

AVELLA GARCIA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. NO. 128213. December 13, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

In an Information dated March 18, 1992, petitioner Avella[1] Garcia (Avella) was charged with Falsification of a Private Document, defined and penalized under Article 172 (2), in relation to Article 171 (6), of the Revised Penal Code. The accusatory portion reads:

That on or about the month of January, 1991 in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Abella Garcia, being then in possession of a receipt for Five Thousand Pesos dated January 21, 1991 issued by one Alberto Quijada, Jr. as partial down payment [sic] of the sale of a house and lot situated at No. 46 P. Gomez St., Mandaluyong, Metro Manila by Albert Quijada, Jr. to accused, said accused then and there wilfully, unlawfully and feloniously and with intent to defraud and damage Alberto Quijada Jr [sic] made alterations and wrote words, figures and phrases to the original receipt which completely changed its meaning by making appear thereon that it was issued on January 24, 1991 in the amount of Fifty Five Thousand Pesos (P55,000.00) when in truth and in fact, the said accused fully well knew that the receipt was only for the amount of Five Thousand Pesos.

Contrary to Law.[2]

Upon arraignment, Avella pleaded not guilty and trial ensued.[3]

The prosecution's version of the relevant facts is summarized as follows:[4]

Sometime in early October 1990, a verbal agreement was entered into between Alberto Quijada, Jr. (Alberto) and Avella for the sale of the former's house and lot located at 46 P. Gomez St., Mandaluyong, Metro Manila for the purchase price of P1.2 million pesos.[5] On October 23, 1990, an "earnest money" in the amount of ten thousand pesos (P10,000) was given to Alberto by Avella. On October 31, 1990, the amount of one hundred and fifty-five thousand pesos (P155,000) was delivered by Avella representing this time the downpayment for the house and lot. A subsequent payment of five thousand pesos (P5,000) was made on January 21, 1991. With respect to this last transaction, Avella prepared in her own handwriting two identical receipts which are faithfully reproduced below:[6]

January 21/91

Pasay City

Received from Abella [sic] Garcia for the amount of five thousand pesos cash (P5,000.00) as additional downpayment for the purchase of the property located at 46 P. Gomez St. Mand. M. Mla. With an area of 308 sq. m. including the improvements existing there one [sic] covered by T.C.T. # 397670. The total purchase price for said sale One Million Two hundred thousand only 1.2 M.

(Sgd.)

ALBERTO QUIJADA

(Sgd.)

ALICIA Q. GONZALES

(SISTER)

The two receipts were signed by Alberto and his sister Alicia Q. Gonzales, as witness. One receipt was given to Alberto, while the other was retained by Avella.

The relationship between buyer and seller turned sour. Avella filed a complaint for estafa against Alberto for his failure to execute a deed of sale and deliver the subject property. Among the evidence she submitted was the copy of the receipt she prepared on January 21, 1991. However, the receipt appeared to have been altered in the following manner: 1) the word "fifty" was inserted before the word "five" on the second line of the receipt to read "fifty five thousand" instead of "five thousand"; 2) the number "5" was inserted before "5,000.00" on the third line of the receipt so that it would read "55,000.00"; 3) additional words were inserted in the last sentence of the receipt which reads, "Now covered by T.C.T. # 3998 R.D. Mandaluyong MM. the parties agree to execute of [sic] valid deed of conveyance covering the same sale"; 4) on the date "January 21" the number 4 was superimposed so that it would read as "January 24" instead; and 5) there now appears the amount of "55,000.00" and below it the word "value" on the upper left hand corner of the receipt.[7]

Thus, the receipt as altered now appears as follows:[8]

55,000.00value

January 24/91

Pasay City

Received from Abella Garcia for the amount of fifty five thousand pesos cash (P55,000.00) as additional downpayment for the purchase of the property located at 46 P. Gomez St. Mand. M. Mla. With an area of 308 sq. m. including the improvements existing there one covered by T.C.T. # 397670. The total purchase price for said sale One Million Two hundred thousand only 1.2 M. Now covered by T.C.T. # 3998 R.D. Mandaluyong MM. the parties agree to execute of [sic] valid deed of conveyance covering the same sale.

(Sgd.)

ALBERTO QUIJADA

(Sgd.)

ALICIA Q. GONZALES

(SISTER)

Having noticed the alterations, Alberto instituted a criminal action before the Office of the City Prosecutor of Pasay City charging that Avella had made it appear that he received P55,000 when he received only P5,000. Needless to state, the City Prosecutor found that a prima facie case of violation of Article 172 of the Revised Penal Code had been committed by Avella and accordingly filed the corresponding Information.

Avella, in her defense, admitted that she did in fact alter the receipt but claims that it was done in the presence and at the request of Alberto. Her account is as follows:[9]

On January 21, 1991, Alberto, along with his sister, came to Avella's residence in Mandaluyong City to ask for additional downpayment for the house and lot. At that time she only had P5,000 in cash which she handed over to Alberto and then promised him a bigger sum in the future. Avella then hand wrote two receipts which was signed

by Alberto and his sister, as evidence of the payment of P5,000. One receipt was her copy while the other was for Alberto. Three days later, on January 24, 1991, Avella called up Mr. Celso Cunanan (Celso), an architect, from whom she asked to borrow P50,000. Celso had earlier committed to Avella that he would lend her P50,000. Celso arrived at her house that evening to give her the money. Already present in the house were Avella, her sister and Alberto. Celso delivered to Avella P50,000 which the latter, in the former's presence, handed over to Alberto. With respect to the alteration, Avella explained that Alberto did not have with him his copy of the January 21, 1991 receipt and so he told her to just "add" in her copy the amount of P50,000 to make it P55,000. Avella acceded to the request and made the changes in front of Alberto while he was counting the money. Avella said she showed the altered receipt to Alberto but that he was not able to affix his signature thereon because he was in a hurry to leave. Avella's account was corroborated by the testimony of Celso who declared that all these happened in his presence.[10]

Avella further claimed that this case was filed against her in retaliation for the estafa case she filed against Alberto. As claimed by Avella, she found out that the deed of sale which purportedly transferred ownership of the house and lot to Alberto was a fake. Upon her request, the National Bureau of Investigation (N.B.I.), Questioned Documents Division, examined the signatures of Mr. Floro Caceres and Mrs. Paciencia Castor Caceres, the transferees of the subject property, contained in the deed of sale. In its report the N.B.I. determined that the questioned signatures and sample signatures of Floro Caceres and Paciencia Caceres were not written by one and the same person.[11] In further support of this allegation, she presented an affidavit executed by Richard Hui Quijada, nephew of Alberto, who stated therein that he forged the signatures of the Spouses Caceres at the behest of his uncle.[12] Additionally, it was claimed that the notarization of the deed of sale was also fake according to a certification issued by the Office of the Clerk of Court for the Regional Trial Court of Manila stating that the lawyer who notarized it, Atty. Mallari, did not notarize any document for the month of April 1977, which was when the deed of sale was supposedly notarized.[13]

The trial court found Avella's account unworthy of belief. The court stated in its decision that if, by her claim, she made the changes in the receipt while Alberto was counting the money it would not have taken more than five (5) seconds to affix his signature thereon even if he was in a hurry to leave. The trial court, thus, held that the elements of Article 172 (2), in relation to Article 171 (6), of the Revised Penal Code have been proven beyond reasonable doubt and sentenced Avella to suffer imprisonment of Two (2) Years and Four (4) Months of arresto mayor, as minimum, to Six (6) Years of prision correccional, as maximum, and to pay a fine of Five Thousand (P5,000) pesos, plus costs.[14]

Avella appealed to the Court of Appeals (CA). The CA modified the penalty by lowering it, but affirmed the conviction.[15] The CA was unconvinced by Avella's explanations regarding the circumstances under which the alterations were made. Quoting at length the trial court's findings, the CA declared that nothing therein would even remotely indicate that the conclusions were reached arbitrarily. The dispositive portion of the CA decision stated:

WHEREFORE, the appealed judgment is AFFIRMED but with the modification that the accused is hereby sentenced to suffer the indeterminate penalty of imprisonment ranging from a minimum of Four (4) months and One (1) day of Arresto Mayor, to Three (3) years, Six (6) months and Twenty-One (21) day of Prision Correccional as maximum, plus a fine of Three Thousand Pesos (P3,000.00) and costs.

Avella now comes before this Court through a Petition for Review under Rule 45 of the Rules of Court asking the Court to reevaluate the evidence presented so that the Court may accept as true her explanations to the alterations.

The plea lacks merit and is denied.

When the trial court's factual findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon the Court, for it is not this Court's function to analyze and weigh the parties' evidence all over again, except when there is serious ground to believe a possible miscarriage of justice would otherwise result. Save in exceptional instances, the Court's task in an appeal via certiorari is limited to reviewing errors of law that might have been committed by the CA.[16] Other than her plea to interpret the evidence in a different light, Avella failed to offer any cogent reason that would persuade this Court to alter the findings of the trial court and the CA, which findings are in agreement.

Nevertheless, while the Court will not touch upon the findings of fact, it should review the conviction to ensure that the law was properly applied. Under this premise, the Court now moves on to consider whether errors of law have been committed.

The elements of the crime of falsification under Article 171 (6) of the Revised Penal Code are: (1) that there be an alteration (change) or intercalation (insertion) on a document; (2) that it was made on a genuine document; (3) that the alteration or intercalation has changed the meaning of the document; and (4) that the changes made the document speak something false.[17] When these are committed by a private individual on a private document the violation would fall under paragraph 2, Article 172 of the same code, but there must be, in addition to the aforesaid elements, independent evidence of damage or intention to cause the same to a third person.[18]

Given the admissions of Avella that she altered the receipt, and without convincing evidence that the alteration was with the consent of private complainant, the Court holds that all four (4) elements have been proven beyond reasonable doubt. As to the requirement of damage, this is readily apparent as it was made to appear that Alberto had received P50,000 when in fact he did not. Hence, Avella's conviction.

The Court now considers the penalty imposed, as modified by the CA. Article 172 punishes the crime of Falsification of a Private Document by a private individual with the penalty of prision correccional in its medium and maximum periods. Thus, the duration of imprisonment must be between two (2) years, four (4) months and one (1) day to four (4) years and two (2) months, this being the medium, and four (4) years, two (2) months and one (1) day to six (6) years, this being the maximum. There being no aggravating or mitigating circumstances, the medium period in the aforementioned range should be imposed, which is three (3) years, six (6) months and twenty-one (21) days to four (4) years, nine (9) months and ten (10) days. Taking into consideration the Indeterminate Sentence Law, the penalty next lower in degree is arresto mayor in its maximum period to prision correccional in its minimum period. The sentence of the CA was within these ranges. The correct penalty was imposed.

WHEREFORE, the petition is DENIED. Petitioner Avella Garcia's conviction in Criminal Case No. 92-0250 is AFFIRMED along with her sentence to suffer the indeterminate penalty of imprisonment ranging from four (4) months and one (1) day of arresto mayor as minimum to three (3) years, six (6) months and twenty-one (21) days of prision correccional as maximum, and to pay a fine of Three Thousand Pesos (P3,000) and the costs.

Cost de oficio in this instance.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] Petitioner also uses the first name Abella.

[2] Records, p. 18.

[3] Id. at 38.

[4] TSN, July 6, 1992 and August 25, 1992.

[5] The house and lot contained an area of more or less 308 square meters, identified as Lot 38, Block 556 covered by T.C.T. No. 397670.

[6] Exhibit "C," Records, p. 53.

[7] Exhibit "D," Records, p. 54.

[8] Alterations are reflected in bold letters.

[9] TSN, December 8, 1992.

[10] TSN, March 2, 1993.

[11] Exhibit "12," Records, p. 108.

[12] Exhibit "13," Records, p. 110.

[13] Exhibit "10-A," Records, p. 106.

[14] Presided by then Judge Conchita Carpio Morales, now a member of this Court.

[15] Penned by then CA Justice Consuelo Ynares-Santiago, now also a member of this Court.

[16] *Danofrata v. People*, G.R. No. 143010, September 30, 2003, 412 SCRA 357.

[17] *Republic v. Court of Appeals*, L-41115, September 11, 1982, 116 SCRA 505.

[18] *Mercury Drug Corporation v. NLRC*, G.R. No. 96525, June 26, 1992, 210 SCRA 504.

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