



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**SECOND DIVISION**

**PEOPLE OF THE G.R. No. 207949**  
**PHILIPPINES,**

Plaintiff-Appellee,

Present:

- versus -

**ARMANDO DIONALDO y**  
**EBRON, RENATO DIONALDO**  
**y EBRON, MARIANO**  
**GARIGUEZ, JR. y RAMOS, and**  
**RODOLFO LARIDO y EBRON,**  
 Accused-Appellants.

CARPIO, J., Chairperson,  
 BRION,  
 DEL CASTILLO,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

Promulgated:

JUL 23 2014 *[Signature]*

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**R E S O L U T I O N**

**PERLAS-BERNABE, J.:**

Before the Court is an appeal assailing the Decision<sup>1</sup> dated February 15, 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02888 finding accused-appellants Armando Dionaldo y Ebron (Armando), Renato Dionaldo y Ebron (Renato), Mariano Gariguez, Jr. y Ramos (Mariano), and Rodolfo Larido y Ebron (Rodolfo) guilty beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention.

**The Facts**

At around 8 o'clock in the morning of May 16, 2003, Roderick Navarro (Roderick) dropped his brother Edwin Navarro (Edwin) off at the Health Is Wealth Gym in Caloocan City. Thirty minutes later, he received a

<sup>1</sup> *Rollo*, pp. 2-25. Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Rebecca De Guia-Salvador and Apolinario D. Bruselas, Jr., concurring.

text message from another brother who told him that Edwin had been kidnapped.<sup>2</sup> Records show that three (3) men, later identified as Armando, Renato, and Mariano, forcibly dragged a bloodied Edwin down the stairway of the gym and pushed him inside a dark green Toyota car with plate number UKF 194.<sup>3</sup> Upon receiving the message, Roderick immediately reported the incident to the police. At around 10 o'clock in the morning of the same day, he received a phone call from Edwin's kidnappers who threatened to kill Edwin if he should report the matter to the police.<sup>4</sup>

The following day, Roderick received another call from the kidnappers, who demanded the payment of ransom money in the amount of ₱15,000,000.00. Roderick told them he had no such money, as he only had ₱50,000.00. On May 19, 2003, after negotiations over the telephone, the kidnappers agreed to release Edwin in exchange for the amount of ₱110,000.00. Roderick was then instructed to bring the money to Batangas and wait for their next call.<sup>5</sup>

At around 7:30 in the evening of the same day, as Roderick was on his way to Batangas to deliver the ransom money, the kidnappers called and instructed him to open all the windows of the car he was driving and to turn on the hazard light when he reaches the designated place. After a while, Roderick received another call directing him to exit in Bicutan instead and proceed to C-5 until he arrives at the Centennial Village. He was told to park beside the Libingan ng mga Bayani. After several hours, an orange Mitsubishi car with plate number DEH 498 pulled up in front of his vehicle where four (4) men alighted. Roderick saw one of the men take a mobile phone and upon uttering the word "*alat*," the men returned to their car and drove away.<sup>6</sup>

Meanwhile, a team had been organized to investigate the kidnapping of Edwin, headed by SPO3 Romeo Caballero (SPO3 Caballero) and PO3 Nestor Acebuche (PO3 Acebuche) of the Camp Crame Police Anti-Crime Emergency Response (PACER). During the course of the investigation, Rodolfo, an employee at the Health Is Wealth Gym, confessed to PO3 Acebuche that he was part of the plan to kidnap Edwin, as in fact he was the one who tipped off Mariano, Renato, Armando and a certain Virgilio<sup>7</sup> Varona<sup>8</sup> (Virgilio) on the condition that he will be given a share in the ransom money. Rodolfo gave information on the whereabouts of his cohorts, leading to their arrest on June 12, 2003. In the early morning of the

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<sup>2</sup> Id. at 6-7.

<sup>3</sup> See id. at 4-5.

<sup>4</sup> Id. at 7.

<sup>5</sup> Id.

<sup>6</sup> Id. at 7-8.

<sup>7</sup> "Virgilio" in some parts of the records.

<sup>8</sup> One of the original five (5) accused who died during trial, resulting in the dismissal of the case against him. (See *CA rollo*, p. 37.)

following day or on June 13, 2003, the PACER team found the dead body of Edwin at Sitio Pugpugan Laurel, Batangas, which Roderick identified.<sup>9</sup>

Thus, accused-appellants as well as Virgilio were charged in an Information<sup>10</sup> which reads:

That on or about the 16<sup>th</sup> day of May, 2003 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, being then private persons, did then and there by force and intimidation willfully, unlawfully and feloniously with the use of motor vehicle and superior strength take, carry and deprive EDWIN NAVARRO Y ONA, of his liberty against his will, for the purpose of extorting ransom as in fact a demand of ₱15,000,000.00 was made as a condition of the victim's release and on the occasion thereof, the death of the victim resulted.

Contrary to law.

During arraignment, accused-appellants pleaded not guilty<sup>11</sup> and interposed the defenses of denial and alibi. Except for Rodolfo, they individually claimed that on said date and time, they were in their respective houses when they were taken by men in police uniforms, then subsequently brought to Camp Crame, and there allegedly tortured and detained. On the other hand, Rodolfo, for himself, averred that at around 8 o'clock in the evening of June 12, 2003, while walking on his way home, he noticed that a van had been following him. Suddenly, four (4) persons alighted from the vehicle, boarded him inside, blindfolded him, and eventually tortured him. He likewise claimed that he was made to sign an extrajudicial confession, purporting too that while a certain Atty. Nepomuceno had been summoned to assist him, the latter failed to do so.<sup>12</sup>

During trial, the death of the victim, Edwin, was established through a Certificate of Death<sup>13</sup> with Registry No. 2003-050 (subject certificate of death) showing that he died on May 19, 2003 from a gunshot wound on the head.

### **The RTC Ruling**

In a Decision<sup>14</sup> dated June 13, 2007, the Regional Trial Court of Caloocan City, Branch 129 (RTC), in Crim. Case No. C-68329, convicted accused-appellants of the crime of Kidnapping and Serious Illegal

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<sup>9</sup> See *rollo*, pp. 6 and 8-9.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 3 and 20.

<sup>12</sup> See *id.* at 9-12.

<sup>13</sup> Records, p. 300, including the dorsal portion thereof.

<sup>14</sup> CA *rollo*, pp. 36-99. Penned by Presiding Judge Thelma Canlas Trinidad-Pe Aguirre.

Detention, sentencing each of them to suffer the penalty of *reclusion perpetua*.

It gave credence to the positive and straightforward testimonies of the prosecution witnesses which clearly established that it was the accused-appellants who forcibly dragged a bloodied Edwin into a car and, consequently, deprived him of his liberty.<sup>15</sup> In light thereof, it rejected accused-appellants' respective *alibis* and claims of torture, which were not substantiated. It also held that the crime of Kidnapping had been committed for the purpose of extorting ransom, which is punishable by death. However, in view of the suspended imposition of the death penalty pursuant to Republic Act No. (RA) 9346,<sup>16</sup> only the penalty of *reclusion perpetua* was imposed.<sup>17</sup> Further, the RTC found that conspiracy attended the commission of the crime, as the accused-appellants' individual participation was geared toward a joint purpose and criminal design.<sup>18</sup>

Notably, while the RTC found that the testimonies of the prosecution witnesses prove that the victim Edwin was abducted, deprived of liberty, and eventually killed,<sup>19</sup> a fact which is supported by the subject certificate of death, it did not consider said death in its judgment.

### The CA Ruling

In a Decision<sup>20</sup> dated February 15, 2013, the CA affirmed *in toto* the RTC's conviction of accused-appellants, finding that the prosecution was able to clearly establish all the elements of the crime of Kidnapping and Serious Illegal Detention, namely: (a) the offender is a private individual; (b) he kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping must be illegal; and (d) in the commission of the offense, any of the following circumstances is present: (1) the kidnapping or detention lasts for more than three days; (2) it is committed simulating public authority; (3) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or (4) the person kidnapped or detained is a minor, except when the accused is any of the parents, female or a public officer.<sup>21</sup> It likewise sustained the finding that the kidnapping was committed for the purpose of extorting ransom, as sufficiently proven by the testimony of the brother of the victim.<sup>22</sup> Moreover, the CA affirmed that conspiracy attended the

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<sup>15</sup> See *id.* at 93-95.

<sup>16</sup> Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES."

<sup>17</sup> *CA rollo*, pp. 98-99.

<sup>18</sup> *Id.* at 97.

<sup>19</sup> *Id.* at 60.

<sup>20</sup> *Rollo*, pp. 2-25.

<sup>21</sup> *Id.* at 15-16.

<sup>22</sup> *Id.* at 18-19.

commission of the crime, as the acts of accused-appellants emanated from the same purpose or common design, and they were united in its execution.<sup>23</sup>

Separately, the CA found that accused-appellants' claims of torture were never supported, and that Rodolfo voluntarily signed the extrajudicial confession and was afforded competent and independent counsel in its execution.<sup>24</sup>

Aggrieved by their conviction, accused-appellants filed the instant appeal.

### **The Issue Before the Court**

The sole issue to be resolved by the Court is whether or not accused-appellants are guilty of the crime of Kidnapping and Serious Illegal Detention.

### **The Court's Ruling**

The appeal is devoid of merit.

Well-settled is the rule that the question of credibility of witnesses is primarily for the trial court to determine. Its assessment of the credibility of a witness is entitled to great weight, and it is conclusive and binding unless shown to be tainted with arbitrariness or unless, through oversight, some fact or circumstance of weight and influence has not been considered. Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, or that the judge acted arbitrarily, his assessment of the credibility of witnesses deserves high respect by the appellate court.<sup>25</sup>

In this case, the RTC, as affirmed by the CA, gave weight and credence to the testimonies of the prosecution witnesses, which they found to be straightforward and consistent. **Through these testimonies, it was clearly established that accused-appellants, who were all private individuals, took the victim Edwin and deprived him of his liberty, which acts were illegal, and for the purpose of extorting ransom.**<sup>26</sup> Thus, seeing no semblance of arbitrariness or misapprehension on the part of the court *a quo*, the Court finds no compelling reason to disturb its factual findings on this score.

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<sup>23</sup> See *id.* at 23-24.

<sup>24</sup> See *id.* at 22-24.

<sup>25</sup> *People v. Mercado*, 400 Phil. 37, 71 (2000). See also *People v. Lamsen*, G.R. No. 198338, February 20, 2013, 691 SCRA 498, 505-506.

<sup>26</sup> See CA Decision; *rollo*, pp. 16-19.

Anent the finding that conspiracy attended the commission of the crime, the Court likewise finds the conclusion of the RTC in this regard, as affirmed by the CA, to be well-taken. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it, and when conspiracy is established, the responsibility of the conspirators is collective, not individual, rendering all of them equally liable regardless of the extent of their respective participations.<sup>27</sup> In this relation, direct proof is not essential to establish conspiracy, as it can be presumed from and proven by the acts of the accused pointing to a joint purpose, design, concerted action, and community of interests.<sup>28</sup> Hence, as the factual circumstances in this case clearly show that accused-appellants acted in concert at the time of the commission of the crime and that their acts emanated from the same purpose or common design, showing unity in its execution,<sup>29</sup> the CA, affirming the trial court, correctly ruled that there was conspiracy among them.

The foregoing notwithstanding, the Court is, however, constrained to modify the ruling of the RTC and the CA, as the crime the accused-appellants have committed does not, as the records obviously bear, merely constitute Kidnapping and Serious Illegal Detention, but that of the special complex crime of Kidnapping for Ransom with Homicide. This is in view of the victim's (*i.e.*, Edwin's) death, which was (*a*) specifically charged in the Information,<sup>30</sup> and (*b*) clearly established during the trial of this case. Notably, while this matter was not among the issues raised before the Court, the same should nonetheless be considered in accordance with the settled rule that **in a criminal case, an appeal, as in this case, throws open the entire case wide open for review, and the appellate court can correct errors, though unassigned, that may be found in the appealed judgment.**<sup>31</sup>

After the amendment of the Revised Penal Code on December 31, 1993 by RA 7659, Article 267 of the same Code now provides:

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:

<sup>27</sup> *People v. Castro*, 434 Phil. 206, 221 (2002).

<sup>28</sup> *People v. Buntag*, 471 Phil. 82, 93 (2004).

<sup>29</sup> *Rollo*, p. 23.

<sup>30</sup> “[T]he above-named accused, conspiring together and mutually helping one another, being then private persons, did then and there by force and intimidation willfully, unlawfully and feloniously with the use of motor vehicle and superior strength take, carry and deprive EDWIN NAVARRO Y ONA, of his liberty against his will, for the purpose of extorting ransom as in fact a demand of ₱15,000,000.00 was made as a condition of the victim's release and **on the occasion thereof, the death of the victim resulted.**” (Id. at 3; emphasis and underscoring supplied)

<sup>31</sup> *People v. Quimzon*, G.R. No. 133541, April 14, 2004, 427 SCRA 261, 281, citing *People v. Feliciano*, 418 Phil. 88, 106 (2001).

1. If the kidnapping or detention shall have lasted more than three 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, except when the accused is any of the parents, female or a public officer;

**The penalty shall be death** 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. (Emphases supplied)

The Court further elucidated in *People v. Mercado*:<sup>32</sup>

In *People v. Ramos*, the accused was found guilty of **two separate heinous crimes of kidnapping for ransom and murder** committed on July 13, 1994 and sentenced to death. On appeal, this Court modified the ruling and found the accused guilty of the “**special complex crime**” of **kidnapping for ransom with murder** under the last paragraph of Article 267, as amended by Republic Act No. 7659. This Court said:

x x x This amendment introduced in our criminal statutes the concept of ‘special complex crime’ of kidnapping with murder or homicide. It effectively eliminated the distinction drawn by the courts between those cases where the killing of the kidnapped victim was purposely sought by the accused, and those where the killing of the victim was not deliberately resorted to but was merely an afterthought. Consequently, the rule now is: **Where the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought, the kidnapping and murder or homicide can no longer be complexed under Art. 48, nor be treated as separate crimes, but shall be punished as a special complex crime under the last paragraph of Art. 267, as amended by RA No. 7659.**<sup>33</sup> (Emphases supplied; citations omitted)

Thus, further taking into account the fact that the kidnapping was committed **for the purpose of extorting ransom, accused-appellants’ conviction must be modified from Kidnapping and Serious Illegal Detention to the special complex crime of Kidnapping for Ransom with Homicide**, which carries the penalty of death. As earlier intimated, the

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<sup>32</sup> Supra note 25.

<sup>33</sup> Id. at 82-83.

enactment of RA 9346 had suspended the imposition of the death penalty. This means that the accused-appellants could, as the CA and trial court properly ruled, only be sentenced to the penalty of *reclusion perpetua*. To this, the Court adds that the accused-appellants are not eligible for parole.<sup>34</sup>

On a final note, the Court observes that the RTC and the CA failed to award civil indemnity as well as damages to the family of the kidnap victim. In *People v. Quiachon*,<sup>35</sup> the Court explained that even if the death penalty was not to be imposed on accused-appellants in view of the prohibition in RA 9346, the award of civil indemnity was nonetheless proper, not being dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the crime.<sup>36</sup> In the present case, considering that both the qualifying circumstances of ransom and the death of the victim during captivity were duly alleged in the information and proven during trial, civil indemnity in the amount of ₱100,000.00 must therefore be awarded to the family of the victim, to conform with prevailing jurisprudence.<sup>37</sup>

Similarly, the Court finds that the award of moral damages is warranted in this case. Under Article 2217 of the Civil Code, moral damages include physical suffering, mental anguish, fright, serious anxiety, wounded feelings, moral shock and similar injury, while Article 2219 of the same Code provides that moral damages may be recovered in cases of illegal detention. It cannot be denied, in this case, that the kidnap victim's family suffered mental anguish, fright, and serious anxiety over the detention and eventually, the death of Edwin. As such, and in accordance with prevailing jurisprudence,<sup>38</sup> moral damages in the amount of ₱100,000.00 must perforce be awarded to the family of the victim.

Finally, exemplary damages must be awarded in this case, in view of the confluence of the aforesaid qualifying circumstances and in order to deter others from committing the same atrocious acts. In accordance with prevailing jurisprudence,<sup>39</sup> therefore, the Court awards exemplary damages in the amount of ₱100,000.00 to the family of the kidnap victim.

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<sup>34</sup> Pursuant to Section 3 of RA 9346 which states that “[p]ersons 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. 4180, otherwise known as the Indeterminate Sentence Law, as amended.” (See *People v. Tadah*, G.R. No. 186226, February 1, 2012, 664 SCRA 744, 747; see also *People v. Lalog*, G.R. No. 196753, April 21, 2014.)

<sup>35</sup> 532 Phil. 414 (2006).

<sup>36</sup> Id. at 428.

<sup>37</sup> See *People v. Gambao*, G.R. No. 172707, October 1, 2013.

<sup>38</sup> See *People v. Reyes*, 600 Phil. 738, 788 (2009).


<sup>39</sup> See id. at 787.




In addition, interest at the rate of six percent (6%) per annum shall be imposed on all damages awarded from the date of finality of judgment until fully paid, pursuant to prevailing jurisprudence.<sup>40</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated February 15, 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 02888 is hereby **AFFIRMED** with the **MODIFICATION** that all the accused-appellants herein are equally found **GUILTY** of the special complex crime of Kidnapping for Ransom with Homicide, and are sentenced to each suffer the penalty of *reclusion perpetua*, without eligibility for parole, and to pay, jointly and severally, the family of the kidnap victim Edwin Navarro 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 with interest at the rate of six percent (6%) per annum from the date of finality of judgment until fully paid.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**ARTURO D. BRION**  
Associate Justice

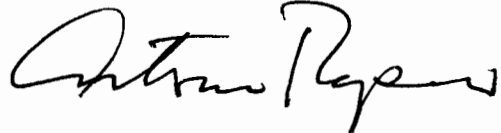
  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

<sup>40</sup> *People v. Dumadag*, G.R. No. 176740, June 22, 2011, 652 SCRA 535, 550, citing *People v. Galvez*, G.R. No. 181827, February 2, 2011, 641 SCRA 472, 485.

**ATTESTATION**

I attest 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.

**ANTONIO T. CARPIO**

Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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