

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
SERGIO VILLANUEVA, ET AL., ACCUSED. IGMIDIO CAMAGONG,
MELECIO PAKINGAN, BLENVENIDO MOJICA, RICARDO GONZALES,
MARCIANO TIMB...**

G.R. Nos. L-7472-77. January 31, 1956

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c7347930053e/>

MONTEMAYOR, J.:

After the last (Pacific) war the Province of Cavite witnessed a series of kidnappings where peaceful residents of the province were snatched and kept in custody by organized gangs, for purposes of ransom. One of said kidnappings is involved in the present case.

On May 11, 1953, Bayani Dragon, an aviation student of the FEATI, and a resident of General Trias, Cavite, while playing pingpong near his home at about 8 o'clock in the evening, saw a masked man approach him menacingly. Sensing that the man not only because of his being masked but also because of his attitude, was after him, Bayani made a dash for his home but the man ran after and finally caught him. After that, they were joined by five or six men also masked and Bayani was by them conducted on foot eastward to a place unknown to him. That night he was made to sleep in a hut all by himself but guarded by his masked captors. For the next two or three days Bayani was taken by this group to different places, all isolated and uninhabited, until they finally reached a hut at a place called Pasong Bayog within the jurisdiction of Dasmariñas, Cavite, and there he was delivered to another group of men, some of them masked. In this hut and by this latter group Bayani was held in custody for almost two months.

There is evidence to the effect that about the same time that Bayani was kidnapped, one Dr. Velasco was also snatched in the Province of Cavite, presumably by the members of the same gang because Velasco was also taken to the same hut in Pasong Bayog. Since the ransom of P10,000 demanded by the kidnappers from Velasco's family was paid, he was released from custody, leaving Bayani in the hut with his guards.

About a year before the kidnapping of Bayani or rather on May 4, 1952, there was staged a mass jailbreak in the municipal jail of Imus, Cavite in which about twenty prisoners escaped. Among these escapees were Sergio Villanueva, Ruben Ordonez, Simplicio Rupiso, and Serafin Timbang. Sergio was being detained under a charge of robbery while his companions were charged with kidnapping a Chinaman. It seems that after escaping, Sergio Villanueva organized a gang for purposes of kidnapping; Ruben was second in command and Serafin acted as Secretary-Treasurer of the organization. The gang operated mostly in the Province of Cavite. On May 26, 1953, a raid was conducted by a Constabulary patrol in the barrio of Salawag, Dasmariñas, Cavite. Rupiso was captured with a Thompson machinegun which he was carrying. From Rupiso the Constabulary obtained valuable information about the whereabouts and hiding places of the kidnapping group of Villanueva, Lt. Berenguel, commanding officer of the Constabulary detachment at Malinta, Cavite, made a reconnaissance of one of the places indicated and he was able to pinpoint the exact location of the hut in Pasong Bayog where Bayani was

being detained.

Early in the morning of July 4, 1953, while it was still dark, a Constabulary patrol of 21 men led by Lt. Reyea stealthily surrounded and approached this hut and saw Serafin Timbang cooking breakfast in an outhouse of the hut. A carbine was lying on the ground within his reach. Upon detecting the presence of the raiding party, Serafin grabbed his carbine but the soldiers jumped on him and placed him under control. The inmates of the hut still sleeping and rudely awakened from their slumber, were ordered to file out quietly, which they did. They were six inside the hut, including Bayani. As soon as Bayani recognized the raiders as Constabulary men, he immediately identified himself as Bayani Dragon, a kidnap victim and he pointed to his companions in the hut, including Serafin as his guards. Said companions were questioned on the spot by the raiders and they admitted that Bayani was their kidnap-victim. The hut was searched. Four automatic rifles were found inside which the inmates of the hut admitted to belong to them. In a leather bag were found a pair of field glasses, medicines, a rubber stamp, a pencil and a bunch of papers or documents. The persons found in the hut besides Serafin Timbang were his nephew Marciano Timbang, Igmidio Camagong, Melecio Pakingan, Bienvenido Mojica and Eicardo Gonzales. With Bayani they were taken to Malinta where they were questioned by Lt. Berenguel. Because Malinta had no stockage where to keep the prisoners, they were later taken to Imus, Cavite, where they were further investigated.

The Constabulary investigator was Sgt. Magtangol Prim. Serafin Timbang and his five companions finally admitted that they formed part of the group of Sergio Villanueva and Ruben Ordonez and that they had guarded Bayani in the hut at Pasong Bayog to prevent his escape. The five automatic rifles captured in the raid were laid or placed on a table and each prisoner was asked to identify the gun that belonged to him. With the exception of Marciano Timbang each of the prisoners identified a firearm as belonging to him. The result of the investigation was embodied by Sgt. Prim in ten different affidavits (Exhibits J to S). He found that Serafin Timbang had a wound or injury between his legs, around the anus and because Serafin complained of severe pain, through Sgt. Prim's recommendation to his commanding officer, Serafin was taken to the Philippine General Hospital in Manila, that is, after he had signed his affidavit.

On July 7, 1953, the remaining five prisoners were taken before deputy clerk of court Bayani del Rosario. Del Rosario testifying at the trial told the court that he questioned each affiant, asking him to listen while he (Del Rosario) read the contents of their affidavits which are in Tagalog, and to stop him and to call his attention to any inaccuracy or error in the statement or narration of facts. He also asked each affiant whether there had been any irregularity or anomaly committed in relation with the preparation of the affidavit and whether the affiants had any complaint to make, and when he was assured that everything was in order and regular, he administered the oath to each affiant who then subscribed or signed the affidavit or affidavits.

On the basis of the accusation by Bayani made at the hut in Pasong Bayog immediately after the raid, and before the Constabulary officers at Malinta and Imus, that Serafin Timbang and his five companions had been guarding him for almost two months and because of the admission of that charge by them not only at the hut after the raid but also before the Constabulary officers, particularly Sgt. Prim, as shown by their affidavits, said six men were jointly accused of kidnapping, and with the exception of Marciano Timbang, were separately charged with illegal possession of firearms, Simplicio Rupiso who as already stated, was captured on May 26, 1953 in a separate raid and who supposedly admitted that he was a member of the gang of Villanueva and Ordonez, was included in the charge.

There was a joint trial of the case of kidnapping and of the five separate cases of illegal possession of firearms. After the prosecution had rested its case, counsel for Simplicio Rupiso asked for the dismissal of the case of kidnapping against him on the ground of insufficiency of evidence, and without objection on the part of the prosecution the trial court granted the motion; and the remaining six defendants presented their evidence.

Each one of the accused claimed that far from being a kidnapper and a guard of Bayani at the hut in Pasong Bayog, he was a kidnap-victim himself. Marciano Timbang told the court that one day he went out to look for his uncle Serafin in order to help him cut grass, but he was suddenly pounced upon by unknown men and unceremoniously taken to the hut in question where he was detained unguarded with Bayani Dragon. Another defendant stated that his sister had disappeared, presumably kidnapped and while out looking for her, he was also captured by unknown men and taken to the same hut. Two others said that they were looking for their lost carabaos and while doing so they were also apprehended and taken to the said hut. Still others claimed that they went out to cut firewood and were similarly captured and taken to the hut against their will. All of them told the trial court that although there were no guards in the hut or even around the place whom they could see, nevertheless they dared not escape for fear of being recaptured or otherwise prevented from escaping by their kidnappers who might have been watching them from their hiding place. The trial court presided by Judge Juan O. Reyes correctly gave scant consideration to these strange, not to say fantastic claims, and found five of the defendants guilty of illegal possession of firearms and sentenced each to an indeterminate sentence of from five to eight years imprisonment, with the exception of Serafin Timbang who, being an escapee and therefore not entitled to the benefits of the indeterminate sentence law, was given the maximum of eight years. All of the six defendants were also found guilty of kidnapping and were sentenced each to life imprisonment. They have all appealed from said decision, and because of the penalty involved their appeal was directly taken to us.

Bayani although he testified for the prosecution, did so in a half-hearted manner. He told the court on direct examination that he was apprehended by a group of six or eight men while he was playing pingpong; that after hiking for several days, he was finally delivered by his captors to another group of men at the hut in Pasong Bayog and there detained for almost two months; but on cross examination he made statements more favorable to the defense than for the prosecution. For instance, he said that he did not recognize any of the men who snatched him in the evening of May 11, 1953, nor the group to which he was delivered in the hut and that the defendants-appellants herein were not his guards but were companions in the hut, giving the impression that they were fellow kidnap-victims. When pressed by the court to reconcile his testimony on cross-examination with his spontaneous accusation of herein appellants before the raiders who rescued him, pointing to appellants as his guards, he reluctantly admitted that they really guarded him but not during the whole period of his captivity but only for a few days, as for instance, Marciano Timbang guarded him for one week, Serafin Timbang for eight days, Melecio Pakingan for another eight days, Ricardo Gonzales for about one week and Bienvenido Mojica for only two days. This attitude and change of front of Bayani Dragon is indeed strange, but was reasonably, even satisfactorily explained by the trial judge in a portion of his decision which we quote below:

"The Court also observed that during the trial even the kidnap victim himself Bayani Dragon, when presented as a witness by the Provincial Fiscal, seemed to be afraid and reluctant to testify. As a matter of fact, after two questions had been propounded by the Fiscal, he told the court that he was feeling dizzy and requested to be excused from testifying, but the Court did not excuse him and finally he was able to testify until the several defense attorneys all finished their cross-examination of him. The Court is therefore suspicious that Bayani Dragon must have been threatened before he appeared in Court, and that explains his answers to the questions of the defense counsels -which tended to favor all the accused. Such statements, however, are found to be in contradiction to his subscribed statements and declarations (Exhibit T) taken by and subscribed before the Assistant Provincial Commander of the Philippine Constabulary for the Province of Cavite, a few days after his rescue."

Counsel for appellants questions the regularity of the investigation conducted by Sgt. Magtangol Prim and assails the validity and admissibility of the affidavits prepared by him on the basis of the answers of said appellants in reply to his questions, on the ground of use of force and torture. The trial court discounted the claim, of the use of force and the infliction of physical injuries on the affiants, this after carefully examining the persons of the

defendants and failing to find any mark or vestige of wounds and physical injuries said to have been inflicted on them by Sgt. Prim. And as to Serafin Timbang who, as already stated, sustained a wound around the anus, there is evidence to the effect that when questioned at the hospital where he had been taken, first he said that he fell upon a stump striking his anus against it, thereby causing his physical injury. Later, he said that he was boxed by a soldier, and according to one of his co-defendants, he saw Serafin boxed by a soldier in Malinta not in Imus where Sergeant Prim was and, where he questioned the defendants, including Serafin. If Sgt. Prim really used force on Serafin and produced the wound which caused his being taken to the hospital, Sgt. Prim would have tried to hide this proof of his use of force and violence; but instead, it was he who recommended that Serafin be taken to the hospital for treatment, even if by doing so, he failed to have Serafin ratify and swear to his affidavit before the Deputy Clerk of Court. It was also proven that the Provincial Fiscal visited Serafin at the hospital and Serafin made no complaint whatsoever to him on the supposed ill-treatment and torture by Sgt. Prim in order to obtain his affidavit. As regards the rest of the appellants, as already said, Deputy Clerk of Court Del Rosario assured the trial court that he read and explained the contents of their affidavits and gave them every opportunity to correct any error or mistake in the facts stated therein and to complain of any irregularity or anomaly in relation with the preparation of said affidavits, but he was assured by all of them that everything was correct and regular. Each affiant signed his affidavit. The regularity, smoothness and firmness of the strokes in their signatures seem to show spontaneity and willingness on the part of the signers, instead of the fear, emotional disturbance and compulsion under which they supposedly affixed their signatures.

There is one legal point raised by the Solicitor General. He says that while counsel for the appellants claims that the affidavits in question were obtained irregularly and by the use of force, violence and intimidation, there is no claim or insinuation that the contents of said affidavits are not true and he contends that an affidavit or confession may be rejected only when the affiant is compelled against his will to state or admit something which is against the truth. In other words, the admissibility of that kind of evidence depends not on the supposed illegal manner in which it is obtained but on the truth or falsity of the facts or admission contained therein. We agree with the Solicitor General on this point. In the case of *People vs. De los Santos, et al.*, 93 Phil., 83, this Court said:

"A confession, to be repudiated, must not only be proved to have been obtained by force and violence, but also that it is false or untrue, for the law rejects the confession when, by force or violence or intimidation, the accused is compelled against his will to tell a falsehood, not when by such force and violence he is compelled to tell the truth. This is in consonance with the principle that the admissibility of evidence is not affected by the illegality of the means with which it was secured, (*Moncado vs. People's Court, et al.*, 80 Phil. 1)"

The trial court which not only received the evidence but also questioned the witnesses on important points and who had the opportunity to observe their behavior on the witness stand, was convinced of the guilt of appellants. We reproduce pertinent portions of its decision.

"There is no quarrel between the prosecution and the defense over the fact that the herein six accused were surprised in the hut at Pasong Bayog, Dasmarinas, in the early morning of July 4, 1953, together with Bayani Dragon, who immediately identified himself to the P. C. authorities. They were then arrested and later on Bayani Dragon was released, while the six accused were first brought to Malinta barracks and subsequently, in the afternoon, to the P. C. Headquarters at Imus, Cavite. The accused themselves, in their testimonies, admitted such facts and even explained the circumstances under which they were surprised and arrested on the date mentioned. They, however, claim that if they were in the hut at Pasong Bayog during the period and on the days when they admitted having lived in that hut, it was due to the order of their captors not to leave the place, otherwise they would be liquidated. Should the testimonies of these accused as well as of the few witnesses presented by them, who are all their relatives, either as father, mother or brother, be given full credence, it would appear that the six; accused, together with Bayani Dragon, would all be considered as kidnap victims, without any kidnappers.

"The accused wanted the Court to believe that they were either captured or compelled by force and intimidation to go with the supposed armed men who brought them to that hut, and that they stayed there until their capture by the Philippine Constabulary men and officers on July 4, 1953. This assertion, however, is diametrically opposed to their admissions made before the P. C. officers and investigators. To their affidavits, Exhibits J, K, L, M, N, and O, as well as in their statements, Exhibits P, Q, R, and S, they categorically admitted that they were members of the bandit gang led by Sergio Villanueva and that all of them, with the single exception of Marciano Timbang, were provided with firearms. * * *

"The prosecution, through the testimonies of the officers and men who took part in the raid and in the subsequent arrest of these accused, affirmed before the Court that those firearms were taken within the hut where the accused were found. Sergeant Magtangol Prim and Deputy Cleric of Court Bayani del Rosario also testified that the affidavits in which the accused admitted their participation or their connection with the gang led by Sergio Villanueva, as well as their ownership of the five firearms, were given voluntarily and the said statements had been sworn to and signed before Bayani del Rosario, an officer of the Court, without any compulsion, after the contents of the said documents were read to the accused individually. It is significant to note that Scrafin Timbang, who seems to be the principal accused in this case—the two leaders of the gang, Sergio Villanueva and Ruben Ordonez, not having been as yet apprehended up to this time—when asked why he did not escape from that hut during all the time of his alleged confinement thereat on orders of the armed men, answered that he was afraid to escape because the premises were guarded by armed men day and night. This accused, however, admitted that some time on May 4, 1952, he escaped from jail in connection with another charge of kidnapping, together with several other detained prisoners on that occasion, and the prosecution proved that among those who escaped with Serafin Timbang were Ruben Ordonez and Sergio Villanueva (Exhibit JJ).

* * * * *

"Furthermore, all the six herein accused put the blame in connection with their tie-up with the bandit gang of Sergio Villanueva and Ruben Ordonez to the supposed armed men who allegedly captured them and brought them to the hut at Pasong Bayog where they are ordered not to leave, otherwise it would cost them their lives. Of course the said accused knew that such armed men whom they were mentioning as their captors could not very well contradict them, because even their names were not disclosed. and therefore the authorities could not take hold of said men to testify in this case.

In general, the testimonies of all the accused seem to have followed the 'same pattern of reasoning, denying having voluntarily signed their affidavits or admissions, that they were brought by armed men to that hut in Pasong Bayog, that they never handled or were never provided with any arm, and that they were all compelled to make their statements and admissions of the said accused' and their relatives, who were presented to corroborate part of their testimonies, could not be given any credence. In addition, the fact that all the accused stayed in that hut for days and weeks or, maybe, even months, and did not care to leave the place and go home or returned to their respective families, show that the six accused are really members of the bandit gang led by their two co-accused, Sergio Villanueva and Ruben Ordonez. The Court could not believe their story that they were allegedly guarded day and night by armed men whom they did not even care to identify. On the contrary, it has been proved by the prosecution, and this Court is convinced to a moral certainty that the six accused were there in that hut in Pasong Bayog during all the time that they stayed there with Bayani Dragon as the custodian of the said kidnap victim, awaiting the orders from their leaders as to what was to be done with their youthful victim, Scrafin Timbang admitted in his statements (Exhibit N) that he and his companions were expecting, some P5,000 ransom from the parents of Bayani Dragon, but because, probably, of their unexpected arrest on July 4, 1953, they did not succeed in obtaining any amount from the victim's parents. "The tie-up of these six accused with the organization of Sergio Villanueva having been conclusively shown not only in their own statements and admission, but also from the other evidence on record, they could not now escape responsibility for the crime of kidnapping with which they are charged. The firearms that were also found in

that hut having been proved as firearms in their possession, or at least under their custody as members of that gang, the five accused for the illegal possession of said firearms shall also suffer the penalty provided by law,"

After a careful review of the evidence we are convinced that the appellants herein although they may not have been the persons who actually snatched Bayani Dragon on the night of May 11, 1953, still, everything points to the fact of their being part or members of the group to which he was delivered at the hut at Pasong Bayog and which group guarded him during the whole period of his detention there. They were evidently members of the organization, of Sergio Villanueva and Ruben Ordenez, engaged in kidnapping and were in conspiracy with said two gang leaders. The story of appellants that they were also kidnap-victims in that hut is highly incredible, too fantastic to be given any serious consideration. According to the evidence and their own admissions, there were no guards in or around the hut to prevent their escape. They were adequately provided with food; and there were five automatic rifles with ammunitions which they could have used to force their way out of the hut and shoot down any person that may possibly try to prevent their escape. And to show that there were no such, guards around the hut or in its vicinity, two days before the actual raid Lt. Berenguel riding in a jeep and later getting down from the same, was able to approach the hut within a relatively short distance without seeing or encountering any guard; and during the actual raid on July 4, 1953, the patrol consisting of 21 men was able to surround, approach and raid the hut without meeting or seeing any guard. All that the raiders saw when they approached the hut, was Serafin Timbang, peacefully cooking breakfast and with a carbine within easy reach. When approached by the raiders, instead of welcoming them as his rescuers he grabbed his carbine presumably to fight them off. And when the raiders made themselves known to the inmates, including Serafin Timbang, it was only Bayani Dragon who identified himself as the kidnap victim and he right then and there pointed to the herein appellants as his guards who had been keeping him in custody for almost two months against his will, and said appellants, instead of also claiming that they were kidnap-victims, admitted that they were there to guard Bayani Dragon and prevent his escape. There is every reason to believe that the hut in Pasong, Bayog was used for the detention not only of Bayani but also of all persons whom the gang to which appellants belonged could kidnap such as Dr. Velasco already referred to.

In his brief the Solicitor General recommends the imposition of the death penalty for the crime of kidnapping because of the presence of the aggravating circumstance that the offense was committed with the aid of armed men. Considering the gravity of the offense and the fact that the Legislature has increased the penalty for the crime of kidnapping because of its serious surge and recrudescence, and bearing in mind its threatening proportions in the Province of Cavite, we were at first inclined to follow the recommendation of Government counsel, were it only to serve as an effective deterrent on the criminal elements of the community and help in the drive to protect peaceful and law-abiding citizens from this grave threat to their liberty and their lives. But on further reflection and deliberation, the necessary votes to impose the extreme penalty is found wanting. There is no satisfactory evidence that the group that snatched and took' into custody Bayani on the night of May 11, 1953, was armed. Of course there is the other aggravating circumstance of night time, but this is a circumstance which may well be included in the material execution of the kidnapping or in the means employed to accomplish it. It should be borne in mind that defendants-appellants though forming part of the conspiracy of kidnapping, were not the ones who actually kidnapped Bayani; and, under Article 62, paragraph 4 of the Revised Penal Code, they are not bound i or affected by the aggravating circumstance of night time unless they knew that it would be availed of in accomplishing the offense, and there is no proof of said knowledge. Again, although there was the use of armed strength or show of the same in guarding Bayani in the hut at Pasong Bayog, some of us are inclined to think that some use of arms or show of armed strength is necessary to guard a kidnap victim to prevent or discourage escape and so in a sense it may be justly regarded as included in or absorbed by the offense itself. Anyway, lacking sufficient votes to impose the death penalty, we have to affirm as we do the sentence of life imprisonment

imposed by the lower court for the crime of kidnapping, at the same time expressing our belief that appellants are not deserving of any executive clemency which may in anyway shorten the normal period of their incarceration. We find the penalty imposed in the cases of illegal possession of firearms to be in accordance with law, and so also affirm that part of the decision. The five guns involved in them are declared confiscated in favor of the Government. With these modifications, the appealed decision is affirmed, with costs.

Parás, C. J., Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.