. People*, G.R. No. 176169, November 14, 2008, 571 SCRA 202, 208; *People v. Ortiz-Miyake*, G.R. Nos. 115338-39, September 16, 1997, 279 SCRA 180, 193.

<sup>24</sup> Under Section 6 (m) (Definitions) of Republic Act No. 8042, illegal recruitment "when committed by a syndicate or in large scale shall be considered as offense involving economic sabotage;" and illegal recruitment "is deemed committed by a syndicate 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.**" See *People v. Fernandez*, G.R. No. 199211, June 4, 2014, 725 SCRA 152, 156-157.

that it was Nida Bermudez and Lorenz Langreo who received money from the complainants, even assuming arguendo that appellant never received any payment from the complainants, actual receipt of a fee is not an essential element of the crime of Illegal Recruitment, but is only one of the modes for the commission thereof. Besides, all the private complainants positively identified appellant as the person who recruited them and exacted money from them. Appellant's bare denials and self-serving assertions cannot prevail over the positive testimonies of the complainants who had no ill motive to testify falsely against her.<sup>25</sup>

The accused-appellant's denial of her participation in the illegal recruitment activities of Bermudez and Langreo did not gain traction from her charging her co-accused with the sole responsibility for the illegal recruitment of the complainants. Based on the testimonial narration of the complainants regarding their recruitment, she was unqualifiedly depicted as having the primary and instrumental role in recruiting them for overseas placement from the inception. Also, her claim of having been only casually associated with GNB Marketing did not preclude her criminal liability for the crimes charged and proved. Even the mere employee of a company or corporation engaged in illegal recruitment could be held liable, along with the employer, as a principal in illegal recruitment once it was shown that he had actively and consciously participated in illegal recruitment.<sup>26</sup> This is because recruitment and placement include any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, as well as referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not.

The accused-appellant protests that the RTC and the CA unreasonably disregarded Dahab's recantation; and that the recantation would render her liable only for simple illegal recruitment instead of illegal recruitment committed in large scale.

The protest of the accused-appellant is untenable.

Dahab's supposed recantation to the effect that he had only sought the assistance of the accused-appellant for his medical examination by no means weakened or diminished the Prosecution's case against her. Its being made after he had lodged his complaint against her with the PNP-CIDG (in which he supplied the details of his transactions with her) and after he had testified against her in court directly incriminating her rendered it immediately suspect. It should not be more weighty than his first testimony against her which that was replete with details. Its being the later testimony of the Dahab did not necessarily cancel his first testimony on account of the

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<sup>25</sup> *Rollo*, pp. 19-20.

<sup>26</sup> *People v. Cabais*, G.R. No. 129070, March 16, 2001, 354 SCRA 553, 561.

possibility of its being obtained by coercion, intimidation, fraud, or other means to distort or bend the truth.

Recantation by a witness is nothing new, for it is a frequent occurrence in criminal proceedings. As a general rule, it is not well regarded by the courts due to its nature as the mere afterthought of the witness. To be given any value or weight, it should still be subjected to the same tests for credibility in addition to its being subject of the rule that it be received with caution.<sup>27</sup> The criminal proceedings in which sworn testimony has been given by the recanting witness would be rendered a mockery, and put at the mercy of the unscrupulous witness if such testimony could be easily negated by the witness's subsequent inconsistent declaration. The result is to leave without value not only the sanctity of the oath taken but also the solemn rituals and safeguards of the judicial trial. If only for emphasis, we reiterate that it is "a dangerous rule to reject the testimony taken before the court of justice simply because the witness who has given it later on changed his mind for one reason or another, for such a rule will make a solemn trial a mockery and place the investigation at the mercy of unscrupulous witnesses."<sup>28</sup>

## II *Estafa*

The conviction of the accused-appellant for illegal recruitment committed in large scale did not preclude her personal liability for *estafa* under Article 315(2)(a) of the *Revised Penal Code* on the ground of subjecting her to double jeopardy. The elements of *estafa* as charged are, namely: (1) the accused defrauded another by abuse of confidence or by means of deceit; and (2) the offended party, or a third party suffered damage or prejudice capable of pecuniary estimation.<sup>29</sup> In contrast, the crime of illegal recruitment committed in large scale, as indicated earlier, requires different elements. Double jeopardy could not result from prosecuting and convicting the accused-appellant for both crimes considering that they were entirely distinct from each other not only from their being punished under different statutes but also from their elements being different.

The active representation by the accused-appellant of having the capacity to deploy Miparanum abroad despite not having the authority or license to do so from the POEA constituted deceit as the first element of *estafa*. Her representation induced the victim to part with his money, resulting in damage that is the second element of the *estafa*. Considering that

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<sup>27</sup> *People v. Domingo*, G.R. No. 181475, April 7, 2009, 584 SCRA 669, 678; *Francisco v. National Labor Relations Commissions*, G.R. No. 170087, August 31, 2006, 500 SCRA 690, 701-702.

<sup>28</sup> *Flores v. People*, G.R. Nos. 93411-12, July 20, 1992, 211 SCRA 622, 630.

<sup>29</sup> *People v. Tolentino*, G.R. No. 208686, July 1, 2015.

the damage resulted from the deceit, the CA's affirmance of her guilt for *estafa* as charged was in order.

### III Penalties

The penalty for illegal recruitment committed in large scale, pursuant to Section 7(b)<sup>30</sup> of Republic Act No. 8042 (*Migrant Workers' Act*), is life imprisonment and a fine of not less than ₱500,000.00 nor more than ₱1,000,000.00. In light of the provision of the law, the CA patently erred in reducing the fine to ₱100,000.00. Hence, we hereby increase the fine to ₱500,000.00.

Article 315 of the *Revised Penal Code* provides:

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

1st. The penalty of *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 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such case, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

x x x x

Inasmuch as the prescribed penalty is *prision correccional* in its maximum period to *prision mayor* in its minimum period, plus one year for each additional ₱10,000.00 over ₱22,000.00, provided that the total penalty shall not exceed 20 years, the penalty to be imposed on the accused-appellant should depend on the amount defrauded. We note that the RTC took into consideration only the sum of ₱40,000.00, and the CA concurred with the RTC thereon. Yet, the records reveal that Miparanum paid to the accused-appellant and her co-accused not only ₱40,000.00 but the aggregate sum of ₱54,700.00 (*i.e.*, the ₱6,000.00 for the seaman's book, the additional ₱6,000.00 for the seaman's book, the ₱40,000.00 for placement fee, and

<sup>30</sup> Section 7. PENALTIES. - x x x  
x x x x

(b) The penalty of life imprisonment and a fine of not less than five hundred thousand pesos (₱500,000.00) nor more than one million pesos (₱1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

x x x x

₱2,700 for his training certificate). The amount of ₱54,700.00 is the determinant of the penalty to be imposed.

Pursuant to Article 315 of the *Revised Penal Code*, the penalty prescribed for *estafa* in which the amount of the fraud is over ₱12,000.00 but does not exceed ₱22,000.00 is *prision correccional* in its maximum period to *prision mayor* in its minimum period (*i.e.*, four years, two months and one day to eight years); if the amount of the fraud exceeds ₱22,000.00, the penalty thus prescribed shall be imposed *in its maximum period*, and one year shall be added for each additional ₱10,000.00 provided the total penalty imposed shall not exceed 20 years. Considering that the penalty does not consist of three periods, the prescribed penalty is divided into three equal portions, and each portion shall form a period,<sup>31</sup> with the maximum period being then imposed.<sup>32</sup> However, the floor of the maximum period – **six years, eight months and 21 days** – is fixed in the absence of any aggravating circumstance, or of any showing of the greater extent of the evil produced by the crime,<sup>33</sup> to which is then added the incremental penalty of one year for every ₱10,000.00 in excess of ₱22,000.00, or three years in all.<sup>34</sup> The resulting total penalty is nine years, eight months and 21 days of *prision mayor*, which shall be the maximum of the indeterminate sentence.

The minimum of the indeterminate sentence is taken from *prision correccional* in its minimum period to *prision correccional* in its medium period (*i.e.*, six months and one day to four years and two months), the penalty next lower to that prescribed by Article 315 of the *Revised Penal Code*. We note that the CA correctly fixed the minimum of the indeterminate sentence at four years and two months of *prision correccional*.

In view of the foregoing, the indeterminate sentence for the accused-appellant is from four years and two months of *prision correccional*, as the minimum, to nine years, eight months and 21 days of *prision mayor*.

#### IV Civil Liabilities

The civil liabilities as decreed by the RTC and upheld by the CA are also corrected to reflect the actual aggregate amount to be restituted to

<sup>31</sup> Article 65 of the *Revised Penal Code*.

<sup>32</sup> Accordingly, the three periods of the prescribed penalty is four years, two months and one day to five years, five months and 10 days for the **minimum period**; five years, five months and 11 days to six years, eight months and 20 days for the **medium period**; and six years, eight months and 21 days to eight years for the **maximum period**.

<sup>33</sup> Rule No. 7 of Article 64 of the *Revised Penal Code* states: "Within the limits of each period, the courts shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater or lesser extent of the evil produced by the crime."

<sup>34</sup> See *People v. Ocdan*, G.R. No. 173198, June 1, 2011, 650 SCRA 124, 150-151.

Miparanum at ₱54,700.00. In addition, the accused-appellant shall be obliged to pay interest of 6% *per annum* on the respective sums due to each of the complainants, to be reckoned from the finality of this decision until full payment considering that the amount to be restituted became determinate only through this adjudication.

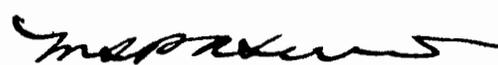
**WHEREFORE**, the Court **AFFIRMS** the decision promulgated on July 28, 2005 subject to the following **MODIFICATIONS**, to wit:

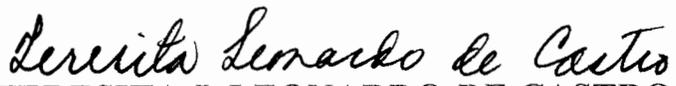
1. In Criminal Case No. 01-1780, for illegal recruitment committed in large scale, the penalty of life imprisonment and fine of ₱500,000.00 is imposed on the accused-appellant;
2. In Criminal Case No. 01-1781, for *estafa*, the accused-appellant is sentenced to suffer the indeterminate penalty of four years and two months of *prision correccional*, as the minimum, to nine years, eight months and 21 days of *prision mayor*, as the maximum;
3. The accused-appellant shall indemnify complainants Virigilio Caniazares, Reynaldo Dahab and Basilio Miparanum in the respective amounts of ₱6,000.00, ₱2,500.00, and ₱54,700.00 plus interest of 6% *per annum* from the finality of this decision until full payment; and
4. The accused-appellant shall pay the costs of suit.

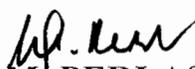
**SO ORDERED.**

  
LUCAS P. BERSAMIN  
Associate Justice

**WE CONCUR:**

  
MARIA LOURDES P. A. SERENO  
Chief Justice

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
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