

AMALIA G. CARDONA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 244544. July 06, 2020*

Ponente: CARANDANG, J.

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The instant Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court assails the Decision[2] dated February 9, 2017 and the Resolution[3] dated December 14, 2018 of the Court of Appeals (CA) in CA- G.R. CR No. 02354. The assailed Decision and Resolution affirmed the Judgment[4] dated December 6, 2013 and the Resolution[5] dated March 17, 2014 of the Regional Trial Court (RTC) of Baybay City, Leyte, Branch 14. The RTC's Judgment and Resolution found petitioner Amalia G. Cardona (Cardona) guilty of violating Section 23(a)[6] and (c)[7] of Republic Act No. (R.A.) 7166[8] in relation to Section 195[9] of Batas Pambansa Bilang 881 otherwise known as the "Omnibus Election Code" (OEC).

Facts of the Case

On February 27, 2002, an Information[10] was filed against Cardona. The Information states:

That on or about the 14[th] day of May 2001 in the Municipality of Mahaplag, Leyte Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the Chairman of the Board of Election Inspectors for Poll Precinct No. 8A, for the May 14, 2001 National and Local Elections, did then and there willfully (sic), unlawfully and feloniously require, instruct and order the registered voters of said precinct to sign or affix their signatures at the back of their official ballots against their will, thereby intentionally putting in said ballot a distinguishing mark and using means to identify the vote of the voters.

CONTRARY TO LAW.[11]

The Information was a result of an Affidavit-Complaint[12] filed by a certain Glenn H. Bartolini (Bartolini) – a mayoral candidate for Mahaplag, Leyte who lost during the May 14, 2001 elections.

When arraigned, Cardona entered the plea of not guilty.[13] Trial was conducted.

The prosecution presented the following witnesses: (1) Natividad Lopez Ganton; (2) Bonifacio Cagol Dupal; (3) Constancia Malate Alterado; (4) Teodoro Vitualla Alombro; (5) Yolanda Duquiatan Bergado; (6) Diogracia Mipaña Samorin; (7) Macaria Renegado Tomulac; and (8) Victoria Villason Refe. Cardona's defense was based solely on her testimony.[14]

The prosecution witnesses were all voters of Poblacion Mahaplag, Leyte. They were assigned to precinct 8-A in Mahaplag Central School where Cardona was assigned as the chairperson of the Board of Election Inspectors (BEI). Some of the witnesses stated that Cardona insisted that they (i.e., the voters) sign at the back of the ballot because it is the new law.[15] The witnesses testified that they were made to sign the dorsal portion of their ballot after they cast their votes. Some added that Cardona instructed them to sign upon discovering that they voted for Bartolini.[16]

Cardona admitted that she allowed some of the voters to sign the dorsal portion of the latter's ballots on May 14, 2001. However, Cardona said that she instructed the voters to sign immediately upon receipt of the ballot and not after the voters have cast their votes.[17] She explained that she had the voters sign at the back of their respective ballots because she experienced a "mental black-out." [18] She realized her mistake before lunch break, or around 11 a.m.[19] Cardona then clarified the proper procedure with a certain Teresita Cartilla, a BEI chairperson in a nearby precinct.[20] Upon learning of her mistake, Cardona ordered the ballot box's closure and requested the poll clerk to go the Commission on Election's (COMELEC) Registrar to ask what could be done to correct the mistake.[21] The Registrar simply ordered her to write the incident in the minutes.[22] Thereafter, Cardona continued with the voting and did not let any subsequent voter sign at the back of the ballots.[23] Cardona clarified that she did not do it on purpose.[24]

Ruling of the Regional Trial Court

In its Judgment[25] dated December 6, 2013 the RTC found Cardona guilty of the charges against her. The dispositive portion of the RTC's Decision reads:

WHEREFORE, PREMISES CONSIDERED, this Court finds the accused guilty beyond reasonable doubt of the offense charged, and she [is] hereby condemned to suffer an indeterminate penalty of Two (2) to Four (4) years of imprisonment without benefit of probation.

Further, accused is ordered disqualified to hold public office and to exercise her right to suffrage in accordance to (sic) Section 264 of the Omnibus Election Code.

SO ORDERED.[26]

In convicting Cardona, the trial court relied on Cardona's admission that she allowed the first few batches of voters to sign the latter's names at the back of their respective ballots.[27] Because of such admission, the burden of evidence shifted to Cardona. The RTC held that Cardona failed to prove her claim that she had a mental block and that she immediately corrected her mistake.[28] It noted that this was Cardona's second time to be the chairperson of a BEI and that "she attended lectures on the conduct of election proceedings." [29]

The RTC disregarded Cardona's claim of good faith because she was accused of committing an election offense under the OEC – a law that the RTC ruled as *mala prohibitum*. [30]

Aggrieved, Cardona appealed[31] the Judgment of the RTC with the CA.

Ruling of the Court of Appeals

In its Decision[32] dated February 9, 2017, the CA affirmed the conviction with modification as to the penalty imposed. The dispositive portion of the Decision states:

WHEREFORE, the appeal is hereby DENIED. The Judgment of the RTC, Branch 14, Baybay City, Leyte, in Criminal Case No. 02-03-27 is hereby AFFIRMED with MODIFICATION that Amalia G. Cardona is sentenced to an indeterminate imprisonment of one (1) year as minimum to two (2) years as maximum. The Judgment is affirmed in all other respects.

SO ORDERED.[33]

In affirming the conviction, the appellate court reiterated the RTC's pronouncement that violation of Section 23(a) and (c) of R.A. 7166 in relation to Section 195 of the OEC is a *malum prohibitum*, hence, Cardona's intent was immaterial.[34] Cardona's voluntary admission was not considered as a mitigating circumstance. However, the CA lowered the penalty imposed on Cardona in view of the circumstances surrounding the case.[35]

The CA junked Cardona's attempt to have the criminal proceedings nullified because of the private prosecutor's active participation during trial. Citing Rule 34,[36] of the 1993 COMELEC Rules of Procedure, the CA concluded that a private prosecutor is allowed to appear in the criminal case to recover any civil liability due his/her client.

As Cardona's Motion for Reconsideration[37] was denied in a Resolution[38] dated December 14, 2018, Cardona filed the instant petition for review.[39]

Respondent, through the Office of the Solicitor General (OSG), filed a Comment[40] dated October 30, 2019 and sought the outright dismissal of the petition due to a defective verification and certification of non-forum shopping. The OSG explained that Cardona was convicted on the strength of the prosecution's evidence and not because of Cardona's judicial admission.[41] While the OSG argued that Section 195 of the OEC is *malum prohibitum* where intent is immaterial, it also claimed that Cardona should have proven her defense of experiencing a mental blackout as a justifying circumstance.[42]

In her Reply, Cardona insists that: (1) there was no defect in her Verification and Certification of Non-Forum Shopping; (2) conviction was not proper because (a) it was the voter who placed a distinguishing mark on the ballot; (b) she did not induce the voters to affix their signatures; (c) the prosecution did not include the voters as principal by direct/active participation; and (d) none of the supposedly marked ballots were identified and presented during trial; and (3) the burden of proof did not shift to Cardona because the prosecution failed to prove Cardona's guilt beyond reasonable doubt.

Ruling of the Court

We find the petition meritorious. Cardona should be acquitted of the crime charged.

This Court notes the OSG's prayer to dismiss the instant petition in view of the petitioner's defective verification and certification against forum shopping. Given that the merits of the instant petition and Cardona's liberty at stake, this Court deems it best to set aside the procedural flaw in the interest of substantial justice. We have repeatedly held that "rules of procedure are used to only help secure, not override substantial justice." [43]

Another procedural issue is the private prosecutor's active participation during trial.

The CA's citation of Rule 34 of the 1993 COMELEC Rules of Procedure is incorrect. Rule 34 pertains to the prosecution of election offenses via a preliminary investigation before the COMELEC or those authorized under Section 4(b)[44] of the said Rules. Here, Cardona questioned the private prosecutor's participation during trial before the RTC. The applicable rule is Section 5 [45] Rule 110 of the Rules of Court as amended by A.M. No. 02-2-07-SC. Under Section 5, the private prosecutor may prosecute the case upon a written authority of the Chief of the Prosecution Office or Regional State Prosecutor with the trial court's approval. Cardona admits that the Assistant City Prosecutor deputized the private prosecutor to prosecute the criminal case.[46] Therefore, the criminal proceeding was regularly conducted.

The RTC and the CA found Cardona guilty of violating Section 23(a) and (c) of R.A. 7166 in relation to Section 195 of the OEC.

Section 23(a) and (c) of R.A. 7166 states:

Section 23. Officials Ballots. – (a) Ballots for national and local elections regular or special, plebiscites and referenda, shall be of uniform size and shall be provided by the Commission. They shall be printed in black ink on which security paper with distinctive, clear and legible watermarks that will readily distinguish it from ordinary paper. Each ballot shall be in the shape of a strip with stub and detachable coupon containing the

serial number of the ballot, and a space for the thumbmark of the voter on the detachable coupon. It shall bear at the top of the voter on the detachable coupon. It shall bear at the top of the middle portion thereof the coat-of-arms of the Republic of the Philippines, the word "Official Ballot," the name of the city or the municipality and province in which the election is to be held, the date of the election, and the following notice in English: "Fill out this ballot secretly inside the voting booth. Do not put any distinct mark on any part of this ballot."

x x x x

(c) There shall not be anything printed or written on the back of the ballot except as provided in Section 24[47] of this Act.

On the other hand, Section 195 of the OEC provides:

Section 195. Manner of preparing the ballot. – The voter, upon receiving his folded ballot, shall forthwith proceed to one of the empty voting booths and shall there fill his ballot by writing in the proper space for each office the name of the individual candidate for whom he desires to vote.

No voter shall be allowed to enter a booth occupied by another, nor enter the same accompanied by somebody, except as provided for in the succeeding section hereof, nor stay therein for a longer time than necessary, nor speak with anyone other than as herein provided while inside the polling place. It shall be unlawful to prepare the ballot outside the voting booth, or to exhibit its contents to any person, or to erase any printing from the ballot, or to intentionally tear or deface the same or put thereon any distinguishing mark. It shall likewise be unlawful to use carbon paper, paraffin paper, or other means for making a copy of the contents of the ballot or make use of any other means to identify the vote of the voter.

Under Section 262[48] of the OEC, a violation of Section 195 constitutes an election offense. The penalty for committing an election offense under the OEC is punishable "with imprisonment of not less than one year but not more than six years and shall not be subject to probation." [49] Furthermore, the person found guilty will also be: (1) disqualified to hold public office; and (2) deprived of the right of suffrage.

Given the gravity of the penalty imposed, it must be determined whether all marks made on the ballot (outside of those prescribed under Section 23(a) and (c) of R.A. 7166 and Section 195 of the OEC automatically constitute an election offense.

This Court rules in the negative.

The RTC incorrectly convicted Cardona because of Cardona's admission that she instructed the voters to affix their (i.e., the voters) signatures at the back of their respective ballots. The trial court ruled that the burden of evidence is shifted to Cardona to prove that she did not commit the crime.[50] The CA wrongfully upheld the conviction on the basis of the prosecution witnesses' testimonies.[51]

The RTC and CA held that the OEC is a special law, hence, intent is unnecessary to secure a conviction.

We do not agree.

An act prohibited by a special law does not automatically make it *malum prohibitum*. "When the acts complained of are inherently immoral, they are deemed *mala in se*, even if they are punished by a special law." [52] The bench and bar must rid themselves of the common misconception that all *mala in se* crimes are found in the Revised Penal Code (RPC), while all *mala prohibita* crimes are provided by special laws. The better approach to distinguish between *mala in se* and *mala prohibita* crimes is the determination of the inherent immorality or vileness of the penalized act.[53]

Is a violation of Section 195 of the OEC mala in se such that good faith and lack of criminal intent can be raised as valid defenses against its conviction?

We rule Section 195 of the OEC to be mala in se.

The applicable portion of Section 195 forbids the intentional tearing or defacing of the ballot or the placement of a distinguishing mark.

A distinguishing mark is one, whether a letter, figure, or character, which shows an intention on the part of the voter to distinguish his particular ballot from others of its class, and not one that is common to, and not distinguishable from, others of a designated class. However, not every mark made by a voter on his ballot, which may separate and distinguish it from other ballots cast at the election, will result in a declaration of invalidity. To constitute a mark a distinguishing mark, it must be placed on a ballot with the deliberate intention that it shall identify the ballot after the vote has been cast, unless a statute enumerates certain marks as illegal or distinguishing regardless of the question of intent.[54] (Underscoring supplied)

In the case of *Locsin v. House of Representatives Electoral Tribunal*,[55] We defined a distinguishing mark as one "placed in the ballots x x x which the elector may have placed with the intention of facilitating the means of identifying said ballot, for the purpose of defeating the secrecy of the suffrage which the law establishes." [56] "Marks made by the voter unintentionally do not invalidate the ballot. Neither do marks made by some person other than the voter." [57] If these innocuous marks do not violate the constitutional duty to secure the secrecy of the ballot and preserve the sanctity and integrity of the electoral process, then We can reasonably conclude that such marking does not constitute an election offense, as in this case.

The RTC's reliance in the case of *Dr. Domalanta v. COMELEC*,[58] is misplaced. In *Dr. Domalanta*, this Court ruled that the burden of evidence is shifted to the petitioners in that case because the discrepancies in the Certificates of Canvass and Statement of Votes were "too substantial and rounded off to be categorized as a mere 'computation error' or a result of fatigue." [59] Thus, it is understood that unintentional mistakes do not necessarily constitute an election offense or electoral sabotage.[60] Still, this case is no different from *Dr. Domalanta* as both involve the violation of a special law (i.e., R.A. 6646). This Court's consideration of petitioners' claim of fatigue (in *Dr. Domalanta*) shows that intent was necessary to convict an accused of an election offense covered by a special law. In *Garcia v. Court of Appeals*,[61] this Court categorically held that an electoral offense under Section 27(b) of R.A. 6646 is mala in se because "it could not [have been] the intent of the law to punish unintentional election canvass errors." [62] The same should apply to unintentional marks made on a ballot.

Therefore, is Cardona guilty of deliberately placing or causing the voter to place a distinguishing mark?

We rule in the negative.

It is undisputed that Cardona instructed some of the voters to affix their signatures on the dorsal portion of the ballot. However, Cardona's actions were not intended to identify the ballot after the vote has been cast.

Cardona explained that she experienced a "mental black-out" because of the belated voting in precinct 8A.[63] She allowed voters to cast their vote at 8:45 a.m. (instead of the mandated 7:00 a.m. time), despite having the most number of voters in the area, in order to wait for her poll clerk[64] and Bartolini's poll watcher.[65] Cardona insisted on waiting for all the authorized people inside the precinct even if it would delay the voting proceedings: (1) in order to avoid any complaints from the candidates representatives; and (2) to ensure fairness in the conduct of the voting.[66] By the time voting was about to start, the voters in line were already angry.[67]

Cardona's defense is in the nature of a plea of confession and avoidance. Under such principle, "the pleader has to confess the allegations against him before he can be allowed to set out matters which, if true, would defeat the

action."[68]

The absence of Cardona's intent to place a distinguishing mark on the prosecution witnesses' ballots becomes more evident because she immediately closed the box upon realizing her mistake and requested the poll clerk to go to the COMELEC Registrar to ask how she can rectify the situation.[69] Despite the first batch of ballots containing the voters' signatures, Cardona counted every vote during canvassing.[70] This fact was never disputed by the prosecution.

Prior to Cardona's instruction to close the ballot box, the poll watchers did not protest the voters' act of signing the dorsal portion of the ballot.[71] Even Bartolini's counsel, who was inside precinct 8A and observed everything, did not object to what happened on May 14, 2001.[72] Even without any objection from the poll watchers, Cardona corrected her mistake immediately after realizing it. Taken together, these show Cardona's good faith that should exculpate her from criminal liability.

Even more important is the prosecution's failure to present the allegedly marked ballots. While the trial court had possession of precinct 8A's ballot boxes since July 22, 2002,[73] the prosecution never presented nor formally offered the same in evidence during trial. In its formal offer of evidence,[74] the prosecution only presented the following documentary evidence:

- a) Exhibit "A" – Judicial Affidavit of Deogracias Samorin dated December 6, 2007;
- b) Exhibit "B" – Judicial Affidavit of Macaria R. Tomulac dated September 6, 2007;
- c) Exhibit "C" – Judicial Affidavit of Victoria Refe dated March 25, 2008;
- d) Exhibit "D" – Judicial Affidavit of Constanica Alterado dated October 30, 2008; and
- e) Exhibit "E" – Judicial Affidavit of Laila Padalapat.[75]

Without the physical evidence of the corpus delicti, i.e., the allegedly marked ballots, the trial court was not given the opportunity to appreciate the nature of the markings made. Thus, the prosecution was not able to prove beyond reasonable doubt that the markings were deliberate and made for the purpose of identifying the ballot. It is basic in criminal law that a conviction "must rest, not on the weakness of the defense, but on the strength of the prosecution. The burden is on the prosecution to prove guilt beyond reasonable doubt, not on the accused to prove his[/her] innocence."[76]

WHEREFORE, the petition for review is GRANTED. The Decision dated February 9, 2017 and the Resolution dated December 14, 2018 of the Court of Appeals in CA-G.R. CR No. 02354 are REVERSED and SET ASIDE. Accordingly, accused-appellant Amalia G. Cardona is ACQUITTED of the crime charged.

Let entry of judgment be issued immediately.

SO ORDERED.

Leonen, (Chairperson), Zalameda, and Gaerlan, JJ., concur.
Gesmundo, J., on official leave.

[1] Rollo, pp. 10-31.

[2] Penned by Associate Justice Edward B. Contreras with the concurrence of Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Geraldine C. Fiel-Macaraig; CA rollo, pp. 95-205.

[3] Penned by Associate Justice Edward B. Contreras with the concurrence of Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Emily R. Aliño-Geluz; id. at 243-244.

[4] Penned by Presiding Judge Carlos O. Arguelles; rollo, pp. 48-63.

[5] Id. at 66-69.

[6] Section 23. Officials Ballots. – (a) Ballots for national and local elections regular or special, plebiscites and referenda, shall be of uniform size and shall be provided by the Commission. They shall be printed in black ink on which security paper with distinctive, clear and legible watermarks that will readily distinguish it from ordinary paper. Each ballot shall be in the shape of a strip with stub and detachable coupon containing the serial number of the ballot, and a space for the thumbmark of the voter on the detachable coupon. It shall bear at the top of the voter on the detachable coupon. It shall bear at the top of the middle portion thereof the coat-of-arms of the Republic of the Philippines, the word "Official Ballot," the name of the city or the municipality and province in which the election is to be held, the date of the election, and the following notice in English: "Fill out this ballot secretly inside the voting booth. Do not put any distinct mark on any part of this ballot."

[7] Section 23. x x x

(c) There shall not be anything printed or written on the back of the ballot except as provided in Section 24 of this Act.

[8] An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes.

[9] Section 195. Manner of preparing the ballot. – The voter, upon receiving his folded ballot, shall forthwith proceed to one of the empty voting booths and shall there fill his ballot by writing in the proper space for each office the name of the individual candidate for whom he desires to vote.

No voter shall be allowed to enter a booth occupied by another, nor enter the same accompanied by somebody, except as provided for in the succeeding section hereof, nor stay therein for a longer time than necessary, nor speak with anyone other than as herein provided while inside the polling place. It shall be unlawful to prepare the ballot outside the voting booth, or to exhibit its contents to any person, or to erase any printing from the ballot, or to intentionally tear or deface the same or put thereon any distinguishing mark. It shall likewise be unlawful to use carbon paper, paraffin paper, or other means for making a copy of the contents of the ballot or make use of any other means to identify the vote of the voter.

[10] Records, p. 1.

[11] Id.

[12] Id. at 5-7.

[13] Id. at 325-326.

[14] CA rollo, p. 35

[15] TSN dated September 28, 2005, p. 12. TSN dated November 14, 2006, p. 31; TSN dated February 6, 2007, p. 10.

[16] TSN dated February 8, 2006, p. 7; TSN dated November 14, 2006, p. 27; TSN dated February 6, 2007, p. 9; TSN dated March 25, 2008, p. 10; TSN dated January 15, 2009, p. 26.

[17] TSN dated November 10, 2011, pp. 65-66.

[18] Id. 64.

[19] Id. at 71.

[20] Id. at 73.

[21] Id. at 58.

[22] Id. at 59.

[23] Id. at 69.

[24] Id. at 60.

[25] Supra note 4.

[26] Rollo, p. 62.

[27] Id. at 59.

[28] Id. at 61.

[29] Id. at 62.

[30] Black's Law Dictionary (6th ed. 1090), p. 960. A wrong prohibited; a thing which is wrong became prohibited; an act which is not inherently immoral, but becomes so because its commission is expressly forbidden by positive law; an act involving an illegality resulting from positive law.

[31] CA rollo, pp. 30-44.

[32] Supra note 2.

[33] CA rollo, p. 205.

[34] Id. at 202-203.

[35] Id. at 203-204.

[36] Prosecution of Election Offenses.

[37] CA rollo, pp. 209-217.

[38] Supra note 3.

[39] Supra note 1.

[40] Rollo, pp. 92-109.

[41] Id. at 98-107.

[42] Id. at 100-104.

[43] *Malixi v. Baltazar*, 821 Phil. 423, 439 (2017), citing *Acaylar, Jr. v. Harayo*, 582 Phil. 600, 612-613 (2008).

[44] Section 4. Form of Complaint and Where to File. –

x x x x

(b) The complaint shall be filed with the Law Department of the Commission; or with the offices of the Election Registrars, Provincial Election Supervisors or Regional Election Directors, or the State Prosecutor, Provincial Fiscal or City Fiscal. If filed with any of the latter three (3) officials, investigation thereof may be delegated to any of their assistants.

x x x x

[45] Section 5. Who must prosecute criminal actions. – All criminal actions commenced by either a complaint or information shall be prosecuted under the direction and control of the prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office of the Regional State Prosecution to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn. x x x The prosecution for violation of special laws shall be governed by the provisions thereof.

[46] Rollo, p. 21; TSN dated September 28, 2005, p. 6.

[47] Section 24. Signature of Chairman at the Back of Every Ballot. – In every case before delivering an official ballot to the voter, the chairman of the board of election inspectors shall, in the presence of the voter, affix his signature at the back thereof. Failure to so authenticate shall be noted in the minutes of the board of election inspectors and shall constitute an election offense punishable under Section 263 and 264 of the Omnibus Election Code.

[48] Section 262. Other election offenses. – Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections 9, 18, 74, 75, 76, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 122, 123, 127, 128, 129, 132, 134, 135, 145, 148, 150, 152, 172, 173, 174, 178, 180, 182, 184, 185, 186, 189, 190, 191, 192, 194, 195, 196, 197, 198, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 223, 229, 230, 231, 233, 234, 235, 236, 239 and 240.

[49] Section 264. Penalties. – Any person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be sentenced to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than ten thousand pesos, which shall be imposed upon such party after criminal action has been instituted in which their corresponding officials have been found guilty.

[50] Rollo, p. 59.

[51] *Id.* at 39.

[52] *Garcia v. Court of Appeals*, 519 Phil. 591, 596 (2006).

[53] *Dungo v. People*, 762 Phil. 630, 658-659 (2015).

[54] Sibal, J. (2001), *Omnibus Election Code of the Philippines Annotated* (2nd ed.), pp. 202-203.

[55] 706 Phil. 590 (2013).

[56] *Id.* at 604, citing *Cailles v. Gomez*, 42 Phil. 496, 533 (1921).

[57] *Id.* at 605.

[58] 390 Phil. 46 (2000).

[59] *Id.* at 60; underscoring supplied.

[60] Note that this case was for violation of Section 27(b) of Republic Act No 6646 or The Electoral Reforms

Law of 1987. Section 27 referred to election offenses and electoral sabotage.

[61] 519 Phil. 591 (2006).

[62] *Id.* at 597.

[63] TSN dated November 10, 2011, p. 57.

[64] Who arrived at 7:30 a.m.; TSN dated November 10, 2011, p. 56.

[65] TSN dated November 10, 2011, pp. 56-57.

[66] *Id.* at 67-68.

[67] *Id.* at 57.

[68] *People v. Llaneta*, 86 Phil. 219, 243-244 (1950).

[69] TSN dated November 10, 2011, p. 58.

[70] *Id.* at 59.

[71] *Id.* at 58.

[72] *Id.* at 60.

[73] Records, p. 180. As evidenced by a Letter dated July 22, 2002 by Election Officer II Arturo S. Benitez and Municipal Treasurer Oscar S. Reales.

[74] See Offer of Documentary Evidence with Motion for Re-Marking Ad Cautelam; *id.* at 562-564.

[75] *Id.* at 562-563.

[76] *Daayata v. People*, 807 Phil. 102, 118 (2017), citing *Macayan, Jr. v. People*, 756 Phil. 202, 213 (2015); *People v. Solayao*, 330 Phil. 811, 819 (1996); *Basilio v. People*, 591 Phil. 508, 521-522 (2008).

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