

## THIRD DIVISION

[ G.R. No. 186101, October 12, 2009 ]

**GINA A. DOMINGO, PETITIONER, PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the Decision<sup>[1]</sup> dated November 24, 2008 of the Court of Appeals (CA) in CA-G.R. CR No. 31158 entitled *People of the Philippines v. Gina A. Domingo*, which affirmed the Decision<sup>[2]</sup> dated May 21, 2007 in Criminal Case Nos. Q-98-75971-87 of the Regional Trial Court (RTC), Branch 80 in Quezon City. The RTC convicted petitioner Gina Domingo (petitioner) of 17 counts of Estafa through Falsification of Commercial Document.

#### **The Facts**

Private complainant, Remedios D. Perez (Remedios), is a businesswoman and a valued depositor of the Bank of the Philippine Islands (BPI), Aurora Boulevard branch. Petitioner, on the other hand, is a dentist who had a clinic in Remedios' compound.

Being the wife of the best friend of Remedios' son, petitioner had a close relationship with Remedios and her family.

On June 15, 1995, Remedios accompanied petitioner to BPI because the latter wanted to open an account therein. Remedios then introduced petitioner to the bank's staff and officers. Soon thereafter, petitioner frequented Remedios' office and volunteered to deposit her checks in her bank account at BPI.

Sometime in October 1996, Remedios wanted to buy a car thinking that she already had a substantial amount in her account. Thus, she went to BPI to withdraw two hundred thousand pesos (PhP 200,000). To her surprise, however, she found out that her money had already been withdrawn. The withdrawals were effected through 18 encashment slips bearing her forged signatures reaching the amount of eight hundred thirty-eight thousand pesos (PhP 838,000). She denied having affixed her signatures on the encashment slips used.

Testimonies showed that on several occasions beginning September 18, 1995 until October 18, 1996, petitioner presented a number of encashment slips of various amounts to BPI, and by virtue of which she was able to withdraw huge amounts of money from the checking account of the complainant. She deposited the bigger portion of these amounts to her own account and pocketed some of them, while also

paying the rest to Skycable. The transactions were processed by four tellers of BPI, namely: Regina Ramos, Mary Antonette Pozon, Sheila Ferranco, and Kim Rillo who verified the signatures of the complainant on the questioned encashment slips.

As synthesized by the trial court, the transactions are as follows:

<b>Date of encashment slip</b>	<b>Amount withdrawn via encashment slip</b>	<b>Amount deposited to accused's account</b>	<b>Amount paid to Skycable (PS) or Pocketed (Po) by the accused</b>	<b>Name of Teller who processed the transaction</b>
1. Sept. 8, 1995	P10,000.00	P8,000.00	P2,000.00 (Po)	Regina Ramos
2. Sept. 18, 1995	30,000.00	20,000.00	10,000.00 (Po)	
3. Feb. 12, 1996	30,000.00	28,550.00	1,450.00 (PS)	Shiela Ferranco
4. Feb. 15, 1996	20,000.00	20,000.00	none	Mary Antonette Pozon
5. March 21, 1996	40,000.00	30,000.00	10,000.00 (Po)	Shiela Ferranco
6. April 8, 1996	40,000.00	35,000.00	5,000.00 (Po)	Regina Ramos
7. April 10, 1996	30,000.00	30,000.00	none	Shiela Ferranco
8. April 29, 1996	40,000.00	34,500.00	5,500.00 (Po)	Regina Ramos
9. May 13, 1996	40,000.00	38,550.00	1,450.00 (PS)	Shiela Ferranco
10. May 24, 1996	50,000.00	50,000.00	none	Mary Antonette Pozon
11. June 7, 1996	40,000.00	40,000.00	none	Shiela Ferranco
12. June 26, 1996	45,000.00	45,000.00	none	Shiela Ferranco
13. July 5, 1996	25,000.00	25,000.00	none	Mary Antonette Pozon
14. July 17, 1996	40,000.00	40,000.00	none	Mary Antonette Pozon
15. Aug. 5, 1996	50,000.00	48,550.00	1,450.00 (PS)	Shiela Ferranco
16. Sept. 17, 1996	35,000.00	35,000.00	none	Shiela Ferranco
17. Oct. 4, 1996	40,000.00	40,000.00	none	Kim P. Rillo

18. Oct. 18, 1996	40,000.00	40,000.00	none	Kim P. Rillo
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After having been apprised of the illegal transactions of petitioner on complainant's account, the latter complained to the bank for allowing the withdrawal of the money with the use of falsified encashment slips and demanded that the amount illegally withdrawn be returned. She was required by BPI to submit checks bearing her genuine signature for examination by the Philippine National Police (PNP) Crime Laboratory. After examination, Josefina dela Cruz of the PNP Crime Laboratory came up with a finding that complainant's signatures on the questioned encashment slips had been forged. Only then did the bank agree to pay her the amount of PhP 645,000 representing a portion of the amount illegally withdrawn with the use of the forged encashment slips.

In her defense, petitioner testified that she is a dentist, practicing her profession in her house at No. 21, Alvarez Street, Cubao, Quezon City. She further stated that she knew Remedios as the owner of the house that she and her husband were renting at No. 3 New Jersey Street, New Manila, Quezon City. She declared that she never used "Perez" as an alias or nickname and that the signatures appearing on the questioned encashment slips were not hers.

Petitioner, however, admitted that she was once a depositor of BPI Aurora Boulevard branch, having opened an account in said bank sometime in June 1995. She had been maintaining said account until she was arrested in 1998. She used to frequent the bank three times a week or as the need arose for her bank transactions, for which reason, she and the bank tellers had become familiar with each other. She knows that, like her, Remedios was also a depositor of BPI Aurora Boulevard branch, but there was no occasion that they met each other in the bank.

Remedios and BPI filed a complaint before the prosecutor's office.

The Information in Criminal Case No. Q-98-75971 reads as follows:

That on or about the 18<sup>th</sup> day of October 1996, in Quezon City, Philippines, the above-named accused, a private individual, by means of false pretenses and/or fraudulent acts executed prior to or simultaneously with the commission of the fraud and by means of falsification of commercial document did, then and there willfully, unlawfully and feloniously defraud Remedios D. Perez and/or the Bank of the Philippine Islands represented in the following manner, to wit: said accused falsified or caused to be falsified an encashment slip of Bank of the Philippine Islands dated October 18, 1996 for P40,000.00, Philippine Currency, by then and there filling up said encashment slip and signing the name of one Remedios D. Perez, a depositor of said bank under Account No. 3155-0572-61, thereby making it appear, as it did appear that said encashment slip is genuine in all respect, when in truth and in fact said accused well knew that Remedios D. Perez never signed the said encashment slip; that once said encashment slip was forged and falsified in the manner set forth, accused pretending to be the said Remedios D. Perez used it to withdraw the aforesaid sum of P40,000.00 from the

latter's account, and once, in possession of the said amount of money misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of the offended party.

CONTRARY TO LAW.<sup>[3]</sup>

The allegations in the Information in Criminal Case Nos. Q-98-75972-87 are all substantially the same as those in Criminal Case No. Q-98-75971, except for the dates of the commission of the crime or dates of the BPI encashment slips and the amounts involved, to wit:

<u>Criminal Case No.</u>	<u>Date of the commission of the crime/encashment slip</u>	<u>Amount Involved</u>
1. Q-98-75972	October 4, 1996	P40,000.00
2. Q-98-75973	September 4, 1996	35,000.00
3. Q-98-75974	August 5, 1996	50,000.00
4. Q-98-75975	July 17, 1996	40,000.00
5. Q-98-75976	July 5, 1996	25,000.00
6. Q-98-75977	June 26, 1996	45,000.00
7. Q-98-75978	June 7, 1996	40,000.00
8. Q-98-75979	May 24, 1996	50,000.00
9. Q-98-75980	May 13, 1996	40,000.00
10. Q-98-75981	April 29, 1996	40,000.00
11. Q-98-75982	April 10, 1996	30,000.00
12. Q-98-75983	April 8, 1996	40,000.00
13. Q-98-75984	March 21, 1996	40,000.00
14. Q-98-75985	February 15, 1996	20,000.00
15. Q-98-75986	February 12, 1996	30,000.00
16. Q-98-75987	September 18, 1995	30,000.00 <sup>[4]</sup>

Upon motion by the prosecution, the 17 cases were consolidated and tried jointly by the trial court. When arraigned, petitioner pleaded not guilty to each of the crimes charged in the 17 Informations. Trial on the merits ensued with the prosecution presenting seven witnesses, namely: Remedios; Arturo Amores, General Manager of BPI, Aurora Blvd. Branch; Regina Ramos, Mary Antonette Pozon, Sheila Ferranco, and Kim P. Rillo, all bank tellers of BPI, Aurora Blvd. Branch; and Josefina Dela Cruz, a Document Examiner III of the PNP Crime Laboratory. On the part of the defense, it presented petitioner herself and Carmelita Tanajora, petitioner's house helper.

### **Ruling of the Trial Court**

On May 21, 2007, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, joint judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the crimes

charged in Criminal [Case] Nos. Q-98-75971; Q-98-75972; Q-98-75973; Q-98-75974; Q-98-75975; Q-98-75976; Q-98-75977; Q-98-75978; Q-98-75979; Q-98-75980; Q-98-75981; Q-98-75982; Q-98-75983; Q-98-75984; Q-98-75985; Q-98-75986 and Q-98-75987. Accordingly, and applying the Indeterminate Sentence Law, she is hereby sentenced to suffer the penalty of imprisonment, as follows:

1. In Criminal Case No. Q-98-75971 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
2. In Criminal Case No. Q-98-75972 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
3. In Criminal Case No. Q-98-75973 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
4. In Criminal Case No. Q-98-75974 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Eight (8) Years and Twenty One (21) Days of *prision mayor*;
5. In Criminal Case No. Q-98-75975 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
6. In Criminal Case No. Q-98-75976 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Six (6) Years and Twenty One (21) Days of *prision mayor*;
7. In Criminal Case No. Q-98-75977 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Eight (8) Years and Twenty One (21) Days of *prision mayor*;
8. In Criminal Case No. Q-98-75978 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
9. In Criminal Case No. Q-98-75979 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Eight (8) Years and Twenty One (21) Days of *prision mayor*;
10. In Criminal Case No. Q-98-75980 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
11. In Criminal Case No. Q-98-75981 - Two (2) Years, Eleven (11) Months and Eleven (11) Days of *[prision] correccional* to Seven (7) Years and Twenty One (21) Days of *prision mayor*;
12. In Criminal Case No. Q-98-75982 - Two (2) Years, Eleven (11) Months and