



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
JAN 14 2021
BY: HENRY
TIME: 3:26 PM

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 1, 2020**, which reads as follows:

“G.R. No. 211715 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. MAJOR ISMAEL ORBEGOSO Y BONETE, MANUEL MORAL Y MOJAR, GENEROSO MAGPULONG Y BASADIE, FELIPE ILIGAN Y ESPINOSA, TEODULO ILIGAN Y ESPINOSA, ELDE AYUPAN Y ARAGON, LORENZO CAÑAS Y ARRIBE, FRANCISCO BORDA, AND JANE DOE, *accused*; MANUEL MORAL Y MOJAR, GENEROSO MAGPULONG Y BASADIE, TEODULO ILIGAN Y ESPINOSA, ELDE AYUPAN Y ARAGON, LORENZO CAÑAS Y ARRIBE, *accused-appellants*). — This resolves an appeal from the Court of Appeals’ Decision¹ in CA-G.R. CR HC No. 01888 finding accused-appellants guilty of kidnapping for ransom and robbery.

Major Ismael Orbegoso (Orbegoso), Manuel Moral (Moral), Generoso Magpulong (Magpulong), Felipe Iligan (Felipe), Teodulo Iligan (Teodulo), Elde Ayupan (Ayupan), Lorenzo Cañas (Cañas), Francisco Borda (Borda), and Jane Doe were charged with the crime of robbery and kidnapping for ransom.² The accusatory portion of the Information reads:

**Criminal Case No. 7036-99
For: Robbery**

That on or about May 1, 1999 in the Municipality of Dasmariñas, Province of Cavite, above-named accused with malicious and criminal intent, did then and there, with the use of force, threat and intimidation unlawfully and feloniously take, divest, get and carry away the ring of Karen Hsieh worth P30,000.00 against her will and consent to the damage and prejudice of the same.

CONTRARY TO LAW.

¹ Rollo, pp. 2-31. The Decision dated August 13, 2013 was penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Rosemari D. Carandang (Now a Member of this Court) and Ricardo R. Rosario of the Fifth Division, Court of Appeals, Manila.

² CA rollo, p. 50.

**Criminal Case No. B-99-242
For: Kidnapping for Ransom**

That on or about April 29, 1999 in the Municipality of Carmona, Province of Cavite, above-named accused while conspiring, confederating, conniving and mutually helping one another, with criminal and malicious intent, did then and there, willfully, unlawfully and feloniously, employing force, threat and intimidation, with the use of firearms, take, kidnap and carry away Hsieh Ong Chiu Yong aka Karen Hsieh and Ernesto Pasundaya, against their will and consent, to undisclosed place depriving them of their liberty and later releasing Ernesto Pasundaya, for the purpose of informing the family of Karen Hsieh of the kidnapping and later took Karen Hsieh to Dasmariñas, Cavite which is within the jurisdiction of this Honorable Court where accused further detained Karen Hsieh, thereafter the accused demanded from the family of Karen Hsieh the payment of ransom money as a condition for the release of Karen Hsieh, which, in fact the amount of P1,030,000.00 was actually paid on May 2, 1999 to the accused in Quezon City to the damage and prejudice of Karen Hsieh and her family.

CONTRARY TO LAW.³ (Emphasis in the original)

All pleaded not guilty during arraignment except for Borda and Jane Doe who remained at-large.⁴

The prosecution presented the following witnesses: (1) Karen Hsieh (Karen); (2) PO3 Alejandro Gerardo Liwanag (PO3 Liwanag); (3) Frank Hsieh (Frank); (4) SPO4 Marino Soberano (SPO4 Soberano); and (5) SPO2 Joseph Bagsao (SPO2 Bagsao).⁵

Karen narrated that in the morning of April 29, 1999, she was traveling along Southwoods, Carmona Cavite on board her car driven by Ernesto Panulayan (Panulayan) when an Isuzu Gemini blocked their way. Three (3) men "armed with long and short firearms" then alighted from the car and boarded hers.⁶ She testified that she was seated in the back of the car with accused Ayupan and Moral.⁷ While they were driving out of Southwoods, the armed men took her cellphone, pager, and ₱4,000.00 cash.⁸

Karen and Panulayan were brought to a house and asked to wait for Cañas.⁹ When Cañas arrived, he demanded ₱20,000,000.00, but Karen told him she does not have that much money with her. The kidnapers then allowed Panulayan to go home and inform Karen's family of their demands.¹⁰

³ Id. at 50-51.

⁴ Id. at 51.

⁵ Id. at 51-52; and *Rollo*, p. 12.

⁶ *CA rollo*, p. 52.

⁷ Id. at 53.

⁸ *Rollo*, p. 7.

⁹ Id. at 7-8.

¹⁰ *CA rollo*, p. 53.

Cañas then talked to Karen's husband, Frank Hsieh (Frank), and demanded money as well as a cellular phone charger.¹¹ The following day, Moral told Karen they were planning to kill her as her husband could not produce the money but that some of them took pity. Ayupan then took her ring, which was valued at ₱30,000.00.¹² Meanwhile, Frank continued the negotiations and promised to deliver the ransom money.¹³

Two (2) days later, Karen was rescued by the Presidential Anti-Organized Crime Task Force (Task Force) and was brought to Camp Crame where she identified Ayupan, Moral, Teodulo, and Magpulongas her assailants from a ten-man line up.¹⁴ She further named the other three (3) kidnapers.¹⁵

Meanwhile, PO3 Liwanag testified that he was part of the Task Force handling Karen's case.¹⁶ On May 1, 1999 at 9:00 p.m. a pay-off was scheduled at the fly-over along Katipunan Avenue, Quezon City. While at the fly-over, he claimed he saw two (2) men aboard a motorcycle with no plate number. He and his team then followed the motorcycle and saw the passenger of the motorcycle transfer to a red Isuzu Gemini car where another man was waiting. PO3 Liwanag later identified the riders of the motorcycle as Teodulo and Moral, while Orbegoso was the one inside the car.¹⁷

PO3 Liwanag and his team returned to the flyover after being informed that the pay-off was about to commence. The motorcycle they followed earlier then passed by and took the ransom money. After observing the first pay-off, they were asked to return to Camp Crame where they waited for further instructions.¹⁸

At 11:00 p.m., they were told to return to their position at the fly-over to observe the second pay-off. There, they saw the same motorcycle get the black bag containing the ransom money.¹⁹ Their leader then instructed them to arrest those on board the motorcycle because Karen was already rescued.²⁰

PO3 Liwanag proceeded to cut the motorcycle's path along Balara, Quezon City and announce the arrest. One of the men, later identified as Teodulo, tried to run and wrestle his gun, during which, PO3 Liwanag

¹¹ Id.

¹² Id. at 54.

¹³ Id.

¹⁴ Id. at 55.

¹⁵ Id. at 56.

¹⁶ Id. at 60.

¹⁷ Id. at 60-61.

¹⁸ Id. at 61.

¹⁹ Id. at 61-62.

²⁰ Id. at 62.

accidentally pulled the trigger and shot Teodulo on his right leg.²¹ PO3 Liwanag then recovered the ransom money from Teodulo²² amounting to ₱1,030,000.00.²³

Thereafter, they found the red Isuzu Gemini car used by the kidnapers.²⁴ While waiting for the members of the SOCO, accused Obregoso and his companion arrived, claiming that the car and his motorcycle were stolen. Obregoso and his companion then went with the police to Camp Crame.²⁵

SPO4 Soberano, a member of the Task Force, narrated that he and his team learned from an informant that there were armed men in an apartment in Dasmariñas, Cavite.²⁶ When they observed the apartment, they noticed several people repeatedly entering and exiting the place while talking to someone on the phone. They also saw the same people use the car later seized by PO3 Liwanag.²⁷

SPO4 Soberano also claimed he saw a lady in the apartment that matched the picture of Karen²⁸ and that when they went inside the apartment, they were able to arrest three (3) persons later identified as accused Magpulong, Felipe, and Ayupan.²⁹ He also identified Obregoso as the person he saw in the apartment using the cellphone.³⁰

Frank testified that he learned about the kidnapping of his wife from their driver on April 29, 1999. The following day, he received a call from the kidnapers, who demanded ₱20,000,000.00 as ransom money. Attempting to negotiate, he instead offered ₱500,000.00 and a car but this offer was rejected.³¹ He then sought the assistance of General Panfilo Lacson.³²

Later on, the kidnapers finally agreed on the amount of ₱1,030,000.00, plus the car, in exchange for Karen's freedom.³³ The kidnapers then instructed Frank to meet them at the Katipunan flyover and to give the money to two (2) men on board a motorcycle.³⁴

²¹ Id.

²² Id. at 63.

²³ Id. at 64.

²⁴ Id. at 62-65.

²⁵ *Rollo*, p. 9.

²⁶ *CA rollo*, pp. 69-70.

²⁷ Id. at 70.

²⁸ Id.

²⁹ Id. at 71.

³⁰ *Rollo*, p. 10

³¹ Id.

³² Id. at 10-11.

³³ Id. at 11.

³⁴ Id.

After Karen was rescued, Frank met her at Camp Crame. There, he identified the ransom money and the bag that he gave to the kidnappers. He also pointed to Moral as one of those onboard the motorcycle who took the ransom money.³⁵

SPO2 Bagsao also testified as the evidence custodian of the car involved in the kidnapping. While he admitted that the color of the retrieved car (red) differed from that in the report (green), he said the chassis and engine numbers on the two were the same.³⁶

Meanwhile, the defense presented the following witnesses: (1) accused Cañas, (2) accused Felipe, (3) accused Ayupan, (4) accused Magpulong, (5) accused Moral, (6) accused Orbegoso, and (4) Napoleon Del Castillo (Del Castillo).

All of the accused denied the accusations against them and claimed that they were somewhere else at the time the crime was committed.³⁷ They likewise claimed they were “maltreated” by the police and falsely implicated in the crime.³⁸

Accused Cañas claimed that in 1999, he never went to Manila as he was a farmer and tricycle driver in Sultan Kudarat. He narrated that on June 28, 1999, he was arrested by the police in Cotabato City. He alleged hearing one of the marine officers remark that they accosted the wrong person because Cañas was skinny, and they were looking for a man big in built. Nevertheless, they brought Cañas for formal investigation.³⁹

Before he was brought to Camp Crame, he learned that he was accused of robbery in Manila.⁴⁰ He said he was blindfolded and physically abused by the interrogators when he denied knowing about the other suspects.⁴¹ He also claimed he had never met Karen, her husband, and the members of the Task Force.⁴²

In his testimony, accused Felipe likewise claimed he was falsely accused.⁴³ He stated that he had been working for Frank as a utility worker for at least three (3) years and that he went with the police to know what happened to his brother, accused Teodulo. However, upon arrival at Camp

³⁵ Id.

³⁶ Id. at 12.

³⁷ CA *rollo*, p. 125.

³⁸ Id.

³⁹ Id. at 73.

⁴⁰ Id. at 73-74.

⁴¹ Id. at 74-75.

⁴² Id. at 75.

⁴³ Id. at 75-76.

Crame, he met Frank and Karen, who were shocked to know he was one of the suspects.⁴⁴

After learning that his brother was in the hospital, Felipe claimed a police hit him in the nape, covered his eyes with masking tape, and tied his hands. He was then punched a few minutes and dragged by the police until he lost consciousness because of the pain.⁴⁵ He also claimed that a gun was shoved into his mouth while being interrogated, and when the tape was removed from his eyes, he saw his brother Teodulo, a lawyer named Atty. Chua, and some police. He was then detained with Magpulong, Ayupan, Moral, and Orbegoso in Camp Crame for about a month.⁴⁶

Felipe claimed Atty. Chua also abused him during the interrogation⁴⁷ and that he was the one who identified him as one of the kidnapers during trial—not Karen or Frank. Felipe further stated that all of the accused had no lawyers, except for Orbegoso.⁴⁸

Meanwhile, accused Ayupan stated that in the evening of May 1, 1999, he was along East Avenue, Quezon City when a man approached him. The man asked him if he was a soldier after noticing a tattoo on his right arm, to which he replied in the negative because he was no longer in service.⁴⁹

After a while, a van arrived and took him. While his head was covered with a hood, he heard someone accuse him of being a kidnapper. He was then dropped off in a certain place⁵⁰ where he was maltreated by Atty. Chua, who compelled him to admit that he knew Orbegoso.⁵¹ Ayupan, however, denied knowing any of the accused. He also declared that he was not given a lawyer during the inquest, although he requested for one.⁵²

In his defense, accused Magpulong claimed he was driving along Katipunan Road when he was accosted by armed men who threatened him with a gun. He alleged that these men maltreated and forced him to admit his involvement in a kidnapping case until he lost consciousness. When he woke up, he claimed he was already in a room where he was further interrogated. He alleged he was only identified by the victim upon the instruction of Atty. Chua.⁵³

⁴⁴ Id. at 75.

⁴⁵ Id. at 76.

⁴⁶ Id. at 77.

⁴⁷ Id. at 78.

⁴⁸ Id. at 79.

⁴⁹ Id. at 79–80.

⁵⁰ Id. at 80.

⁵¹ *Rollo*, p.14.

⁵² Id.

⁵³ Id. at 15.

Accused Teodulo narrated that on May 1, 1999, he was along Alabang on his way to Cavite to visit his brother, Felipe when he was pushed inside a vehicle, blindfolded, and maltreated. After around an hour, he claimed he was brought to a room and was told that he will be released but he was brought inside the vehicle again.⁵⁴

After a while, he was kicked out of the vehicle, causing him to fall face down. Upon falling down, he heard someone shout “run!” and just before standing up, he heard a gunshot and felt that he was hit on his left foot. When asked what he was doing in Alabang, he requested to inform his brother, Felipe, about what happened to him and gave the latter’s address.⁵⁵ After his wound was treated, he was brought to Camp Crame where he met Felipe and the other accused.

Teodulo also claimed he was maltreated by Atty. Chua and was not given a lawyer during custodial investigation and inquest proceedings despite requesting for one.⁵⁶

Accused Moral also claimed innocence. He narrated that on May 1, 1999, he was taken by a van while waiting for his friends at Coastal Mall. While inside the van, he said he was poked with guns and a black shirt was used to cover his head. Moral also identified Atty. Chua as the person who interrogated him when he was brought to Camp Crame.⁵⁷

Meanwhile, Accused Orbegoso admitted to owning the retrieved motorcycle but claimed it was earlier stolen, as evidenced by a police blotter.⁵⁸ He stated it was impossible that the Isuzu Gemini—which he claimed to have also been stolen from his nephew—was used in the kidnapping because its battery was missing.⁵⁹ Further, he claimed that he was working as a command adjutant at the AFP Medical Center at V. Luna Road, Quezon City at the time of the commission of the crime.⁶⁰

Orbegoso narrated that when he went to Camp Crame, Atty. Chua immediately interrogated him regarding the vehicles used and that he denied ownership of the car.⁶¹ He claimed he only met his co-accused for the first time during the inquest where his request for a lawyer was denied. Later, the lawyer contacted by his cousin, Del Castillo, arrived. However, he had

⁵⁴ Id.

⁵⁵ Id. at 16.

⁵⁶ Id.

⁵⁷ Id. at 17.

⁵⁸ CA *rollo*, pp. 92–93.

⁵⁹ Id. at 93.

⁶⁰ Id. at 127.

⁶¹ Id. at 93.

already signed the minutes of the inquest. Pictures were taken and the next day, he was painted in the news as the mastermind of the crime.⁶²

Del Castillo, corroborated Orbegoso's testimony. He stated that the car belonged to his cousin's husband and he used it as the head of his church's transportation committee.⁶³ He reiterated that the car was not functioning due to a stolen battery⁶⁴ and that Orbegoso does not know how to drive.⁶⁵ Moreover, Del Castillo claimed that it was impossible for his cousin to be involved in the crime because he was with him on May 1, 1999.⁶⁶

Del Castillo further narrated that when he and Orbegoso were about to fix the car at a gasoline station along Katipunan, PO3 Liwanag approached and told them that the car was used in a crime. PO3 Liwanag then asked them to go with him to Camp Crame.⁶⁷

One of the private prosecutors, Atty. Sandra Marie Olaso-Coronel (Atty. Coronel) testified that no irregularities attended the inquest proceedings.⁶⁸ She averred that she did not observe any form of maltreatment committed on the accused while she was in Camp Crame. She also narrated that Atty. Chua was not with them during the inquest because he had a previous appointment.⁶⁹

Atty. Coronel said she entered her appearance as Karen's counsel while Atty. Artuz appeared only for Orbegoso. She also said three (3) prosecutors were present during the inquest. As the other accused did not have a lawyer, the prosecutor asked Atty. Artuz if he was going to file a counter-affidavit for Orbegoso, to which he answered in the negative.⁷⁰ The other accused then decided to abide by what Orbegoso decided with his lawyer.⁷¹

Atty. Coronel explained to the court that while the accused, except for Orbegoso, were not represented by counsel, the prosecutor had no choice but to proceed with the inquest as their rights will be prejudiced due to the delay.⁷²

With respect to Orbegoso's claim that he cannot drive, Atty. Coronel presented a certification from the Land Transportation Office stating that he

⁶² Id. at 94.

⁶³ Id. at 101.

⁶⁴ Id. at 102.

⁶⁵ Id. at 105-106.

⁶⁶ Id. at 106.

⁶⁷ Id. at 102-103.

⁶⁸ Id. at 113-114.

⁶⁹ Id. at 116.

⁷⁰ Id. at 117.

⁷¹ Id. at 117-118.

⁷² Id. at 119.

was issued a driver's license. She also showed that Orbegoso had a criminal record for illegal possession of ammunition.⁷³

State Prosecutor Richard Anthony Fadullon (Fadullon) testified on rebuttal. He reiterated that there was no irregularity committed during the inquest despite the accused's lack of counsel.⁷⁴ He also reasoned that they had to proceed with the inquest because kidnapping for ransom must be resolved within 36 hours from the time of arrest.⁷⁵

Fadullon likewise admitted that Cañas' name was only supplied to them by the police as he was not present during the inquest.⁷⁶

The Regional Trial Court found Moral, Magpulong, Teodulo, Ayupan, and Cañas guilty of kidnapping with ransom. Ayupan was also found guilty of robbery.⁷⁷ The dispositive portion of the Decision reads:

ACCORDINGLY, finding accused Elde Ayupan y Aragon **GUILTY** beyond reasonable doubt of Robbery in *Criminal Case No. 7036-99*, he is hereby sentenced to suffer imprisonment for a period ranging from four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum, and to pay the costs.

Being a detention prisoner, he is credited in full of the time he had undergone preventive imprisonment provided he had voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

The other accused Major Ismael Orbegoso y Bonete, Manuel Moral y Mojar, Generoso Magpulong y Basadie, Felipe Iligan y Espinosa, Teodulo Iligan y Espinosa, and Lorenzo "Jun" Cañas y Arribe are all **ACQUITTED** for insufficiency of evidence.

In *Criminal Case No. B-99-242*, the Court finds accused Manuel Moral y Mojar, Generoso Magpulong y Basadie, Teodulo Iligan y Espinosa, Elde Ayupan y Aragon and Lorenzo "Jun" Cañas y Arribe **GUILTY** beyond reasonable doubt of Kidnapping for Ransom and hereby sentences each of them to suffer the penalty of **DEATH**, and to pay, jointly and severally, the victim Karen Hsie [sic] and her family the sum of five hundred thousand (P500,000.00) pesos as moral damages, and to pay the costs.

For insufficiency of evidence, accused Major Ismael Orbegoso y Bonete and Felipe Iligan y Espinosa are both **ACQUITTED** of the crime charged.

⁷³ Id. at 118.

⁷⁴ Id. at 123.

⁷⁵ Id. at 124.

⁷⁶ Id. at 125.

⁷⁷ Id. at 49-148. The Decision dated August 8, 2005 was penned by Executive Judge Eduardo Israel Tanguanco of Branch 89, Regional Trial Court, Bacoor, Cavite.

The Provincial Jail Warden of Cavite is ordered to immediately release Major Ismael Orbegoso y Bonete and Felipe Iligan y Espinosa from jail unless they are held for other charges which may justify their further detention.

Pursuant to the Decision of the Supreme Court in the case of *People v. Mateo* (G.R. No. 147678-87, 07 July 2004), let the complete records of these cases be forwarded to the Court of Appeals for automatic review.

SO ORDERED.

Bacoor, Cavite, 08 August 2005.⁷⁸ (Emphasis in the original)

The trial court ruled that the elements of kidnapping were present in the case:⁷⁹ (1) Teodulo, Magpulong, Moral, Ayupan, and Cañas were private individuals; (2) they kidnapped and detained Karen Hsieh; (3) The kidnapping and detention were illegal; and (4) it lasted for more than three (3) days.⁸⁰ Further, Karen was kidnapped for the purpose of “extorting ransom[.]”⁸¹

The trial court held that the accused were positively identified by the victim as well as the other witnesses. Karen recognized Moral, Magpulong, Teodulo, and Ayupanas some of the perpetrators, while Cañas was pinpointed as the person who demanded the ransom money.⁸² Further, Frank identified Moral and Teodulo as the men who received the ransom money while riding a motorcycle.⁸³ Orbegoso was identified by PO3 Liwanag as the one on board the red Isuzu Gemini car and the man seen in the apartment in Cavite.⁸⁴

Weighed against their positive identification, the trial court ruled that their defense of alibi must fail. For an alibi to be given credence, the trial court ruled that the accused must show that it was physically impossible for him or her to be present at the place where the crime was committed.⁸⁵ However, the trial court noted that the accused failed to present other witnesses who could have corroborated their testimonies.⁸⁶

With respect to the liability of Orbegoso and Felipe, the trial court held that the two were able to substantiate their alibi. Orbegoso proved that he was at the AFP Medical Center working as a military officer when the crime transpired. This was affirmed by the testimony of Del Castillo.⁸⁷ Orbegoso’s participation in the crime based on the retrieved car is also specious

⁷⁸ Id. at 146–148.

⁷⁹ Id. at 139–140.

⁸⁰ Id. at 140

⁸¹ Id.

⁸² Id. at 126.

⁸³ Id. at 126–127.

⁸⁴ Id. at 127.

⁸⁵ Id. at 130.

⁸⁶ Id. at 131.

⁸⁷ Id. at 135.

considering that the battery and ignition switch of the car were missing.⁸⁸ Orbegoso also proved that the motorcycle used in the pay-off was stolen, as shown by a certification.⁸⁹

On the other hand, Felipe was found to have reported for work in Frank's company when the crime happened. Even Karen and Frank were surprised when they saw him in Camp Crame. Further, the trial court ruled there was no showing that Orbegoso and Felipe conspired with their co-accused.⁹⁰

With regard to the robbery, the trial court only held Ayupan responsible in the absence of proof that his co-accused conspired with him.⁹¹

Moral, Magpulong, Teodulo, Ayupan, and Cañas appealed the Decision of the trial court,⁹² but the Court of Appeals affirmed their conviction.⁹³

WHEREFORE, premises considered, the assailed Decision dated August 8, 2005 of the Regional Trial Court of Bacoor, Cavite, Branch 49, is **AFFIRMED**.

No costs.

SO ORDERED.⁹⁴ (Emphasis in the original)

The Court of Appeals held that the prosecution was able to prove all the elements of kidnapping.⁹⁵ Further, the account of the witnesses, and most importantly the victim's testimony, were consistent and credible in identifying the accused as the perpetrators of the crime.⁹⁶

The Court of Appeals rejected the claim that the witnesses for the prosecution were not credible. It ruled that the positive identification by the victim was even admitted by Magpulong.⁹⁷ Further, the contention that the victim's testimony must be "corroborated by the driver" does not deserve weight because the victim's clear and positive testimony was sufficient.⁹⁸ It held that the claim of inconsistencies in the narration of the prosecution witnesses is likewise insignificant to undermine their integrity.⁹⁹

⁸⁸ Id.

⁸⁹ Id. at 136.

⁹⁰ Id.

⁹¹ Id. at 138.

⁹² *Rollo*, p. 3.

⁹³ Id. at 2-31.

⁹⁴ Id. at 30-31.

⁹⁵ Id. at 19-20.

⁹⁶ Id. at 20.

⁹⁷ Id. at 20-23.

⁹⁸ Id. at 23.

⁹⁹ Id. at 24.

On the charge of robbery, the Court of Appeals likewise affirmed Ayupan's conviction.¹⁰⁰

Lastly, the Court of Appeals ruled that the constitutional right of the accused was not violated even if they had no counsel during the preliminary investigation. Echoing the Solicitor General's position, the Court of Appeals maintained that this defect was cured when the appellants entered their plea during arraignment.¹⁰¹

With respect to the penalty imposed, the appellate court reduced the penalty from death to *reclusion perpetua*, considering the abolition of the death penalty under Republic Act No. 9346.¹⁰²

Accused-appellants Moral, Magpulong, Teodulo, Ayupan, and Cañas filed their appeal before this Court.

In their Supplemental Brief,¹⁰³ they maintain their innocence and claim that there was insufficient evidence to convict them of the crime.¹⁰⁴

They assail the credibility of the prosecution's witnesses and aver that the testimonies given were inconsistent, making the allegations highly doubtful and incredible.¹⁰⁵ They put in issue why the victim's driver was sent home but was not presented as a witness by the prosecution.¹⁰⁶

Accused-appellants also claim that PO3 Liwanag's testimony is unbelievable as the motorcycle was proven to be stolen, and the car allegedly used during pay-off did not function at that time.¹⁰⁷ Moreover, they emphasized that PO3 Liwanag testified that he hit Teodulo on the right leg, when the latter was actually shot on the left leg. They further maintain that it was odd that the Task Force knew the route and the vehicle used by the kidnappers.¹⁰⁸

On the other hand, the Office of the Solicitor General manifested that it will no longer file a supplemental brief considering there was no new issue

¹⁰⁰ Id. at 27–28.

¹⁰¹ Id. at 28.

¹⁰² Id. at 30.

¹⁰³ Id. at 61–66.

¹⁰⁴ Id. at 62.

¹⁰⁵ Id.

¹⁰⁶ Id. at 63.

¹⁰⁷ Id.

¹⁰⁸ Id. at 64.

raised.¹⁰⁹ Pending the resolution of this case, the Court was informed of the death of accused-appellant Manuel Moral.¹¹⁰

The sole issue in this case is whether or not the guilt of the accused-appellants was proven beyond reasonable doubt.

I

Accused-appellants were charged under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659.

Article 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:

1. If the kidnapping or detention shall have lasted more than five days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, female or a public officer.

The penalty shall be death penalty where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed[.]¹¹¹ (Emphasis in the original)

In cases of kidnapping for ransom, the following elements must concur to secure a conviction:

[First,] the accused was a private person; [second,] he [or she] kidnapped or detained or in any manner deprived another of his or her liberty; [third,] the kidnapping or detention was illegal; and [fourth,] the victim was kidnapped or detained for ransom.¹¹² (Citation omitted)

¹⁰⁹ Id. at 69.

¹¹⁰ Id. at 106–107.

¹¹¹ REV. PEN. CODE, art. 267.

¹¹² *People v. Avancena y Cabanela*, 810 Phil. 672, 672 (2017) [Per J. Leonen, Second Division].

A review of the case shows that all elements were sufficiently proven by the prosecution. First, accused-appellants were private persons. Second, the victim was abducted and taken to an apartment in Cavite. Third, the kidnapping was illegal; and, lastly, Karen was kidnapped in exchange for ₱1,030,000.00 which was paid by the victim's husband to the kidnappers.¹¹³

Accused-appellants cast doubt as to their proper identification, claiming that the witnesses' testimonies are riddled with inconsistencies and, hence, should not be given credence.

We affirm the lower courts' appreciation of the witnesses' testimonies. When the credibility of the witnesses is put in question, the findings of fact and the assessment of the trial court is accorded high respect, especially when affirmed by the appellate court.¹¹⁴ These findings are only reevaluated by this Court when there is a clear showing that the lower courts have "overlooked, misunderstood or misapplied some facts or circumstances of weight and substance[.]"¹¹⁵

In *People v. Castel*,¹¹⁶ this Court emphasized that the assessment of credibility of witnesses is a function best left to the trial court:

Findings of facts and assessment of credibility of witnesses are matters best left to the trial court. What militates against the claim of appellant is the time-honored rule that the findings of facts and assessment of credibility of witnesses are matters best left to the trial court. The trial court has the unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath — all of which are useful aids for an accurate determination of a witness' honesty and sincerity.¹¹⁷ (Citation omitted)

Moreover, the witness's credibility is not diminished by inconsequential inconsistencies. In *People v. Sesbreño*,¹¹⁸ this Court held:

Variations in the declarations of witnesses respecting incidental matters do not detract from the weight of testimony in its entirety as to material and important facts. Nor do minor inconsistencies preclude the positive identification of the accused. Minor inconsistencies in the testimonies of witnesses strengthen, rather than weaken, the credibility of the witnesses,

¹¹³ *Rollo*, pp. 19–20.

¹¹⁴ *People v. Lugasin*, 781 Phil. 701 (2016) [Per J. Leonardo-De Castro, First Division].

¹¹⁵ *Id.* at 711.

¹¹⁶ 593 Phil. 288 (2008) [Per J. R.T. Reyes, En Banc].

¹¹⁷ *Id.* at 315–316.

¹¹⁸ 372 Phil. 762 (1999) [Per J. Quisumbing, Second Division].

as it clearly shows that the testimonies offered are neither rehearsed nor coached.¹¹⁹

In *People v. Dimapilit y Abellado*,¹²⁰ this Court held that inconsistencies not affecting the elements of the crime will not reverse a conviction. Thus:

A witness' inconsistency on minor details does not affect his or her credibility as long as there are no material contradictions in his or her absolute and clear narration on the central incident and positive identification of the accused as one (1) of the main assailants. 1 Any inconsistency, which is not relevant to the elements of the crime, "is not a ground to reverse a conviction."¹²¹ (Citations omitted)

As observed by the lower courts, there is nothing incredible in the testimonies made by the victim and the other prosecution witnesses.

Accused-appellants harp on alleged inconsistencies of the witnesses' testimonies, but these inconsistencies are not substantial enough to impair the credibility of the witnesses.

The inconsistency as to which leg was shot by PO3 Liwanag is too minor a detail to convince this Court to disregard his testimony. Moreover, the trial court has already ruled that the motorcycle and the car used in the kidnapping were not the basis for conviction.

During the ocular inspection of the trial court, it saw that the car indeed ceased to function because it had no battery and ignition switch.¹²² The trial court also agreed that the motorcycle registered in the name of Orbegoso was reported to be missing.¹²³

The lack of testimony from the victim's driver also does not reduce the weight and value of the testimonies given by the witnesses. This Court has ruled that the testimony of a sole witness is sufficient to support a conviction if the testimony is credible and trustworthy.¹²⁴ Thus, accused-appellants may be convicted by the testimonies of the victim and other witnesses considering these are clear, positive, and convincing.

What secured the conviction of accused-appellants was actually the positive identification of the victim herself. When Karen took the stand, she identified the accused-appellants as the perpetrators of the crime. She narrated

¹¹⁹ Id. at 767.

¹²⁰ 816 Phil. 523 (2017) [Per J. Leonen, Second Division].

¹²¹ Id. at 527-528.

¹²² CA rollo, p. 135.

¹²³ Id. at 136.

¹²⁴ *People v. Samson*, 313 Phil. 863 (1995) [Per J. Bellosillo, First Division].

that Cañas was the person who demanded ₱20,000,000.00 in exchange for her freedom. The other accused were likewise identified by Karen during the police line-up.

On the other hand, accused-appellants only proffered the defense of alibi, claiming they were somewhere else during the time of the commission of the crime.

Settled is the rule that alibi is an inherently weak defense and it cannot prevail over the witness's positive identification of the assailant. In *People v. Peteluna*:¹²⁵

It is a time-honored principle that the positive identification of the appellant by a witness destroys the defense of alibi and denial. Thus:

. . . It is well-entrenched that alibi and denial are inherently weak and have always been viewed with disfavor by the courts due to the facility with which they can be concocted. They warrant the least credibility or none at all and cannot prevail over the positive identification of the appellant by the prosecution witnesses. For alibi to prosper, it is not enough to prove that appellant was somewhere else when the crime was committed; he must also demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law. Denial, like alibi, as an exonerating justification, is inherently weak and if uncorroborated regresses to blatant impotence. Like alibi, it also constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.¹²⁶ (Citations omitted)

For an alibi to be given weight, the accused must demonstrate with clear and credible evidence that it was physically impossible for him or her to be present in the scene of the crime when it was committed.¹²⁷

In *People v. Calope*:¹²⁸

Moreover, alibi is one of the weakest defenses that can be resorted to by an accused, not only because it is inherently weak and unreliable but also because it is easy of fabrication. To entitle an accused to an acquittal, alibi must be supported by credible corroboration from disinterested witnesses and where the defense of alibi is not corroborated, it is fatal to the accused. Moreover, for alibi to preponderate over the case of the prosecution, the accused must prove not only that he was somewhere when the crime was

¹²⁵ 702 Phil. 128 (2013) [Per J. Perez, Second Division].

¹²⁶ Id. at 141-142.

¹²⁷ *Vergara v. People*, 425 Phil. 124 (2002) [Per J. Quisumbing, Second Division].

¹²⁸ 299 Phil. 430 (1994) [Per J. Melo, Third Division].

committed but also that it was physically impossible for him to have been at the scene of the crime.¹²⁹ (Citations omitted)

In this case, accused-appellants failed to demonstrate that it was physically impossible for them be at the scene of the crime when it was committed. They all claimed they were elsewhere, but these self-serving assertions were not corroborated by any witnesses.

Against their positive identification, accused-appellants' denials and alibis hardly have any probative value. To reiterate, this form of defense is self-serving and cannot be accorded as much weight as positive and affirmative evidence.

In sum, accused-appellants failed to show that the lower courts have misconstrued or misunderstood the applicable laws and facts of this case.

II

Accused-appellant Ayupan was also charged with robbery under Article 294(5) of the Revised Penal Code, which states:

ARTICLE 294. *Robbery with Violence Against or Intimidation of Persons — Penalties.* — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

.....

5. The penalty of *prision correccional* in its maximum period to *prision mayor* in its medium period in other cases.¹³⁰ (Emphasis in the original)

To be convicted under simple robbery the following elements must concur: “(a) that there is personal property belonging to another; (b) that there is unlawful taking of that property; (c) that the taking is with intent to gain; and (d) that there is violence against or intimidation of persons or force upon things.”¹³¹

Here, the prosecution, through the victim's testimony, has proven that all the elements of robbery were present.

First, the ring worth ₱30,000.00 belonged to Karen. Second, Ayupan unlawfully took the ring. Third, the intent to gain was presumed from the

¹²⁹ Id. at 431.

¹³⁰ REV. PEN CODE, art. 294.

¹³¹ *People v. Avancena y Cabanela*, 810 Phil. 672–692 (2017) [Per J. Leonen, Second Division].

taking of the victim's property.¹³² Lastly, when Ayupan took the ring, there was intimidation and coercion considering that Karen was forcibly taken by armed men.

In Karen's testimony, she narrated that Ayupan took her ring worth ₱30,000.00 when she was in the apartment. She also said that After Ayupan got her ring, he told her not to mention it to their leader because the latter might take it from him.¹³³ Hence, the lower courts are correct in ruling that only Ayupan should be held liable for robbery.

We find no cogent reason to overturn the findings and conclusions of the trial court and Court of Appeals. The positive identification made by the victim, as well as the other witnesses, sufficiently prove beyond reasonable doubt the guilt of the accused-appellants. Considering the weight of evidence presented by the prosecution, we affirm the conviction of the accused-appellants for the crimes charged.

Under Article 267 of the Revised Penal Code, the penalty for kidnapping for ransom is *reclusion perpetua* to death.¹³⁴ However, due to the suspension of the death penalty under Republic Act No. 9346, the proper penalty is *reclusion perpetua* without eligibility for parole.¹³⁵ With respect to the damages, We modify the award of civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each in accordance with *People v. Jugueta*.¹³⁶ On the charge of robbery, We affirm the penalty meted by the lower courts.

Lastly, considering accused Moral's death pending appeal, his criminal liability and civil liability *ex delicto* are extinguished and the charges against him are dismissed.¹³⁷

¹³² *People v. Reyes y Batac*, 447 Phil. 668–678 (2003) [Per J. Ynares-Santiago, First Division].

¹³³ *CA rollo*, p. 138.

¹³⁴ REV. PEN. CODE, art. 267 provides:

Article 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[.]

¹³⁵ Rep. Act No. 9346 (2005), sec. 1 and 3 provides:

SECTION 1. The imposition of the penalty of death is hereby prohibited. Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection is hereby repealed, Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A. No. 7659), otherwise known as the Death Penalty Law, and all other laws, executive orders and decrees, insofar as they impose the death penalty are hereby repealed or amended accordingly.

SECTION 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences Will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

¹³⁶ *People v. Jugueta*, G.R. No. 202124, April 5, 2016, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/61867>> [Per J. Peralta, En Banc].

¹³⁷ *Tuano y Hernandez v. People*, 796 Phil. 124–135 (2016) [Per J. Leonen, Second Division].

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR HC No. 01888 is hereby **AFFIRMED** with **MODIFICATION**.

- (1) Accused-appellants Generoso Magpulong y Basadie, Teodulo Iligan y Espinosa, Elde Ayupan y Aragon, and Lorenzo Cañas y Arribe are found **GUILTY** of the crime of kidnapping for ransom and shall suffer the penalty of imprisonment of *reclusion perpetua* without eligibility for parole. They are ordered to pay the victim civil, moral, and exemplary damages in the amount of ₱75,000.00 each;
- (2) Accused-appellant Lorenzo Cañas y Arribe is found **GUILTY** of the crime robbery and is sentenced to suffer the penalty of imprisonment of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum. He is credited in full of the time he had undergone preventive imprisonment, provided he had voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED." (Inting, J., designated additional Member per Raffle dated June 22, 2020.)

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
CFR
11/21/20

Atty. Catherine A. Baldos
PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1101 Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 01888
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 89, Bacoor
4102 Cavite

Messrs. Generoso B. Magpulong,
Teodulo E. Iligan, Elde A. Ayupan,
Lorenzo A. Canas
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila