

FIRST DIVISION

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

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

D E C I S I O N

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]

55,000.00

value

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