

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ULPIANO MANZANERO, JR. (DECEASED) AND TITO BENJAMIN,
DEFENDANTS-APPELLANTS.**

G.R. No. L-33698. December 20, 1973

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

Appeal from the decision, dated May 25, 1971, of the Court of First Instance of Quezon, in its Criminal Case No. 15740, finding defendants Ulpiano Manzanero, Jr. and Tito Benjamin guilty of the crime of kidnapping and serious illegal detention as charged in an information that reads as follows:

"That on or about the 12th day of August, 1965, in the City of Lucena, capital of the province of Quezon, the above-named accused, Ulpiano Manzanero, Jr., Tito Benjamin, John Doe and Richard Doe, the identity of the latter two being still unknown, cons-piring and confederating together and mutually helping or aiding one another, with evident premeditation, taking advantage of superior strength, and by means of an automobile, did then and there willfully, unlaw-fully and feloniously, kidnap Floresita Sy, a girl of 18 years of age, carried her to Tiaong, Quezon, which is within the jurisdiction of this Honorable Court, detained her for about two (2) days, and attempted to extort a ransom of FIFTY THOUSAND (50,000.00) PESOS from her family."

Both accused pleaded not guilty, upon arraignment.

The evidence of the prosecution tended to show that the offended party, Floresita Sy, also known as Linda, barely 18 years old at the time the alleged crime was committed, is the daughter of a well-to-do business-man, Sy Bang, of Lucena City and was living with her parents at General Lukban Street, Lucena City, where they had a rice mill; that adjacent to the rice mill, and built on the land owned by Floresita's father, was a repair shop owned by the accused Ulpiano Manzanero, Jr. who was married to Fidelina Mojado by whom he had seven children, but at the same time had a mistress, Rosie Millando, who had five children by him; that the other accused Tito Benjamin was the chief mechanic in the shop; that the gross earnings of the shop oscillated between P2,000 and P3,000 a month; that being neighbors, Manzanero became familiar with the members of the Sy family; that the relationship of Manzanero to the Sy family was such that the brother of Floresita stood as sponsor in the baptism of Manzanero's son, Eric, and Floresita had even ridden in Manzanero's car a number of times; that Manzanero obtained loans and/or advances from the Sy family, payable by services for repairs made in the shop on the vehicles owned by the Sy's.

The evidence for the prosecution also tended to show that at about 8:00 in the morning of August 12, 1965, as Floresita was leaving the Brillantes store located at the corner of the intersection of Merchan and Juarez Streets, Lucena City, where she bought newspapers, Manzanero, driving his car with Tito Benjamin seated at the rear, stopped in front of her that Manzanero bade her to come near, opened the right front door of the car, and offered to bring her home; that while Floresita was talking with Manzanero with her left hand resting on the back rest of the front seat, Manzanero pulled her hand, and she entered the vehicle and re-luctantly sat down; that Manzanero then drove the car, but instead of passing through the main streets, he took a short-cut by taking the extension of

Paz street towards the west; that after crossing the Iyam bridge which was already past her home, Floresita inquired why she was not brought to her home, and Manzanero replied that they were just going to see the new radio station; that after they had passed the radio station and Manzanero continued driving at an accelerated speed, Floresita became apprehensive and protested, but Tito Benjamin, who was seated at the rear seat, pushed her shoulders down and told her to remain seated, and Manzanero pulled out a pen knife and threatened her with death should she make any noise; that when they arrived at a coconut plantation, the car veered to a narrower road and stopped by a certain house where Flo-resita was forcibly brought out of the car and locked inside a room of the house; that Tito Benjamin and the two unidentified accused stationed themselves outside the room as guards; that thereupon, at the point of a knife, Manzanero forced her to write a note to her father asking him to prepare P50,000 for her release, warning him not to reveal anything to the authorities, and telling him to follow the instructions of her captors; that Manzanero, at intervals, entered the room and threateningly forced her to write at the back of two pictures (Exhibits "2" and "3") and to write two notes (Exhibits "4" and "5") apologizing for her failure to keep their appointments and promising to see him at a later date.

The evidence for the prosecution further tended to show that at about noontime of the same day, August 12, Floresita's family, noticing her dis-appearance, looked for her at the Philippine Tong Ho Institute where she was studying and at the same time reported to the city police department that she was missing; that at about 4:00 o'clock in the afternoon of the same day, Floresita's family received the ransom note; that at about 9:00 o'clock in the evening of the next day, August 13, Rosie Millando, Manzanero's mistress, told Bartolome Sy, Floresita's brother, that she knew who kidnapped his sister, and offered to help in effecting Floresita's release provided that the Sy family would not retaliate against the kidnapper, which proposal the Sy family accepted, and Bartolome was told to wait outside their rice mill for a meeting with the kidnappers; that at about midnight, Rosie arrived with Manzanero who, admitting having taken away Floresita, asked forgiveness for what he had done, that Manzanero then informed the Sy family that he would bring them to Floresita; that Manzanero drove his car and, as agreed upon, Bartolome, with his mother and another brother in a Jeep, followed Manzanero until they stopped at Barrio Lagalag (Lusakan), Tiaong, Quezon; that Manzanero told them to wait while he fetched Floresita from the house where she was held captive; that a few moments later, Floresita came down running and weeping, and embraced her mother; that Manzanero offered to take all of them back to Lucena City in his car and they agreed; that upon arriving at Lucena City, Bartolome alighted from the car of Manzanero in front of the city hall, and informed the police authorities that his sister had already been found, and the rest of the group proceeded to their respective houses.

On the part of the defense, the principal accused, Ulpiano Manzanero, Jr., denied having forcibly taken away Floresita Sy in the morning of August 12, 1965, because, in fact, they were lovers; that Floresita ap-proached him on August 7, 1965, telling him that her brother, Enrique, discovered their love affair, and slapped her; that she then requested him to bring her to her grandmother in Manila; that he begged her to postpone the trip to Manila as he was then busy, but he proposed to take her on August 13 because on that day he was going to Manila to buy spare parts, to which suggestion Floresita agreed; that on August 12, Floresita called him over the telephone and asked him to be at the back of the Perfect Automotive Supply in front of the church at 2:00 o'clock in the afternoon, so she could place her belongings inside the car; that he did as Floresita suggested, and after parking his car he looked for Floresita but did not see her, although upon returning to his car he found the things of Floresita already inside the car and so he placed them in the baggage compartment of the car and drove back to his repair shop; that he later received another telephone call from Floresita, this time asking him to fetch her at the Tong Ho Institute at 7:00 o'clock the following morning; that as agreed, he drove his car in the morning of August 13 to the Tong Ho Institute, but found that she was not yet there, so he drove along Quezon Avenue, and upon reaching the Lucena Theater building, he saw her; that she boarded the car even when it had not yet completely

stopped; that instead of going directly to Sariaya, they passed, as requested by Floresita, through Tayabas, Calumpang, and then proceeded to Sariaya.

Accused Manzanero also testified that when they were entering the town proper of Sariaya, they met a trailer truck owned by one Dy Liong Sing of Lucena City, and one of the men in the truck recognized them; that apprehensive that said person might tell Floresita's family what he saw, he pleaded with Floresita to go back to Tong Ho Institute, but she refused; that even when they had gone as far as the town of Tiaong, Floresita was still adamant in refusing to return to Lucena City; that remembering that his sister had a house in Tiaong, he drove his car to Lusakan and brought her inside the Tiaong experimental station to his sister's house; that after requesting his sister to persuade Floresita to go home, he returned alone to his shop at Lucena City, arriving thereat at about 10:00 o'clock in the morning; that in the evening of the same day, he went back to Lusakan to ascertain whether Floresita had gone home but, to his surprise, he found her still at his sister's house; that he told her that he was going to fetch her parents, and so he went back to Lucena City; that at about 10:00 o'clock that night, he passed by the house of his mistress, Rosie, and confided to her the whereabouts of Floresita; that after mulling together the situation, they decided to tell Floresita's family of her whereabouts, and this they did at about 2:00 o'clock in the morning already of August 14; that after being informed where they could find her, Floresita's mother and brother, Bartolome, boarded his (Manzanero's) car, and together with Rosie, they proceeded to Tiaong; that when they reached the place, Manzanero and Mrs. Sy alighted from the car and went to the house of his sister; that at first, only the mother of Floresita entered the room where she was sleeping, and after some time, the mother came out of the room alone, as she failed to convince her daughter to go home; that he himself went inside the room and told Floresita that she had better go with her mother and he would just accompany her to Manila some other day and with this assurance, Floresita went with her mother.

Manzanero further testified that as they were walking towards the car, Floresita's mother advised him not to go back with them to Lucena City because Floresita's brothers who did not understand what transpired might harm him, but he did not heed the advice, and together they boarded his car for Lucena City; that upon reaching Lucena City they met a jeep where Enrique Sy was riding, and the latter told them to proceed to the police department; that at that juncture he moved aside and let Bartolome Sy drive the car; that when he got off the car in front of the police department, Luis, another brother of Floresita, boxed him, causing him to stumble on the cemented pavement, and he was brought to the hospital, but he later returned to the police station; that at about 11:00 o'clock the following morning he was asked to go home, but when he saw the brothers of Floresita lined up in the street, he became afraid to leave the place; that at about 3:30 o'clock in the afternoon, his mistress, Rosie, arrived in a jeepney, and together they went to the Laguna Tayabas Bus Company station, and he boarded a bus for Manila.

The evidence shows that from Manila, Manzanero went to Cebu City where he stayed for about 10 months; then he went to Trinidad, Bohol, where he stayed for some eleven months; that he went back to Manila and proceeded to Sta. Cruz, Laguna, where he remained until December, 1968, and finally he went to Sta. Ana, Manila, where he was arrested on November 18, 1969. From the time he left Lucena City until his arrest, Manzanero kept and preserved the pictures and letters (Exhibits "2", "3", "4" and "5") allegedly given to him by Floresita. He never went back to Lucena City, for fear of his life.

The co-accused, Tito Benjamin, on his part, denied having ridden in the car of Manzanero together with Floresita on August 13, 1965. He testified that he was the chief mechanic of the Manzanero Motor Works; that in the morning of August 13, 1965, he went to their shop which he found closed; that he stayed there a short time, and went home where he stayed the whole day; that the next time he saw Manzanero was either on the 13th or 14th of August 1965, at the municipal hall of Lucena City; that on August 14, 1965, Floresita's brothers, Julian and

Enrique, fetched him and brought him to their house where the brothers asked him to be a witness against Manzanero; that he told the Sy brothers that he could not testify against Manzanero because he did not see what actually happened and that he did not want to tell a lie; that Enrique Sy replied that the lawyer would take care and teach him; and that because he was unyielding in his refusal to testify against Manzanero, Enrique Sy finally told him that he would be implicated in the complaint.

The trial court did not give credit to the evidence of the defense, and, on May 25, 1971, it rendered a decision finding the two accused, Ulpiano Manzanero, Jr. and Tito Benjamin, guilty of the crime of kidnapping and serious illegal detention, and sentenced them to reclusion perpetua. From the decision, appeal was brought to this Court by the two accused.

On September 5, 1971, while this case was pending appeal, appellant Ulpiano Manzanero, Jr., then a detention prisoner, was shot and killed, and this Court, by a resolution dated December 9, 1971, dismissed the case insofar as he was concerned.

Asked to explain why he should not be disciplinarily dealt with for failure to file the brief for appellant Tito Benjamin, the latter's counsel alleged that Tito Benjamin had decided to withdraw his appeal. By resolution, dated April 12, 1972, this Court required Tito Benjamin to comment on his alleged withdrawal of the appeal, and, in answer thereto, Tito Benjamin said that he realized he was wrong in consenting to the withdrawal of the appeal and asked that the appeal be reinstated. Upon motion, this Court, on May 23, 1972, resolved to reinstate the appeal.

In his brief, counsel for appellant Tito Benjamin made the following assignments of error:

- The trial court erred in not holding that the prosecution evidence is inherently improbable and unbelievable; and
- The trial court erred in not holding that the appellant Tito Benjamin and the late Ulpiano Manzanero, Jr. did not commit the crime of kidnapping and serious illegal detention because the complainant Floresita Sy went with Ulpiano Manzanero, Jr. of her own free will.

Appellee, People of the Philippines, represented by the Solicitor General, is also of the opinion that the prosecution evidence is inherently improbable and did not establish beyond reasonable doubt the guilt of the appellants, and consequently recommended the acquittal of appellant Tito Benjamin. We agree with counsel for the appellant and the Solicitor General that the evidence of the prosecution was inherently improbable and could not support a finding of the guilt of the appellants beyond reasonable doubt.

The prosecution tried to prove that Floresita was kidnapped at Lucena City and was detained in a house at Tiaong, from August 12 to 14, 1965, for the purpose of extorting a P50,000.00 ransom from Floresita's opulent family. The evidence of the prosecution, however, cannot convince Us that the crime of kidnapping and serious illegal detention, for ransom, was committed. We gather from the evidence that the alleged kidnappers did not take any precaution, or use any means, to hide their identity, as kidnappers would do. Kidnappers for the purpose of extorting ransom would wear masks so they cannot be recognized, either by the victim or by other people; they would simulate an artificial voice if the demand for ransom is through a telephone call; they would compose the ransom note from letters and figures cut from newspapers; they would blindfold the victim not only to prevent the victim from identifying his kidnappers but also to prevent the victim from seeing and remembering the places to where he is brought. None of these precautions were taken by the alleged kidnappers in the instant case. When Floresita was allegedly pulled by Manzano to his car at 8:00 o'clock in the morning of August 12, 1965, the alleged kidnappers used no disguise to prevent being recognized; the supposed snatching of Floresita took place in a busy place at the intersection of Merchan and Juarez Streets in Lucena City, where people, whether they liked it

or not, could have witnessed the alleged act of the kidnappers in forcing Floresita to get inside the car of Manzanero, and the people could have easily identified the kidnappers. Moreover, Floresita knew very well, for many years, the alleged kidnappers, Manzanero and Benjamin, and that these men could in no way be considered so moronic as not to realize that regardless of whether or not they would succeed in extorting the ransom, they would surely be pointed to as the culprits by Floresita once the latter is released.

Particularly noteworthy in this alleged kidnapping is the fact that, according to Floresita, there were two other persons, whom she could not identify, that stood guard outside the room where she was detained from August 12 to 14, 1965. If there were such other persons, why did not Manzanero adopt the expedient of just employing these unidentified persons in perpetrating the kidnapping, while he and Benjamin could remain in the background to minimize the risk of their being identified? Manzanero, being a neighbor, was in a position to know the actual movements of Floresita, and those two unidentified men, upon instructions by him, could have easily abducted Floresita without his actually participating in the act.

It is indeed hard to believe under the circumstances surrounding the alleged kidnapping, as gathered from the evidence of the prosecution, that Floresita was pulled against her will into the car by Manzanero. If that were true, what prevented her from making a resistance since it was daytime, and that place where she was allegedly forced into the car was near the Brillantes store which was frequented by many people? Why did she not cry, or shout for help, or at least call the attention of the people at that time when she was forced into the car and when, during the trip, they passed through the populous towns of Sariaya and Candelaria, and the check points of the Philippine Constabulary on the way? What prevented her from doing so? Could the pen knife that Manzanero allegedly held in his right hand, while driving the car, effectively deter her from crying for help while they were passing the populous streets of those towns and the check points?

Furthermore, what could have been the motive for the kidnapping? According to the trial court, the ransom money was needed by Manzanero to defray the huge expenses for the day-to-day living of his lawful wife and seven children, and of his mistress and his five children by her, as his repair shop that was earning only about P1,000 monthly could hardly meet the salaries of his 16 workers and mechanics. But is it credible that Manzanero, "being the intelligent and shrewd man that he appears to be", according to the trial court, could even have entertained the illusion that the kidnapping that he was to perpetrate so clumsily and amateurishly would be profitable to him, and he could escape from criminal prosecution? And what is strange is, if the ransom note was indeed written, why was it never presented in evidence? The claim that it was lost is unbelievable. That ransom note, if it ever existed, was the most important piece of evidence that could support the prosecution's theory that the kidnapping was for ransom. Certainly, that piece of evidence should be kept and preserved. No plausible explanation was given how that ransom note got lost. Neither the father nor mother of Floresita was made to testify regarding the alleged ransom note.

Moreover, if ransom was the purpose of the kidnapping, why did Manzanero so easily, and without apparent reason, give up his alleged criminal enterprise, when he could have pursued it to a successful end? If there was really that ransom note, and that ransom note was sent, the most logical thing that Manzanero would have done was to send instructions to Floresita's family on how, when, and to whom the ransom money should be delivered. There is no evidence that Manzanero ever made any follow up in order to get the ransom.

Furthermore, barely two days after the alleged kidnapping for ransom, Manzanero, without having obtained even part of the ransom money, released Floresita. Would a kidnapper, as Manzanero was alleged to be, readily release the victim without realizing his purpose?

Let us now scrutinize the evidence for the defense. Manzanero's defense hinges on his being Floresita's lover. In

support thereof, Manzanero pre-sented in evidence two pictures of Floresita (Exhibits "2" and "3") which she allegedly gave him. The pictures bore at the back identical dedications saying: "Jun dear, Forgetting you I cannot do. Forgetting me it's up to you. Love, Linda." "June" is, by Floresita's admission, Manzanero's nickname. "Linda" is admittedly Floresita's nickname. One capital letter "L" serves as the first letter of both words "Love" and "Linda" in the complimentary ending and signature, marked as Exhibits "2-A" and "3-A". Manzanero also sub-mitted two letters (Exhibits 4 and 5) of Floresita. These letters begged Man-zanero understanding for her failure to see him at the appointed time, and at the same time promised to see him some other time.

The trial court did not give any evidentiary weight to Exhibits 2 and 3 for the reason that the dedications in the two photographs are identical, which shows, according to the trial court, that the wordings were dictated to Floresita under duress during her captivity. The trial court, it appears, could not comprehend how a girl could use the very same dedication in two pictures that she gave on different occasions, for, to quote the trial court, "there are a thousand and one endearing verses which complainant herein, being an intelligent high school student, is capable of composing". Simi-larly, the trial court did not give importance to the two notes, Exhibits 4 and 5, for being of the same import and style and, therefore, according to the trial court, "said notes again clearly lend credence to the claim of Floresita Sy that they were extracted from her while being held by the accused in captivity." We do not agree with the trial court. For one thing, how did Manzanero come into the possession of Floresita's pictures, Ex-hibits "2" and "3"? Is it natural that a girl would give her pictures to her kidnapper during captivity? The appearance of the handwriting in the dedi-cations do not indicate that the dedications were written by a nervous hand. Does the mere fact that identical dedications are written on two pictures ne-cessarily lead to the inference that they were written under duress? Is it not more probable that the identical dedications written in the two photographs were Floresita's favorite expression, which she did not tire of repeating? And does a girl in captivity and under duress write dedications and sign her name with flourishes as appears in the words "Love, Linda" appearing in the pictures?

Then We noted that the two notes (Exhibits 4 and 5) were written in such a way that is indicative of the affectionate feelings of Floresita towards Man-zanero. The note, "Exhibit 4, ends also with the words "Love" and "Linda". The note, Exhibit 5, ends with the words "Nagmamahal" and signed "Sonata of Love". Floresita admitted that she was called "Sonata of Love" by Manzanero.

The trial court said that it was "highly unnatural for the accused Manzanero to be keeping in his possession the pictures (Exhibit 2, 3) and the letters (Exhibits 4 and 5) from his supposed sweetheart, considering that in doing so he unnecessarily opens himself to the risk that his wife or his mistress might discover his illicit relationship with the complainant herein." Considering, however, the philandering proclivity of Manzanero, to whom marital fidelity and continence definitely meant very little, We do not find it strange for him to be keeping and treasuring momentos of his romantic exploits. We have noted that the bigger one of the two pictures is encased in a sylophane folder, indicating that it was meant to be kept.

We have also noted that in the preliminary investigation, and in her direct examination during the trial, Floresita made no mention of her having been forced to write the dedications in the photographs, or the notes addressed to Manzanero. The existence of the photographs, dedications, and letters cropped only when she was under cross-examination when she testified that at intervals between August 12 and 13, 1965 she was forced to write four times, but she could not remember what she wrote on the photographs and letters (Exhibits 2, 3, 4 and 5) because she was under duress as Manzanero was threatening her with bodily harm. Strangely enough, however, she could reproduce from memory during the trial the contents of the ransom note which she allegedly wrote to her parents notwithstanding the fact that, according to her, a knife was pointed to her by Manzanero while he was dictating to her what to write.

Then the trial court was of the opinion that Manzanero's having hurriedly left, after the commission of the crime, for Manila, and from there to several other places, was an admission of guilt. The trial court did not give credit to Manzanero's explanation that he did this merely to protect himself from possible bodily harm from the Sy family. We are of the view that Manzanero had reasonable ground for such fear. Manzanero was attacked in the presence of police officers by one of Floresita's brothers in the early morning of August 14, 1965. Subsequent events had borne out his fears. After Manzanero had perfected his appeal, he was gunned down on September 5, 1971, and, as stated in appellant's brief, the suspected assailant was a brother of Floresita.[1]

The actuations of Floresita herself, and of some members of her family, on August 14, 1965, when she was being brought back to Lucena City from the house of Manzanero's sister, belie the charge that she had been taken away against her will. According to the evidence of the prosecution, on that occasion Manzanero invited not only Floresita but also her mother and brother to ride with him in his car, and they acceded, on their way back to Lucena City. If Manzanero had kidnapped and detained Floresita, how come that she and her family would so willingly ride in his car as if nothing had happened, when they had their own Jeep? Furthermore, when the group arrived in Lucena City, in front of the police headquarters, Floresita's brother merely told the police, again as if nothing had happened, that his sister had already been found, and everybody then went home. The most natural thing that they would have done on that occasion, if Floresita had really been kidnapped, was for Floresita herself and her relatives to point to Manzanero right then and there as the kidnapper and have the police arrest him. But this, they did not do. It was only on August 16, 1965, or two days after Floresita's release from her alleged captivity, that she went to the police and filed the complaint.

A question may be asked: If Manzanero was innocent of the crime imputed to him, and if Floresita was his lover who was not forced to ride with him on that fateful morning of August 12, 1965, why did Floresita file a complaint and testify against him? The answer is not hard to find. The Sy family is well-known in the business circles of Lucena City. Her father was the owner and operator of a rice mill, two theaters, a fleet of several freight trucks, apartment houses for rent, as well as a grocery store. The family had its name and prestige to protect. In contrast, Manzanero was just a mechanic; he had two wives and several children to support. What would Floresita's future be if she continued her improper relations with a mechanic? What would the people think, and say, of her if they have ground to believe that she, a scion of an opulent and well-known family, fell in love with a needy philandering mechanic? What would happen to the family's honor and reputation? These questions must have been in her mind, and must have been stressed on her feelings by her family, during the two days, from the time that she was brought back to her family on August 14 up to the time that she filed her complaint on August 16, 1965. These circumstances could have made her decide to file the complaint.

In view of the foregoing, We hold that the trial court erred when it declared that the late Ulpiano Manzanero, Jr. and appellant Tito Benjamin committed the crime of kidnapping and serious illegal detention.

ACCORDINGLY, the decision of the lower court, appealed from, finding appellant Tito Benjamin guilty of the crime of kidnapping and serious illegal detention and imposing on him the penalty of life imprisonment (reclusion perpetua), must be, as it is hereby, reversed, and said appellant is acquitted of the crime of which he was charged, with cost de oficio. His immediate release from detention is hereby ordered, unless he is yet to be held for having committed some other crime.

IT IS SO ORDERED.

Fernando, Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Page 19, Brief for Appellant.

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