

FIRST DIVISION

[CA-G.R. CR. HC NO. 04185, March 30, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO BACCAY, ACCUSED-APPELLANT.**

DECISION

SORONGON, E. D., J.:

Convicted of illegal recruitment in large scale and estafa, Domingo Baccay (accused-appellant) appeals the *Decision*^[1] dated March 22, 1996 of the Regional Trial Court of Valenzuela, Branch 172, the *fallo* of which reads:

"WHEREFORE, judgment is hereby rendered as follows:

(1) In Crim. Case No. 4520-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Illegal Recruitment in large scale as defined and penalized under Article 38 in relation to Article 39(a) of the Labor Code, as amended by P.D. 2018, without any attending mitigating or aggravating circumstance and hereby sentences him to a penalty of life imprisonment and a fine of P100,000.00, without subsidiary imprisonment in case of insolvency;

(2) In Crim. Case No. 4521-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Merlinda Torda the amount of P20,000.00 without subsidiary imprisonment in case of insolvency, plus the costs of suit;

(3) In Crim. Case No. 4522-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Julita Balanag the amount of P15,000.00 without

subsidiary imprisonment in case of insolvency, plus the costs of suit;

(4) In Crim. Case No. 4523-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Joseph Pablo y Campos the amount of P14,000.00 without subsidiary imprisonment in case of insolvency, plus the costs of suit;

(5) In Crim. Case No. 4524-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Joel Allan Ruiz the amount of P23,000.00 without subsidiary imprisonment in case of insolvency, plus the costs of suit;

(6) In Crim. Case No. 4525-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Rogelio Awigan the amount of P20,000.00 without subsidiary imprisonment in case of insolvency, plus the costs of suit;

(7) In Crim. Case No. 4526-V-94, the Court finds accused DOMINGO BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Basilio Tein the amount of P45,000.00 without subsidiary imprisonment in case of insolvency, plus the costs of suit;

(8) In Crim. Case No. 4527-V-94, the Court finds accused DOMINGO

BACCAY y SINGAYAN guilty beyond reasonable doubt and as principal of the crime of Estafa as defined and penalized under paragraph 2(a) in relation to the first paragraph of Article 315 of the Revised Penal Code without any attending mitigating or aggravating circumstance and, applying the Indeterminate Sentence Law, hereby sentences him to a penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as minimum to SIX (6) YEARS and ONE (1) DAY of prision mayor as maximum. The accused is further sentenced to pay complaining witness Geminiano Bautista the amount of P11,500.00 without subsidiary imprisonment in case of insolvency, plus the costs of suit;

The accused being a detention prisoner, he shall be credited the preventive imprisonment he has undergone in the service of his sentence.

SO ORDERED."

In Criminal Case No. 4520-V-94, the *Information*^[2] for Illegal Recruitment in Large Scale against accused-appellant alleged:

"That on or about February to August 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court the above-named accused representing himself to have the capacity to contract, enlist and recruit workers for employment abroad, did then and there willfully, unlawfully and feloniously for a fee recruit and promise employment/job placement in a large scale to: JOSEPH PABLO, JOE ALLAN RUIZ, JULITA BALANAG, MERLINDA TORDA, REYNALDO AMBI, ROGELIO AWIGAN, BASILIO TEIN and GEMINIANO BAUTISTA without said accused having secured first the necessary license or authority to engage in recruitment activities from the Philippine Overseas Employment Administration (POEA), in violation of Article 38 of the Labor Code (PD 442) as amended by Presidential Decree No. 2018.

Contrary to Law."

In Criminal Cases Nos. 4521-V-94 to 4527-V-94, all for estafa, accused-appellant was charged^[3] under the following Informations, to wit:

Criminal Cases Nos. 4521-V-94

"That sometime in February & July 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court the above-named accused, defrauded and deceived one MERLINDA TORDA in the following manner, to wit: said accused by means of false manifestation and fraudulent representation which he made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirement thereof, knowing said manifestations and representation to be false and fraudulent and where only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to P20,000.00, but said accused, once in possession of the same with intent to defraud and

deceive the herein complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of P20,000.00 said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the said complainant in the aforementioned amount of P20,000.00.

Contrary to Law."

Criminal Case No. 4522-V-94

"That sometime in February & July 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court the above-named accused, defrauded and deceived one JULITA BALANAG in the following manner, to wit: said accused by means of false manifestation and fraudulent representation which he made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirement thereof, knowing said manifestations and representation to be false and fraudulent and where only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to P15,000.00, but said accused, once in possession of the same with intent to defraud and deceive the herein complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of P15,000.00 said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the said complainant in the aforementioned amount of P15,000.00.

Contrary to Law."

Criminal Case No. 4523-V-94

"That sometime in April 17, 1994 and May 22, 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court the above-named accused, defrauded and deceived one JOSEPH PABLO y CAMPOS in the following manner, to wit: said accused by means of false manifestation and fraudulent representation which he made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirement thereof, knowing said manifestations and representation to be false and fraudulent and where only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to P14,000.00, but said accused, once in possession of the same with intent to defraud and deceive the herein complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of P14,000.00 said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the said complainant in the aforementioned

amount of P14,000.00.

Contrary to Law.”

Criminal Case No. 4524-V-94

"That on or about the 22nd day of May 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court the above-named accused, defrauded and deceived one JOEL ALLAN RUIZ in the following manner, to wit: said accused by means of false manifestation and fraudulent representation which he made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirement thereof, knowing said manifestations and representation to be false and fraudulent and where only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to P23,000.00, but said accused, once in possession of the same with intent to defraud and deceive the herein complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of P23,000.00 said accused failed and refused and still fails and refuses to do so, to the damages and prejudice of the said complainant in the aforementioned amount of P23,000.00.

Contrary to Law.”

Criminal Case No. 4525-V-94

"That sometime in July 27, 1994 and August 10, 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court the above-named accused, defrauded and deceived one ROGELIO AWIGAN in the following manner, to wit: said accused by means of false manifestation and fraudulent representation which he made to the said complainant to the effect that he has the capacity and power to recruit and employ complainant abroad and facilitate the necessary papers in connection therewith if given the necessary amount to meet the requirement thereof, knowing said manifestations and representation to be false and fraudulent and where only to induce said complainant to give, as in fact, the latter did give and deliver to said accused cash money amounting to P20,000.00, but said accused, once in possession of the same with intent to defraud and deceive the herein complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit, despite demands made upon him to return the said amount of P20,000.00 said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of the said complainant in the aforementioned amount of P20,000.00.

Contrary to Law.”

Criminal Case No. 4526-V-94