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FIRST DIVISION

[G.R. No. 188217, July 03, 2013]

FERNANDO M. ESPINO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

SERENO, C.J.:

This is a Rule 45 Petition for Review assailing the Court of Appeals (CA) Decision[1] dated 24 February 2009 in CA-G.R. CR. No. 31106, which affirmed the Regional Trial Court (RTC) Decision[2] in Criminal Case Nos. 02-01226 to 31 convicting the accused of *estafa* under Article 315, paragraph 2(a); and the CA Resolution[3] dated 25 May 2009 denying the Motion for Reconsideration of the accused in the same case.

The RTC decided on the basis of the following facts:

The accused was a senior sales executive in charge of liaising with import coordinators of the company Kuehne and Nagel, Inc. (KN Inc.).[4] His duties included the delivery of its commissions to the import coordinators.[5]

On 14 October 2002, the Fiscal's Office of Paranaque charged the accused with six (6) counts of *estafa* under Article 315, paragraph 1(b) for allegedly rediscounting checks that were meant to be paid to the company's import coordinators.[6]

During trial, the prosecution presented witnesses who testified to the fact that the endorsements of the payee on six checks were forged,[7] and that the checks were rediscounted by the accused's aunt-in-law.[8] She later testified to her participation in the rediscounting and encashment of the checks.[9]

The accused testified for himself, claiming that what precipitated the charges was his employer's discontent after he had allegedly lost an account for the company.[10] He was eventually forced to resign and asked to settle some special arrangements with complainant.[11] Alongside being made to submit the resignation, he was also asked to sign a sheet of paper that only had numbers written on it.[12] He complied with these demands under duress, as pressure was exerted upon him by complainants.[13] Later on, he filed a case for illegal dismissal,[14] in which he denied having forged the signature of Mr. Banaag at the dorsal portion of the checks.[15]

In rebuttal, the prosecution presented the testimony of the aunt-in-law of the accused, to prove that the accused had called her to ask if she could rediscount some checks, and that she agreed to do so upon his assurance that he knew the

owner of those checks.[16]

After trial, the RTC convicted the accused of *estafa* under Article 315, paragraph 2(a).[17] In response, he filed a Motion for Reconsideration,[18] arguing that the trial court committed a grave error in convicting him of *estafa* under paragraph 2(a), which was different from paragraph 1(b) of Article 315 under which he had been charged. He also alleged that there was no evidence to support his conviction.[19] Thus, he contended that his right to due process of law was thereby violated.[20]

In turn, the prosecution argued that jurisprudence had established that the nature and character of the crime charged are determined by the facts alleged in the information, and not by a reference to any particular section of the law.[21] Subsequently, the RTC denied the Motion.[22]

The accused then elevated the case to the CA[23] on the same grounds that he cited in his Motion, but it denied his appeal,[24] stating that the alleged facts sufficiently comprise the elements of *estafa* as enumerated in Article 315, paragraph 2(a).[25] His subsequent Motion for Reconsideration was likewise dismissed.

The accused thus filed this Petition for Review under Rule 45.

In the present Petition, the accused raises his right to due process.[26] Specifically, he claims that he was denied due process when he was convicted of *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code (RPC) despite being charged with *estafa* under Article 315, paragraph 1(b).[27] He argues that the elements constituting both modes of *estafa* are different, and that this difference should be reflected in the Information.[28] According to him, a charge under paragraph 1(b) would not merit a conviction under paragraph 2(a).[29] Thus, he emphasizes the alleged failure to inform him of the nature and cause of the accusation against him.[30]

The issue that must be determined is whether a conviction for *estafa* under a different paragraph from the one charged is legally permissible.

Article 3, Section 14, paragraph 2 of the 1987 Constitution, requires the accused to be "informed of the nature and cause of the accusation against him" in order to adequately and responsively prepare his defense. The prosecutor is not required, however, to be absolutely accurate in designating the offense by its formal name in the law. As explained by the Court in *People v. Manalili*:

> It is hornbook doctrine, however, that **"what determines the real nature and cause of the accusation against an accused is the actual recital of facts stated in the information** or complaint and not the caption or preamble of the information or complaint nor the specification of the provision of law alleged to have been violated, they being conclusions of law." x x x. (Emphasis supplied) [31]

This doctrine negates the due process argument of the accused, because he was

sufficiently apprised of the facts that pertained to the charge and conviction for *estafa*.

First, while the fiscal mentioned Article 315 and specified paragraph 1(b), the controlling words of the Information are found in its body. Accordingly, the Court explained the doctrine in *Flores v. Layosa* as follows:

> The Revised Rules of Criminal Procedure provides that an information shall be deemed sufficient if it states, among others, the designation of the offense given by the statute and the acts of omissions complained of as constituting the offense. However, the Court has clarified in several cases that **the designation of the offense, by making reference to the section or subsection of the statute punishing, it [sic] is not controlling; what actually determines the nature and character of the crime charged are the facts alleged in the information**. The Court's ruling in U.S. v. Lim San is instructive:
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> x x x Notwithstanding the apparent contradiction between caption and body, we believe that we ought to say and hold that **the characterization of the crime by the fiscal in the caption of the information is immaterial and purposeless, and that the facts stated in the body of the pleading must determine the crime of which the defendant stands charged and for which he must be tried**. The establishment of this doctrine is permitted by the Code of Criminal Procedure, and is thoroughly in accord with common sense and with the requirements of plain justice x x x. (Emphases supplied)[32]

Clearly, the fiscal's statement in the Informations specifying the charges as *estafa* under Article 315, paragraph 1(b) of the RPC,[33] did not bind the trial court insofar as the characterization of the nature of the accusation was concerned. The statement never limited the RTC's discretion to read the Information in the context of the facts alleged. The Court further explains the rationale behind this discretion in this manner:

> From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in a defense on the merits. Whatever its purpose may be, **its result is to enable the accused to vex the court and embarrass the administration of justice by setting up the technical defense that the crime set forth in the body of the information and proved in the trial is not the crime characterized by the fiscal in the caption of the information.** That to which his attention should be directed, and in which he, above all things else, should be most interested, are the facts alleged. **The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth.** If he did, it is of no consequence to him, either as a matter of procedure or of substantive right, how the law denominates the crime which those acts constitute.

> **The designation of the crime by name in the caption of the information from the facts alleged in the body of that pleading is a conclusion of law made by the fiscal**. In the designation of the crime the accused never has a real interest until the trial has ended. For his full and complete defense he need not know the name of the crime at all. It is of no consequence whatever for the protection of his substantial rights... If he performed the acts alleged, in the manner, stated, the law determines what the name of the crime is and fixes the penalty therefore. **It is the province of the court alone to say what the crime is or what it is named** x x x. (Emphases supplied)[34]

Any doubt regarding the matter should end with the Court's conclusion:

> Thus, notwithstanding the discrepancy between the mode of commission of the estafa as alleged in the *Information* (which states that petitioners committed estafa under Article 315), or as claimed by the People in their *Comment* (that petitioners committed estafa under Article 318) and the absence of the words "fraud" or "deceit" in the *Information,* the Court agrees with the Sandiganbayan and the RTC that the factual allegations therein sufficiently inform petitioners of the acts constituting their purported offense and satisfactorily allege the elements of estafa in general committed through the offense of falsification of public document. As the Sandiganbayan correctly held:
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> Every element of which the offense is composed must be alleged in the complaint or information by making reference to the definition and the essentials of the specific crimes. This is so in order to fully apprise the accused of the charge against him and for him to suitably prepare his defense since he is presumed to have no independent knowledge of the facts that constitute the offense. It is not necessary, however, that the imputations be in the language of the statute. **What is important is that the crime is described in intelligible and reasonable certainty.** (Emphasis supplied)[35]

Moreover, the Court declared that in an information for *estafa,* the use of certain technical and legal words such as "fraud" or "deceit," is not necessary to make a proper allegation thereof.[36]

Thus, the only important question left to be answered is whether the facts in the Information do indeed constitute the crime of which the accused was convicted. In other words, was the RTC correct in convicting him of *estafa* under Article 315, paragraph 2(a) instead of paragraph 1(b)? The answer to this question, however, requires further reflection.

The crime charged was *estafa* under Article 315, paragraph 1(b) of the Revised Penal Code. Its elements are as follows: (1) that money, goods, or other personal properties are received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return, the same; (2) that there is a misappropriation or conversion of such