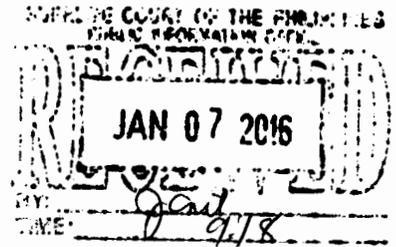




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 209039

Present:

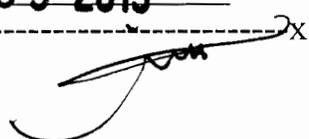
-versus-

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

MIRAFLOR UGANIEL LERIO,
 Accused-Appellant.

Promulgated:

DEC 09 2015

x-----x


RESOLUTION

PEREZ, J.:

Before us for review is the Decision¹ of the Court of Appeals (CA) in CA-G.R. CEB CR-HC. No. 01392 dated 20 June 2013 which affirmed with modification the Judgment² of the Regional Trial Court (RTC) of Cebu City, Branch 24, in Criminal Case No. CBU-74501, finding accused-appellant Miraflor Uganiel Lerio guilty beyond reasonable doubt of the crime of kidnapping of a minor.

Accused-appellant, together with co-accused Relly Ronquillo Arellano (Arellano), were charged with Kidnapping of a Minor in an Information, the accusatory portion of which reads:

¹ Rollo, pp. 3-12; Penned by Associate Justice Carmelita Salandanan-Manahan with Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla concurring.
² Records, pp. 94-104; Presided by Presiding Judge Olegario R. Sarmiento, Jr.



That on or about the 10th day of September, 2005, at about 10:00 a.m., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping with each other, with deliberate intent, being then private individuals, did then and there kidnap, carry away and deprive one JUSTIN CLYDE D. ANNIBAN, a baby boy, one (1) month) and eighteen (18) days old, of his liberty, without authority of law and against his will and consent.³

Accused-appellant was arrested on 10 September 2005 and detained on 12 September 2005.

On 19 September 2005, private complainant Aileen Anniban (Anniban) filed an Affidavit of Desistance⁴ in favor of Arellano declaring her belief that the latter was innocent of the crime charged. The police officers, however, insisted on impleading Arellano in the Information. Upon reinvestigation, as ordered by the trial court, Public Prosecutor Atty. Ma. Luisa Ratilla-Buenaventura recommended the dismissal of the case against Arellano. Accordingly, the trial court dropped the name of Arellano from the Information.⁵

Upon arraignment, accused-appellant entered a plea of “not guilty.” Trial ensued.

The prosecution presented as witnesses Anniban, Senior Police Officer 4 Virgilio Paragas (SPO4 Paragas) and Police Officer 3 Florito Homecilla Banilad (PO3 Banilad) whose testimonies sought to establish the following facts:

Anniban is a housewife, and a resident of Sitio San Miguel, Purok I Apas, Cebu City. She had come to know of accused-appellant a week before the incident as the latter had been staying at her neighbour’s house.

On 10 September 2005, around 5:30 in the morning, Anniban was in her kitchen preparing milk for her infant child, Justin Clyde, when accused-appellant entered the house and lay down on the bed beside the child and began chatting with her.

³ Id. at 1.

⁴ Id. at 11.

⁵ *Rollo*, p. 4.

Accused-appellant then told her that she would take the infant outside to bask him under the morning sun. Anniban refused this as the child had not yet been bathed. A few minutes later, Anniban realized that accused-appellant and her child were no longer in the house. A tenant of Anniban's informed her that she had seen accused-appellant quietly slip out of the house. When Anniban left the house to search for accused-appellant, she met her neighbor Yvonne on the way who told her that she had seen accused-appellant carrying her son and that accused-appellant was *en route* to Toledo City.⁶

Anniban sought the help of her neighbor Virginia Baldoza (Baldoza) who had known accused-appellant. Baldoza and her daughter thereafter accompanied Anniban to the South Bus Terminal. Thereat, a dispatcher informed them that accused-appellant had been fetched by a tattooed man on board a taxicab and that both headed for the pier to get on the M/V Asia Philippines.⁷

Around three o'clock in the afternoon, Anniban reported the incident to the Maritime Police and requested assistance. SPO4 Paragas, PO3 Banilad and PO1 Ricky Yeban accompanied Anniban to the vessel.⁸

Inside the ship, Anniban saw Arellano rocking her child in a cradle. Certain that it was Justin Clyde, she took the child and told Arellano that the child is hers. Both grappled for the baby.

Shortly, accused-appellant, who had been standing a few meters away, joined Arellano and both were arrested.⁹

Accused-appellant testified in her defense and interposed the defense of denial.¹⁰

Accused-appellant claimed that she and Anniban used to be neighbors. She did confirm that on 10 September 2005, she had gone to Anniban's house and chatted with her. While Anniban was busy doing her chores, she told her that she would take the child outside but was uncertain whether she had been heard by Anniban. Accused-appellant did take the

⁶ TSN, 26 September 2006, pp. 5-9; Testimony of Anniban.

⁷ Id. at 10.

⁸ Id. at 9-11; TSN, 19 June 2007, pp. 3-7; Testimony of SPO4 Paragas.

⁹ TSN, 19 June 2007, pp. 2-9; Testimony of SPO4 Paragas; TSN, 31 July 2007, pp. 2-6; Testimony of PO3 Banilad.

¹⁰ TSN, 22 April 2009, pp. 2-16.

child outdoors and proceeded to the pier as she had gotten a call from her boyfriend requesting her to meet with him on the vessel M/V Asia Philippines. Accused-appellant brought the child with her as her boyfriend allegedly wanted to see the child.

On the vessel, accused-appellant averred that she had received a call from Anniban asking for her child's whereabouts. Accused-appellant allegedly replied that they were just meeting with her boyfriend and that she would return the child that same afternoon. In response, Anniban purportedly threatened to file a case for kidnapping against accused-appellant if she did not return her son. Accused-appellant and her boyfriend were indeed arrested and charged with kidnapping of a minor by the maritime police officers.

On cross-examination, accused-appellant revealed that she had conceived a child around the same time as Anniban but that her child died during labor. She did not disclose this to her boyfriend and the latter's mother fearing their condemnation.¹¹

On 09 August 2011,¹² accused-appellant was found guilty beyond reasonable doubt of kidnapping of a minor. The RTC ruled that accused-appellant's act of taking of the one-month old infant, without the knowledge or consent of his mother, constituted the crime. It rejected accused-appellant's denial and gave credence to the testimonies for the prosecution. The dispositive portion of the RTC Decision reads:

WHEREFORE, finding accused MIRAFLOR UGANIEL LERIO GUILTY of the crime charged beyond reasonable doubt, hereby sentences her to suffer imprisonment of Reclusion Perpetua, as provided for in Article 267 of the Revised Penal Code as the victim is a minor, one-month old. She shall suffer the accessory penalty inherent in law.

She is adjudged liable to pay the following measures of damages:

- a) the sum of Fifty Thousand Pesos (P50,000.00) by reason of the crime;
- b) the sum of Fifty Thousand Pesos (P50,000.00) as moral damages;
- c) the sum of Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages.

No pronouncement as to costs.¹³

¹¹ Id. at 13.

¹² Records, pp. 94-104.

¹³ Id. at 104.

Accused-appellant seasonably filed a Notice of Appeal¹⁴ before the CA.

On 20 June 2013, the CA affirmed the judgment of the RTC but modified the amount of exemplary damages, raising it to Thirty Thousand Pesos (₱30,000.00) in line with the case of *People v. Valerio*.¹⁵

The CA rejected accused-appellant's contention that there had been no actual confinement or restraint imposed by her on the one-month old baby and that there had been no intention on her part to deprive him of liberty. The CA considered the age of the baby and ruled that since he had been placed in the physical custody and complete control of accused-appellant, whom he could not fight nor escape from, such constituted deprivation of liberty. The CA also noted accused-appellant's admission that she took the child away from her mother even when uncertain whether the latter had heard her request to take him; and that accused-appellant curiously had quietly left the house with the child and did not inform Anniban of her plans to head for the pier and show the baby to her boyfriend.¹⁶

Accused-appellant appealed her conviction before this Court. In a Resolution¹⁷ dated 20 November 2013, accused-appellant and the Office of the Solicitor-General (OSG) were notified that they may file their respective briefs if they so desired. Both parties manifested that they were adopting their briefs filed before the appellate court as their respective supplemental briefs.¹⁸

The Court finds no reason to reverse the factual findings of the RTC, as affirmed by the CA. The prosecution has established the elements of kidnapping under Article 267, paragraph 4 of the Revised Penal Code, to wit: (1) the offender is a private individual; (2) he kidnaps or detains another, or in any other manner deprives the latter of his or her liberty; (3) the act of detention or kidnapping is illegal; and (4) the person kidnapped or detained is a minor, female or a public officer.¹⁹

The prosecution has adequately and satisfactorily proven that accused-appellant is a private individual; that accused-appellant took one-month old

¹⁴ Id. at 105

¹⁵ *Rollo*, p. 12; CA Decision citing G.R. No. 186123, 27 February 2012, 667 SCRA 69.

¹⁶ Id. at 8-9.

¹⁷ Id. at 18.

¹⁸ Id. at 21-24 and 27-28.

¹⁹ *People v. Bringas, et al.*, 633 Phil. 406, 515 (2010).

baby Justin Clyde from his residence, without the knowledge or consent of, and against the will of his mother; and that the victim was a minor, one-month old at the time of the incident, the fact of which accused-appellant herself admitted.²⁰

To reiterate the time-honored maxim, unless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight that would have affected the result of the case, the Court will not disturb factual findings of the lower court. Having had the opportunity of observing the demeanor and behavior of witnesses while testifying, the trial court more than this Court is in a better position to gauge their credibility and properly appreciate the relative weight of the conflicting evidence for both parties. When the issue is one of credibility, the trial court's findings are given great weight on appeal.²¹

In addition, accused-appellant's defense of denial, like alibi, is inherently weak and if uncorroborated, is impotent. It constitutes self-serving negative evidence which cannot be given greater evidentiary weight than the declaration of credible witnesses who testified on affirmative matters.²²

The prescribed penalty for kidnapping a minor under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, is *reclusion perpetua* to death, to wit:

Art. 267. *Kidnapping and serious illegal detention.* — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death.

X X X X

4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female, or a public officer.

Since neither aggravating nor mitigating circumstances attended the commission of the felony, the RTC properly imposed the penalty of *reclusion perpetua*, together with the accessory penalty provided by law. The Court of Appeals also correctly modified the amount of the award of

²⁰ TSN, 22 April 2009, p. 4

²¹ *People v. Bondoc*, G.R. No. 98400, 23 May 1994, 232 SCRA 478, 484-485.

²² *People v. Villacorta*, 672 Phil. 712, 721 (2011).

exemplary damages in conformity with prevailing jurisprudence.²³ Finally, all damages awarded shall earn interest at the rate of 6% per *annum* from date of finality of this judgment until fully paid.²⁴

WHEREFORE, the Decision dated 20 June 2013 of the Court of Appeals in CA-G.R. CEB CR-HC. No. 01392 affirming the judgment of conviction of accused-appellant Miraflor Uganiel Lerio rendered by the Regional Trial Court of Cebu City, Branch 24, for Kidnapping of a Minor and sentencing her to suffer the penalty of *Reclusion Perpetua* and pay damages as follows: a) ₱50,000.00 as civil indemnity *ex delicto*; b) ₱50,000.00 as moral damages; and c) ₱30,000.00 as exemplary damages is hereby **AFFIRMED WITH MODIFICATION**. All damages awarded shall earn interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

²³ *People v. Valerio*, G.R. No. 186123, 27 February 2012, 667 SCRA 69.

²⁴ *People v. Colantava*, G.R. No. 190348, 9 February 2015.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice