



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 205442

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

JONATHAN CON-UI and
RAMIL MACA,
Accused-Appellants.

Promulgated:

DEC 11 2013

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RESOLUTION

REYES, J.:

For review is the Decision¹ dated December 20, 2011 of the Court of Appeals (CA) in CA-G.R. HC No. 00462-MIN, which modified the Decision² dated May 24, 2006 rendered by the Regional Trial Court (RTC) of Tandag, Surigao del Sur, Branch 40, in Criminal Case No. 4327, finding Jonathan Con-ui (Con-ui) and Ramil Maca (Maca) (accused-appellants) guilty of the crime of Kidnapping. The dispositive portion of the CA decision provides:

WHEREFORE, the Decision dated May 24, 2006 of the court *a quo* in *Crim. Case No. 4327* is **MODIFIED**. Accused-appellant Ramil Maca and Jonathan Con-ui are hereby declared GUILTY beyond reasonable doubt of the crime of kidnapping for ransom and [are] hereby sentenced to *reclusion perpetua*, without eligibility for parole.

¹ Penned by Associate Justice Abraham B. Borreta, with Associate Justices Romulo B. Borja and Melchor Quirino C. Sadang, concurring; CA *rollo*, pp. 92-105.

² Issued by Presiding Judge Vicente M. Luna, Jr., id. at 30-53.

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Accused-appellants are further **ORDERED** to pay each of the victims, the following: moral damages in the amount of [P]200,000.00; exemplary damages in the amount of [P]100,000; and civil indemnity of [P]75,000.00.

SO ORDERED.³

The accused-appellants, together with Kiking Mendoza (Mendoza) *alias* “Kiking Salahay”, Arturo Umba y Antad *alias* “Lico-Licoan” and two John Does, were charged with the kidnapping and serious illegal detention of Alejandro Paquillo (Alejandro), Mae Paquillo (Mae), Marvelous Perez (Marvelous) and Marelle Perez (Marelle).⁴ At the time of the kidnapping, all three girls – Mae, Marvelous and Marelle – were minors.

Based on the testimony of Alejandro, Con-ui has been going to his house for three consecutive nights, including the night of the abduction on October 14, 2001, offering to sell his property but he refused. On the night of October 14, while the two were talking at the terrace, five men suddenly went inside the house and pointed their guns at Alejandro. Someone then asked Con-ui what took him so long, and said that they were tired of waiting for him. At that time, the sisters Marvelous and Marelle were inside the bedroom of Mae, Alejandro’s daughter and their cousin. While there, someone knocked on the bedroom door and ordered the girls to go out of the room. Maca and Mendoza then collared them and asked for the key to the drawer. Con-ui opened the drawer and took the money inside. Alejandro, Mae, Marvelous, Marelle and Con-ui were then hogtied.

They were brought outside the house and thereafter boarded Alejandro’s jeepney. When the jeep broke down at the crossing of *Barangay* Castillo, San Miguel, they were forced to move on foot until they reached the mountains of Bagyangon, where they stopped for a rest.

The next day, Alejandro was ordered to go home and get ₱300,000.00 ransom money. When he was in his parents-in-law’s house, their pastor arrived. Apparently, someone informed the pastor the night before that Alejandro and the girls were kidnapped. The pastor accompanied Alejandro to the bridge of NIA TRIP where they left clothes for the girls.

³ Id. at 104-105.

⁴ Id. at 30.

Meanwhile, in the mountains, Mendoza ordered Con-ui to buy food but the latter refused, so it was Maca who did the task. Maca's father then arrived and told them that there were military men on the road leading to Caromata and that Maca has been arrested. After a while, the group decided to free the girls.

In his defense, Con-ui denied the charges and claimed that he was also a victim. He admitted that he was in Alejandro's house on the night of the incident but claimed that he was there to negotiate the sale of his property to Alejandro. He was hogtied, together with Alejandro and the girls, but managed to escape from their abductors. He claimed that he asked his "co-asset" to report the incident to the police, and allegedly, he even helped the soldiers search for the victims but failed to locate them.

Maca, meanwhile, claimed *alibi* as defense. He claimed that he was helping in the construction of a waiting shed in *Purok 4*, which was being supervised by *Barangay* Captain Felicula Gran (Gran). He said that on the night of October 14, he was with some construction co-workers and *barangay* officials in *Purok 4*, having a drinking spree. He also claimed that he went to work at 8:00 a.m. of October 15. On October 16, he was hired as an agricultural hand by Gran and worked the entire day. He was arrested on October 17, 2001 by the CAFGUs. Gran testified in the defense of Maca.

The RTC did not give credence to the defense of the accused-appellants and convicted them of Kidnapping.⁵ The dispositive portion of the RTC's judgment of conviction provides:

WHEREFORE, premises considered, the Court finds accused **Ramil Maca Meniano** and **Jonathan Con-ui** guilty beyond reasonable doubt of the crime of Kidnapping and sentences each of them to suffer the penalty of death. No cost.

SO ORDERED.⁶

The CA, however, modified the judgment, convicted the accused appellants of Kidnapping for Ransom and reduced the penalty to *reclusion perpetua* without eligibility for parole. The CA also awarded civil indemnity, and moral and exemplary damages in favor of each of the victims.

⁵ The case against Mendoza was dismissed per Order dated November 8, 2005. See CA Decision dated December 20, 2011; *id.* at 93.

⁶ *Id.* at 53.

In their appeal, the accused-appellants persistently argue that the prosecution failed to prove their guilt beyond reasonable doubt.⁷ They point out that the statement of Marvelous that they were first hogtied and then later gave the key to their abductors is unbelievable as they were tied up and could not have handed over the key. The accused-appellants also contend that Alejandro did not testify that the kidnappers asked for the key to the drawer and took the money in it. Con-ui also claims that the RTC overlooked the fact that he was also hogtied and abducted along with the others. Maca, on the other hand, claims that the RTC ignored the testimony of Gran corroborating his claim that he was working on the construction of the waiting shed at the time of the incident and that he also worked on her farm thereafter.⁸

The Court reviewed the accused-appellants' case and found no compelling reason to overturn their judgment of conviction.

The essence of the crime of kidnapping is the actual deprivation of the victim's liberty, coupled with indubitable proof of the intent of the accused to effect the same. Moreover, if the victim is a minor, or the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his detention becomes inconsequential. Ransom is the money, price or consideration paid or demanded for the redemption of a captured person that will release him from captivity.⁹

In proving the crime of Kidnapping for Ransom, the prosecution has to show that: (a) the accused was a private person; (b) he kidnapped or detained or in any manner deprived another of his or her liberty; (c) the kidnapping or detention was illegal; and (d) the victim was kidnapped or detained for ransom.¹⁰

All these were proven in the criminal case on review.

The testimony of Alejandro and Marvelous sufficiently established the commission of the crime and the accused-appellants' culpability. Maca was positively identified by Marvelous as one of the men who collared her, Marelle and Mae by the bedroom, tied them up and brought them to the mountains of Bagyangon. He was also identified as the one who left the group when they were on the mountains to buy food after Con-ui refused. Con-ui, on the other hand, was identified by Alejandro as the one who was addressed by one of the abductors with the statement, "[w]hy did it take you

⁷ Both the accused-appellants and the OSG manifested that they are no longer filing supplemental briefs and are adopting their respective main briefs before the CA.

⁸ CA rollo, pp. 23-25.

⁹ *People v. Mostrales*, G.R. No. 184925, June 15, 2011, 652 SCRA 261, 274-275, citing *People v. Bringas*, G.R. No. 189093, April 23, 2010, 619 SCRA 481, 509.

¹⁰ *People v. Ganih*, G.R. No. 185388, June 16, 2010, 621 SCRA 159, 165.

so long in coming back? We were already tired of waiting for you.”¹¹ Con-ui was also identified by Marvelous as the one who took the key to the drawer, opened it and took the money in it.

Their testimony also established the fact that they were deprived of their liberty when they were all hogtied and forcibly brought out of the house and into the mountains. That the deprivation of their liberty was for the purpose of extorting ransom was confirmed by Alejandro who testified that the abductors asked him for money and even let him off so he can come up with the ₱300,000.00 ransom.

The Court cannot sustain the accused-appellants’ argument regarding the alleged unbelievable testimony of Marvelous or the lack of testimony by Alejandro as regards the “key incident”. The rule is that when the credibility of a witness is in issue, the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect. This holds truer if such findings were affirmed by the appellate court. Without any clear showing that the trial court and the appellate court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance, the rule should not be disturbed.¹² In this case, there is nothing unbelievable in Marvelous’ testimony. For one, the accused-appellants failed to show that the physical state of the victims, having been hogtied, rendered them immobile. For another, it is still quite possible for one to move around even if tied up as established in this instance where evidence shows that the victims, at gunpoint, actually even managed to walk out of the house, board the jeep and move further on foot to the mountains. Moreover, the fact that Alejandro did not testify that he saw Con-ui asked for the key to the drawer and took the money in it does not make his testimony as regards the latter’s participation in the commission of the crime less believable. Neither does it negate the fact that it actually happened. It should be noted that the “key incident” was testified to by Marvelous and could have occurred only in the girls’ presence.

The Court also notes and upholds the finding made by the CA sustaining the observation of the RTC, to wit:

What is also compelling is the apt observation of the trial court that the accused-appellant [Con-ui] had an opportunity to escape from the kidnappers when he was directed to look for food, yet for reasons only known to him, he refused to oblige. Accused-appellant testified that he was able to escape from the kidnappers while they were arguing. This

¹¹ CA rollo, p. 35.

¹² *People v. Basco*, G.R. No. 189820, October 10, 2012, 683 SCRA 529, 543, citing *Decasa v. CA*, 554 Phil. 160, 180 (2007) and *Nueva España v. People*, 499 Phil. 547, 556 (2005).

Court finds the testimony of accused-appellant self-serving. If[,] indeed, he intended to escape, he would have taken with him the three minors, who were admittedly, his relatives. Moreover, if indeed escaping was on his mind, he could have done this at the earliest opportunity, and at the most convenient excuse, that is when he was directed to look for food by one of the kidnappers.¹³

The Court also finds that the RTC properly disregarded the testimony of Gran, who said that she saw Maca on the date of the incident, October 14, and on October 15. As correctly ruled by the RTC, the testimony of Gran merely established that she saw Maca only on certain hours of October 14 and 15, 2001.¹⁴ Thus, on October 14, she visited the construction site only at 10:00 a.m. and left at lunch time, and went back to the site at 4:00 p.m. and left at 8:00 p.m. She was not on site the entire day of October 14, which raises the possibility that she could not have seen Maca physically present at the construction site at all times or that Maca left during the period when she was not on site. Moreover, her testimony that she saw Maca on October 15 at the same times that she visited on October 14 is belied by the testimony of Police Inspector Judy Jumanoy (Jumanoy). According to Jumanoy, he reported for duty on October 15 and after receiving a call from *barangay* officials of Caromata, he went to Caromata where a *barangay* official and a CAFGU commander presented Maca to him. He was also informed by the officials that it was Maca who bought food for the victims, and upon investigation, Maca admitted his complicity in the crime.¹⁵

Given the foregoing, the Court finds no reason to disturb the accused-appellants' judgment of conviction.

The Court also sustains the reduction of the penalty by the CA. Kidnapping for ransom is punishable by death;¹⁶ however, with the passage of Republic Act No. 9346,¹⁷ the imposition of the death penalty has been prohibited and the penalty of *reclusion perpetua* shall instead be imposed.¹⁸ Further, the same shall be without eligibility for parole.¹⁹

The Court, however, finds that the damages awarded by the CA should be modified. Recent jurisprudence established the amount of damages to be awarded. In *People of the Philippines v. Halil Gambao y Esmail, et al.*,²⁰ which also involves a Kidnapping for Ransom case, the Court set the **minimum** indemnity and damages where death is the penalty warranted by the facts but is not imposable under present law, as follows:

¹³ CA *rollo*, p. 103.

¹⁴ Id. at 47.

¹⁵ Id. at 38.

¹⁶ REVISED PENAL CODE, Article 267.

¹⁷ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

¹⁸ Id. at Section 2.

¹⁹ Id. at Section 3.

²⁰ G.R. No. 172707, October 1, 2013.

- 1) ₱100,000.00 as civil indemnity;
- 2) ₱100,000.00 as moral damages which the victim is assumed to have suffered and thus needs no proof; and
- 3) ₱100,000.00 as exemplary damages to set an example for the public good.²¹

The accused-appellants who are principals to the crime shall be jointly and severally liable for these amounts awarded in favor of **each** of the victims. Moreover, these amounts shall accrue interest at the rate of six percent (6%) *per annum*, to earn from the date of the finality of the Court's Resolution until fully paid.²²

WHEREFORE, the Decision dated December 20, 2011 of the Court of Appeals in CA-G.R. HC No. 00462-MIN is **MODIFIED**.

Accused-appellants Jonathan Con-ui and Ramil Maca are found guilty beyond reasonable doubt as principals in the crime of Kidnapping for Ransom and sentenced to suffer the penalty of *reclusion perpetua*, without eligibility of parole. They are also ordered to jointly and severally indemnify each of the victims in the following amounts: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages; and (3) ₱100,000.00 as exemplary damages, all of which shall earn interest at the rate of six percent (6%) *per annum* from the date of the finality of the Court's Resolution until fully paid.

In all other respects, the assailed decision of the Court of Appeals is **AFFIRMED**.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

²¹ Id.

²² *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 249.

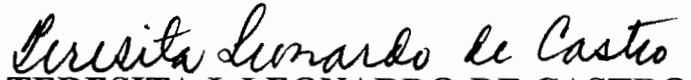
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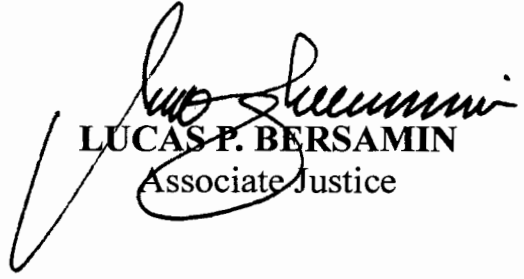
MARIA LOURDES P. A. SERENO

Chief Justice

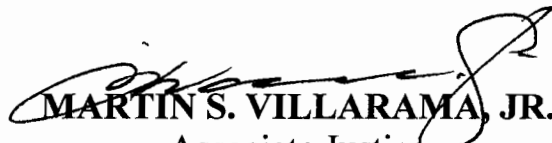
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



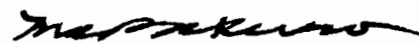
LUCAS P. BERSAMIN
Associate Justice



MARTIN S. VILLARAMA, JR.
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

Chief Justice