

## SEVENTH DIVISION

[ CA-G.R. CR-H.C. NO. 01554, October 23, 2006 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FUJITA  
ZENCHIRO, ACCUSED-APPELLANT.**

### DECISION

**VILLARAMA, JR., J.**

On appeal is the Joint Decision<sup>1</sup> dated July 5, 2005 of the Regional Trial Court of Malolos, Bulacan, Branch 11 in Criminal Case Nos. 3261-M-2001 to 3264-M-2001 convicting the accused Fujita Zenchiro of the crime charged and sentencing him, as follows:

"WHEREFORE, in Criminal Case No. 3261-M-2001, this Court finds the accused Fujita Zenchiro GUILTY beyond reasonable doubt of the crime of Illegal Recruitment in Large Scale defined and penalized under Article 38(b) in relation to Articles 34 and 39 of the Labor Code of the Philippines, P.D. No. 442, as amended and hereby sentences him to suffer the penalty of Life Imprisonment and a fine of P100,000.00. Accused is likewise ordered to pay the private complainants the following amounts as actual damages, to wit:

- "1. P250,000.00 to Alberto Anatalio;
- "2. P250,000.00 to Freddie Ocampo; and
- "3. P250,000.00 to Alicia Diaz.

"In Criminal Case No. 3263-M-2001, this Court finds the accused Fujita Zenchiro GUILTY beyond reasonable doubt of Estafa under Art. 315, par 2(a) of the Revised Penal Code, as amended and hereby sentences him to a prison term ranging from four (4) months and Twenty (20) days of Arresto Mayor, as minimum, up to Two (2) years, Eleven (11) months and Ten (10) days of prision correccional, as maximum and to pay Alicia Diaz the amount of P10,000.00 as actual damages.

"In Criminal Case No. 3264-M-2001, this Court finds the accused Fujita Zenchiro GUILTY beyond reasonable doubt of Estafa under Art. 315, par. 2(a) of the Revised Penal Code, as amended and hereby sentences him to a prison term ranging from Four (4) Years, Nine (9) months and Eleven (11) days of Prision correccional, as minimum, up to Six (6) years, Eight (8) months and one (1) day of prision mayor as maximum and to pay Alicia Diaz the amount of P40,000.00 as actual damages.

"Criminal Case No. 3262-M-2001 is hereby DISMISSED.

"The cases against Eva Regino are hereby ARCHIVED.

"SO ORDERED."<sup>2</sup>

Evidence for the prosecution established the following facts:

Accused Fujita Zenchiro is a Japanese national whom private complainants Freddie Ocampo and Alberto M. Anatalio met through his co-accused Eva Regino (a.k.a. Vangie) at the latter's residence in Barangay Sto. Niño, Meycauayan, Bulacan.<sup>3</sup> Sometime in January 1999, said private complainants were promised employment in a hanger factory supposedly owned by Regino's sibling in Japan. Accused demanded from each of them the amount of P250,000.00 for processing of their papers, travel expenses and placement fee.<sup>4</sup> On February 2, 1999, Ocampo and Anatalio each gave P50,000.00 to Regino in the presence of Zenchiro.<sup>5</sup> On June 24, 1999, the financier of private complainants, Florinda Cardona (Ocampo's sister and Anatalio's cousin), gave the balance of P200,000.00 each for the placement fee of Ocampo and Anatalio to Zenchiro in Baclaran, Parañaque, Metro Manila. Said payment in the total amount of P400,000.00 was covered by two (2) receipts signed by Zenchiro, who was then accompanied by Regino.<sup>6</sup>

On June 26, 1999, Ocampo and Anatalio escorted by Zenchiro arrived in Japan and was met at the airport by Regino. They stayed at the house of Regino's aunt in Tokyo where they remained idle for two (2) months. They tried to find a job but failed. Whenever they asked the accused, the latter just promised to work for their employment but nothing happened. Since their visas were good only for three (3) months, they returned to the Philippines in September 1999 before their expiry date.<sup>7</sup> Back in the country, private complainants again demanded from Regino and Zenchiro to return their money as they failed to give them work in Japan but said accused only kept promising they will just be sent to Japan a second time. They waited for one (1) year and when accused still failed to fulfill their promises, private complainants went to the Philippine Overseas Employment Authority (POEA) to file a complaint<sup>8</sup> against both accused. A Certification dated July 16, 2001 was issued by the POEA stating that accused are neither licensed nor authorized by said office to recruit workers for overseas employment.<sup>9</sup> Private complainants Ocampo and Anatalio also executed a "Sumbong-Salaysay" (Complaint-Affidavit) which led to the filing of separate Informations for Illegal Recruitment and Estafa against the same accused before the Regional Trial Court of Caloocan City (Criminal Case Nos. 63690 and 63691).<sup>10</sup>

On the part of private complainant Alicia Diaz, accused Regino and Zenchiro were introduced to her by a neighbor sometime in February 1999 also at the house of Regino at Barangay Sto. Niño, Meycauayan, Bulacan. They offered her a job in the hanger factory supposedly owned by Regino's sister in Japan but she was required to pay a placement fee of P250,000.00 which includes processing of travel documents. Private complainant paid the P250,000.00 placement fee as follows: P10,000.00 on March 10, 1999; P40,000.00 on March 12, 1999; and P200,000.00 on December 20, 1999 after they gave her the visa. Said payments are likewise

covered by receipts issued to her and signed by Regino (P40,000.00 and 10,000.00) and Zenchiro (P100,000.00 and P100,000.00). The P50,000.00 was given to Regino at her house in Brgy. Sto Niño, Meycauayan, Bulacan while the P200,000.00 was received by Zechiro at an apartment, where he and Regino were staying, located at Mabalacat Street, Caloocan City.<sup>11</sup>

Private complainant Diaz, likewise escorted by Zenchiro, left for Japan on January 12, 2000 and was met by Regino at the Narita Airport. Regino brought her to a place called Movara, along with Zenchiro and two (2) other Filipino recruits. After one (1) week, she transferred to Chiva but was not employed therein and so she called up Zenchiro but the latter did not comment on her predicament. It was Regino who came but she only got mad at private complainant and still did nothing to find a job for her. She went back to the Philippines on March 16, 2000 as her visa will expire in three (3) months; she also had a round-trip airline ticket. Thereafter, she talked to the accused as to why they did it to her. Accused asked for her forgiveness and told her they would let her leave again for Japan. Since accused failed to fulfill their promise, she asked for the return of her money. Accused, however, never returned her money and so she went to the National Bureau of Investigation (NBI) and filed this case against the accused.<sup>12</sup> Private complainant also filed a complaint against the accused before the POEA and executed an affidavit-complaint which led to the filing of Information for *Estafa* before the Regional Trial Court of Caloocan City (Criminal Case No. 62554).<sup>13</sup> As per a handwritten receipt dated January 3, 2002 which was admittedly signed by private complainant Diaz, accused made a partial payment to her of P50,000.00.<sup>14</sup>

On December 6, 2001, the present criminal cases were filed against accused Regino and Zenchiro under the following Informations, to wit:

*Criminal Case No. 3261-M-2001*  
*For Illegal Recruitment in Large Scale*

"That in or about the month of January 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, non-licensees or non-holders of authority from the Department of Labor and Employment to recruit and/or place workers in employment either locally or overseas, did then and there willfully, unlawfully and feloniously, with false pretenses, undertake illegal recruitment and placement for a fee of Alberto M. Anatalio, Freddie P. Ocampo and Alicia A. Diaz for overseas employment.

"Contrary to law." <sup>15</sup>

*Criminal Case No. 3262-M-2001*  
*For Estafa*

"That on or about the 2nd day of February, 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, with intent of gain, did then and there willfully, unlawfully and feloniously defraud Alberto M. Anatalio and Freddie P. Ocampo in the sum of P50,000.00 each, by then and there misrepresenting that they have the power

and qualification to recruit and employ the said Alberto M. Anatalio and Freddie P. Ocampo as worker or assist them in securing employment abroad, more particularly in Japan, and could facilitate the processing and approval of the necessary papers in connection therewith, when in truth and in fact, as they well knew, they did not have such qualifications, that pursuant to such misrepresentation and defraudation, said accused demanded and received from Alberto M. Anatalio and Freddie P. Ocampo the sum of P50,000.00 each; that said accused failed and refused to comply with their afore-mentioned undertakings and instead, misappropriated the sum of P50,000.00 each, for their benefit, to the damage and prejudice of the said Alberto M. Anatalio and Freddie P. Ocampo in the total amount of P100,000.00.

"Contrary to law."<sup>16</sup>

Criminal Case No. 3263-M-2001  
For Estafa

"That on or about the 10th day of March, 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, with intent of gain, did then and there willfully, unlawfully and feloniously defraud one Alicia A. Diaz in the sum of P10,000.00, by then and there misrepresenting that they have the power and qualification to recruit and employ the said Alicia A. Diaz as worker or assist her in securing employment abroad, more particularly in Japan, and could facilitate the processing and approval of the necessary papers in connection therewith, when in truth and in fact, as they well knew, they did not have such qualifications; that pursuant to such misrepresentation and defraudation, said accused demanded and received from Alicia A. Diaz the sum of P10,000.00; that said accused failed and refused to comply with their aforementioned undertakings and instead, misappropriated the sum of P10,000.00 for their benefit, to the damage and prejudice of the said Alicia A. Diaz in the said amount of P10,000.00.

"Contrary to law."<sup>17</sup>

Criminal Case No. 3264-M-2001  
For Estafa

"That on or about the 12th day of March 1999, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and helping each other, with intent of gain, did then and there willfully, unlawfully and feloniously defraud one Alicia A. Diaz in the sum of P40,000.00, by then and there misrepresenting that they have the power and qualification to recruit and employ the said Alicia A. Diaz as worker or assist her in securing employment abroad, more particularly in Japan, and could facilitate the processing and approval of the necessary papers in connection therewith, when in truth and in fact, as they well knew they did not have such qualifications, that pursuant to such misrepresentation and defraudation, said accused demanded and received from Alicia A. Diaz the sum of P40,000.00; that said accused failed and refused to comply with their aforementioned undertakings and instead,

misappropriated the sum of P40,000.00 for their benefit, to the damage and prejudice of the said Alicia A. Diaz in the said amount of P40,000.00.

"Contrary to law."<sup>18</sup>

Only accused Zenchiro was arrested while his co-accused Regino remained at large.<sup>19</sup> The four (4) criminal cases were consolidated and jointly heard. Counsel for the accused moved to quash the aforesaid criminal informations on the ground of double jeopardy in view of the earlier filing of similar criminal cases before the RTC of Caloocan City (Branch 126 - Criminal Case No. 63690; and Branch 131 -Criminal Case No. 62553). Counsel manifested that accused Zenchiro was already arraigned in the said cases. <sup>20</sup> The trial court, however, denied the said motion to quash in its Order dated April 10, 2002 holding that to give effect to the law defining and penalizing illegal recruitment in large scale, the appropriate criminal information should be filed as the facts constituting the graver offense becomes known or is discovered. Such finds support in Sec. 7, Rule 117 of the Revised Rules of Criminal Procedure, as amended, which in effect provides that the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information when the facts constituting the graver charge became known or were discovered only after the filing of the former complaint or information. The trial court pointed out that apparently the facts constituting the charge for illegal recruitment in large scale in this case came to the fore or became known only after Alicia Diaz together with Ocampo and Anatalio filed this case against the accused before the Office of the Provincial Prosecutor of Bulacan. <sup>21</sup>

Accused duly assisted by his counsel pleaded not guilty to the offenses charged in all the four (4) informations, after the same was read to him in the Filipino language which is known and understood by him. Thereafter, trial proceeded.<sup>22</sup>

The prosecution presented as its witnesses private complainants Alberto Anatalio, Freddie Ocampo and Alicia A. Diaz, and Florinda Cadorna. As stipulated between the defense and prosecution, the testimony of the representative from the POEA in the person of Hermogenese C. Mateo, was dispensed with for the reason that he will be testifying on the Certification he issued to the effect that both accused Regino and Zenchiro are not licensed to recruit workers for employment abroad.<sup>23</sup>

Accused Zenchiro in his defense testified that he met for the first time private complainants in this case while he was still in the place of his co-accused Regino in Brgy. Sto. Niño, Meycauayan, Bulacan. They sought his assistance in obtaining visa for them to go to Japan. He told them he had to verify with the Embassy of Japan as to the documents required and also the payment which has to be thru Vangie (Regino). After obtaining their individual visas, he immediately contacted Regino. He was told by Eva that he was going to escort private complainants in going to Japan because of the Filipino foods they were going to bring to Japan, and also the money which they might spend. Accused said he never told private complainants that he will look for a job for them. Private complainants Anatalio and Ocampo actually found employment in Japan and presented as proof certificate of employment which is written in Japanese characters with English translation and signed by the Chief Consul. However, he was in the Philippines during those periods and so he really did not know if private complainants subsequently found another