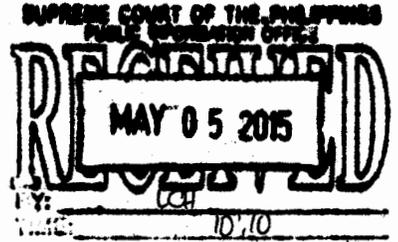




REPUBLIC OF THE PHILIPPINES  
 SUPREME COURT  
 Baguio City  
 SECOND DIVISION



**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 April 2015** which reads as follows:*

*G.R. No. 216765 – **Nenita Saingan, petitioner v. People of the Philippines, respondent***

The petition lacks a verified statement of material date of receipt of the assailed Decision, a sufficient ground for its dismissal.<sup>1</sup>

In any event, the court finds no reversible error in the assailed Decision. The CA correctly found petitioner guilty of estafa as the following elements were duly established: (1) the accused defrauded another by abuse of confidence or by means of deceit; and (2) damage or prejudice capable of pecuniary estimation is inflicted upon the offended party or third person. Here, petitioner made several representations and assurances to Roxanne Sacote (Sacote) which the latter relied upon thereby inducing her to part with her money amounting to ₱116,375.00 supposedly as placement fee. However, these representations and assurances turned out to be false and Sacote was unable to leave for employment as a caregiver in Canada, resulting to her damage and prejudice. Moreover, the actual damages awarded in the crime of estafa shall earn interest at the rate of 6% *per annum* from the date of finality of judgment until fully paid, pursuant to jurisprudence.

Likewise, the appellate court correctly found petitioner guilty of illegal recruitment considering that petitioner gave Sacote the unmistakable impression that she had the ability to send her to Canada for employment upon payment of a placement fee in spite of a lack of a license or authority to engage in recruitment activity of workers, as certified to by Department of Labor and Employment Dagupan District Office. However, there is a need to modify the penalty imposed on petitioner. As duly established in the proceedings below, petitioner does not have a license or authority to engage in recruitment activities. Thus, pursuant to Section 7 of Republic Act No. 8042 (The Migrant Workers Act), petitioner should have been meted the maximum penalty of twelve (12) years. The fine in the amount of ₱50,000.00 that was imposed by the trial court and affirmed by the appellate court should be increased to ₱200,000.00 pursuant to the same law.<sup>2</sup>

<sup>1</sup>See Sections 4 and 5, Rule 45, Rules of Court.

<sup>2</sup>Republic Act No. 8042, Section 7 provides:

Section 7. Penalties. - (a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of two hundred thousand pesos (₱200,000.00) nor more than five hundred thousand pesos (₱500,000.00). x x x Provided, however, that the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-holder of authority.

- more -

**WHEREFORE**, the Court **ADOPTS** the findings of facts and conclusions of law in the assailed Decision dated August 29, 2014 of the Court of Appeals in CA-G.R. CR No. 35502 finding petitioner Nenita Saingan guilty beyond reasonable doubt of the crimes of illegal recruitment and estafa, and **AFFIRMS** the Decision with **MODIFICATIONS** that in Criminal Case No. 2007-0004-D (Illegal Recruitment) petitioner is sentenced to suffer the maximum penalty of twelve (12) years and the fine is increased to ₱200,000.00. Moreover, the actual damages in the amount of ₱116,375.00 awarded in Criminal Case No. 2007-0003-3 (*estafa*) shall earn interest at the rate of 6% *per annum* from the date of finality of judgment until full payment.

SO ORDERED.

Very truly yours,

  
MA. LOURDES C. PERFECTO  
Division Clerk of Court *file 04/14*

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 40  
Dagupan City  
Crim. Case Nos. 2007-0003-D and  
2007-0004-D

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GR216765. 04/06/15 (24[b])URES