

SECOND DIVISION

[G.R. NO. 157919, January 30, 2007]

CELIA Q. NOMBREFIA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

QUISUMBING, J.

On appeal is the Decision^[1] dated May 20, 2002 of the Court of Appeals in CA-G.R. CR No. 21810 together with its Resolution^[2] dated March 31, 2003. The appellate court had affirmed the Decision dated March 13, 1998 of the Regional Trial Court (RTC) of Baler, Aurora, Branch 66. The trial court convicted petitioner for violation of Section 261 of Batas Pambansa Bilang 881, the Omnibus Election Code of the Philippines, thus:

WHEREFORE, the Court finds accused Celia Q. Nombrefia guilty beyond reasonable doubt of violating Section 261, subsection par. Z nos. 8 and 21 of Batas Pambansa 881, otherwise known as the Omnibus Election Code of the Philippines and hereby sentences her to suffer an imprisonment of one year with the accessory penalties provided by law and to pay the costs.^[3]

The facts of this case are as follows:

Petitioner Celia Q. Nombrefia was the Chairman of the Board of Election Inspectors of Precinct 4, Barangay 4 of Poblacion, Baler, Aurora. Witnesses testified that on May 12, 1992, the second day of the synchronized elections, after petitioner had just finished reading the first bundle of ballots and the poll clerk and election inspector were tallying the results, she took the next bundle of ballots and placed them on her lap. She arranged the ballots and began flipping through them, marking several ballots with a ballpen. As she did, a certain Ernesto Gonzales was watching her. Gonzales called the attention of one of the poll watchers, Philip Caliuag, and left the precinct to inform Nelia Laroza, an LDP watcher, what he had witnessed. Laroza and her brother, along with Celia Abordo, went back to the precinct. They saw the petitioner seated in front of the desk where the ballots were placed. She then put some of the ballots on her lap and again started leafing through them. When Laroza asked what she was doing, petitioner merely shifted her position and turned her back to Laroza. According to Laroza, she saw petitioner's right hand moving as if writing "X" marks. She was again confronted by Laroza, but she denied that she was writing anything on the ballots despite her holding a pen. When she stood up, a blue pen fell in front of her. According to Laroza, the "X" marks invalidated some votes for candidates Angara and Gudoy.

Petitioner had another version of the events of May 12, 1992. She narrated that Alexander Guerrero, a poll watcher for the Nacionalista Party, Ruel Bitong, Philip

Caliuag, Jerry Pimentel, Andy Gonzales and Jasmine Cabo were already present at the voting precinct as early as 7:00 a.m. the day of the election. During the counting of votes, six watchers surrounded the petitioner. One watcher had a flashlight beamed at the ballots being read while Guerrero who was behind her, beamed a flashlight at what she was reading. He was at the back of the petitioner for eight hours, and all throughout the counting of the ballots. Petitioner added that Guerrero testified there were no protests filed by any of the poll watchers, and there was no anomaly or untoward incident in the said precinct. According to petitioner, she held each ballot with both hands and read the contents aloud. Whenever there was any question on the validity of a ballot, petitioner consulted the watchers. After reaching a consensus, a certain vote was either declared valid or invalid. Petitioner claimed she wrote down notes on the election instruction booklet to make sure that she was following the correct procedure.

In an Information filed on December 11, 1992, petitioner was charged with violation of Section 261 of B.P. Blg. 881 before the RTC of Baler, Aurora, Branch 66.^[4] In a Decision rendered on March 13, 1998, the trial court found petitioner Nombrefia guilty beyond reasonable doubt of violating Section 261, subsection z, nos. 8^[5] and 21^[6] of B.P. Blg. 881. It sentenced her to suffer imprisonment of one year with the accessory penalties provided by law and to pay the costs.^[7]

On appeal, the Court of Appeals affirmed the decision of the trial court.^[8] The Court of Appeals found that petitioner was the author of the "X" marks or erasures on the ballots. It took into account the testimonies of the prosecution's witnesses, namely: Ernesto Gonzales, Nelia Laroza and Justita Angara.^[9]

The appellate court noted that the markings on the G-series were distinguishable by the manner in which they were similarly and hastily made. They belied any assertion that they were authored by the individual voters. Thus, the appellate court held that there was no other plausible and fair explanation on how the "X" marks were placed over the names of candidates Angara and Gudoy,^[10] except by the acts of petitioner as testified to by witnesses.

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the appealed judgment is hereby **AFFIRMED.**

SO ORDERED.^[11]

In the instant petition, petitioner assigns as issues the following:

1. Whether or not the right of petitioner to be informed of the nature and cause of the accusation against her had been violated in view of the failure of the information to specify the particular paragraph and/or sub-paragraphs in Section 26 of the Batas Pambansa Bilang 881 (Omnibus Election Code) under which she was being charged.
2. Whether or not the findings of fact of the Court of Appeals can be reviewed by this Honorable Court in this review proceeding under

Rule 45 of the Rules of Court.

3. Whether or not the testimonies of Ernesto F. Gonzales and Nelia P. Laroza, the principal witnesses of the prosecution, are credible.
4. Whether or not there is sufficient direct evidence to prove petitioner's guilt beyond reasonable doubt.
5. Whether or not there is sufficient circumstantial evidence to prove petitioner[']s evidence (sic) beyond reasonable doubt.^[12]

Simply put, we are to resolve the following issues: (1) Was the petitioner's right to be informed of the nature and cause of charge against her violated? (2) May this Court review the factual findings of the Court of Appeals? (3) Were the testimonies of Gonzales and Laroza credible? (4) Was there sufficient evidence, direct or circumstantial, to prove petitioner's guilt beyond reasonable doubt?

On the first issue, we hold that the right of the petitioner to be informed of the nature and cause of the accusation against her was not violated even if the information failed to specify the particular paragraph and/or subparagraphs in Section 261 of the Omnibus Election Code.

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.^[13] An incorrect caption is not a fatal mistake.^[14]

In *People v. Sadosa*,^[15] we held:

It is well-settled in our jurisprudence that the information is sufficient where it clearly states the designation of the offense by the statute and the acts or omissions complained of as constituting the offense. However, **there is no need to specify or refer to the particular section or subsection of the statute that was violated by the accused.** No law requires that in order that an accused may be convicted, the specific provision penalizing the act charged should be mentioned in the information. What identifies the charge is the actual recital of the facts and not that designated by the fiscal in the preamble thereof. It is not even necessary for the protection of the substantial rights of the accused, nor the effective preparation of his defense, that the accused be informed of the technical name of the crime of which he stands charged. He must look to the facts alleged. (Emphasis supplied.)

In the case at bar, the information contained the actual recital of facts which sufficiently informed the petitioner of the nature and cause of the accusation against her.

On the second issue, it has been repeatedly held generally that the findings of fact of the Court of Appeals are not reviewable by this Court in a petition for review; they are final and conclusive on us if they are borne out by the record or are based on substantial evidence.^[16] Moreover, in this case, petitioner did not show any of