

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JAMES PATANO Y MARCAIDA, RAMIL MADRIAGA Y LAGONOY AND ROSENDO MADRIAGA Y BANAAG, APPELLANTS.

G.R. No. 129306. March 14, 2003

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

For automatic review is the decision dated April 30, 1997, rendered by the Regional Trial Court of Pasig City, Branch 262 in Criminal Case No. 110089-H convicting appellants James Patano, Ramil Madriaga and Rosendo Madriaga of the crime of Kidnapping for Ransom and imposing upon them the supreme penalty of death.

The Amended Information, dated May 15, 1996, charged appellants James Patano, Ramil Madriaga and Rosendo Madriaga as well as Oswaldo Banaag, Manolo Babac, Allan Duarte and Jose Doe, with the crime of Kidnapping for Ransom, committed as follows:

That on or about March 25, 1996, in Mandaluyong City, and within the jurisdiction of this Honorable Court, the aforementioned accused grouping themselves together, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously detain/kidnap and/otherwise deprived VICENTE UY Y CHUA (NGO LIT POON) of his liberty for the purpose of extorting ransom, as in fact demand therefore in the amount of TEN MILLION (P10,000,000.00) PESOS had been made by the above-named accused, while detaining said victim in Antipolo, Rizal, until his rescue on March 27, 1996.

CONTRARY TO LAW.[1]

All three appellants together with Oswaldo Banaag pleaded not guilty to the crime as charged. Their other co-accused Manolo Babac, Allan Duarte and Jose Doe remain at large. Trial ensued.

The prosecution presented six witnesses.

Kidnap victim Vicente Uy testified as follows -- On March 25, 1996, at around 10:30 in the evening, he was along Wilson St., San Juan, Metro Manila, on his way home driving his Nissan Sentra when a black Pajero bumped his car on the left door, driver's side. Both he and the driver of the Pajero got off their respective vehicles. When he told the driver that they have to call a police officer, he was told that the passengers inside the Pajero were police officers. He was asked to look inside the Pajero. When he did so, the driver suddenly pushed him inside the vehicle while the four other passengers grabbed him. He was blindfolded and his feet and hands were tied. After traveling for about 30 minutes, the vehicle stopped and he was transferred to the baggage compartment of another vehicle. An object was placed on top of him and he was told that it was an armalite. They traveled again for 30 minutes, after which, he was moved, placed on a "hard object" and covered with "something". He was asked if he has ten million pesos (P10,000,000.00) to which he replied in the negative. They bargained for a while until the ransom money was pegged at five million pesos (P5,000,000.00). They asked for his telephone number which he gave. After some hours, Uy felt somebody lifting him up, telling him that he was already safe, removing his blindfold and untying him. His daughter Lucy Ngo then entered the room. He was asked if he wanted to go to the

hospital but he declined.[2]

On cross-examination, Uy stated that when his blindfold was removed, he saw two handcuffed men. He pointed to appellant Rosendo Madriaga who was in the courtroom, but Uy declared that he is not certain that Rosendo was the one he had seen handcuffed because the one he saw was wearing a moustache and Rosendo does not have one.[3]

Chief Inspector Gilbert Cruz, in-charge of operations of the Presidential Anti-Crime Commission's (PACC) Task Force Habagat, testified as follows -- On March 27, 1996, his superior, Supt. Calinisan instructed him to proceed to the residence of Uy as the former received a call from Lucy telling him that there was someone in the house of Virginia Avelita, Uy's common-law wife, who claims to know the location of the victim. He went to the house of Lucy and they agreed that he will pose as the family's lawyer. They then went to the house of Virginia. There, he was introduced to appellant Ramil Madriaga who told them that Uy was under the custody of the Antipolo police because he was arrested for swimming without authority at the Villa Cristina Resort (resort for brevity), Antipolo, Rizal, now Antipolo City. Upon his instructions, verification was made by a certain Chief Insp. Quidato[4] who had gone to the resort and learned that the information was false. Together with Lucy and appellant Ramil, Maj. Cruz proceeded to the resort. Upon reaching the resort, Ramil "dashed" towards cottage no. 2 but Maj. Cruz stopped Ramil. In front of the cottage was a certain Richard Dimal to whom Cruz identified himself as a police officer. He found appellant Rosendo and victim Uy inside the cottage. Dimal and appellant Rosendo were then arrested, handcuffed and brought to the headquarters where they identified a certain Oswaldo Banaag as the "tipster" of the group.[5]

Lucy Ngo's testimony is as follows -- In the morning of March 26, 1996, she received a call from Virginia Avelita telling her that a certain Ramil Madriaga was at her place with information regarding the whereabouts of her father Vicente Uy, also known as Ngo Lip Poon. She called Maj. Gilbert Cruz and together, they went to Virginia's house. There, they met appellant Ramil who informed them that he received a beeper message from his cousin, appellant Rosendo, telling him that the Antipolo police picked up their group and Uy was recovered. Maj. Cruz then instructed Maj. Winnie Quidato to check with the Antipolo police if there was really an arrest made on that day and it was learned that there was none. Maj. Cruz instructed Quidato to proceed to the resort which they also did together with Lucy's uncles and aunts. At the resort, appellant Ramil got off the car and talked to Maj. Cruz who instructed Ramil: "(O)kay but slowly, do not run or make any move." Halfway towards his cousin, appellant Ramil ran and met appellant Rosendo. Maj. Cruz then ran, followed by his staff. Lucy and her companions were left waiting in the car until Quidato returned and told her that her father is safe, and they proceeded to the cottage. Appellant Ramil approached Lucy and asked her not to include his cousin Rosendo in the case because of Ramil's help in the rescue of her father.[6]

Richard Dimal who was arrested by Maj. Cruz on March 27, 1996, testified as follows -- In the evening of March 25, 1996, he was renting some VHS tapes at the Star Gazer video shop located at Pasig City where he saw his friend Nadel Francisco. They chatted until 12 o'clock midnight. Appellant Ramil passed by in his white Toyota Corolla car between 12 o'clock and 1 o'clock in the morning of March 26, 1996 and invited Dimal "to go around" to which the latter acceded. They went to the house of Dimal at Cainta, Rizal. Dimal saw a black Nissan Patrol parked in front of his house. Appellant Ramil then called up a passenger of the Nissan Patrol on his mobile phone and told the latter, "we can't do it here, we must find a darker place." Then they proceeded to Taytay, Rizal and stopped behind its new market. Appellant Ramil alighted from the car and went to the Nissan Patrol. Thereafter, Dimal saw them put something inside the trunk of the car of Ramil. They left Taytay, Rizal and roamed around, with the Nissan Patrol tailing them. When they reached Bulacan, they stopped and Ramil talked to the passengers of the Nissan Patrol. Ramil returned to his car and told Dimal that they will go to Antipolo,

Rizal. Upon reaching Antipolo, the passengers of the Nissan Patrol transferred to the car of Ramil. They left the Nissan Patrol behind. Dimal identified Manolo Babac as the driver of the Nissan Patrol and both appellants Rosendo Madriaga and James Patano as well as the two co-accused who are still at-large, Alan Duarte and Jose Doe, as its passengers. When they reached the resort located in Antipolo, Rizal, between 5 o'clock and 6 o'clock in the morning (March 26, 1996), appellant Ramil opened the trunk of his car. Jose and appellant Patano lifted a person out of the trunk and brought him inside cottage no. 2. Dimal asked appellant Ramil if he could go home but Ramil said that they will all leave together. Ramil and Duarte then left the place. Dimal, appellants Rosendo and Patano, and Jose were left inside the cottage. They all went to sleep. When Dimal woke up, it was between 12 o'clock and 1 o'clock in the afternoon (March 26, 1996). He went to the resort's restaurant and stayed there for about 30 minutes. When he went back to the cottage, the others were not there anymore. While waiting for Ramil and the others to come back, he took his dinner between 7 o'clock and 8 o'clock in the evening of "March 26, 1996" and he laid down up to "1 o'clock early morning" of "March 27, 1996". When he went out of the cottage to call up somebody because he was confused having been left alone, appellant Rosendo arrived together with Jose. Jose left again at 6 o'clock in the morning (March 27, 1996) leaving Dimal and appellant Rosendo inside the cottage. They took their lunch in front of the cottage and waited until "around 3 o'clock to 4 o'clock in the afternoon" when appellant Ramil arrived with several companions who he later learned to be the kin of Uy and some police officers. Dimal and appellant Rosendo were left inside the cottage together with some police officers to wait for their (Dimal's and Rosendo's) other companions. At 7 o'clock in the evening, appellant Patano arrived. They stayed in the resort until the afternoon of the next day and they were brought by the policemen to Camp Crame.[7]

On cross-examination, Dimal admitted that he was arrested that afternoon of March 27; that he was wearing a moustache at the time of the arrest and that he was the one who fed victim Uy.[8]

Virginia "Virgie" Avelita, Uy's common-law wife, corroborated the testimony of Lucy and Maj. Cruz regarding appellant Ramil's contact with her. Virginia further testified that appellant Ramil related to her the whole kidnapping scenario; that Ramil informed her that the kidnappers were demanding one hundred thousand pesos (P100,000.00) ransom; that Oswaldo Banaag is the gang's tipster; and that Ramil requested her not to involve his cousin Rosendo.[9]

The last witness for the prosecution, Chief Inspector Winnie Quidato, Chief of the Intelligence and Operation Division of the Task Force Habagat, corroborated some portions of the testimony of Maj. Cruz on the episode at the resort. He also testified that appellant Patano arrived at the resort at around 9 o'clock to 10 o'clock in the evening of March 27, 1996 bringing with him one thousand pesos (P1,000.00) as payment for the cottage rental.[10]

The defense presented five witnesses.

First to be presented was accused Oswaldo Banaag, family driver of a certain Beverly Tan. He denied any complicity in the crime. Banaag testified that: he was arrested in White Plains, Quezon City, on March 29, 1996 by Maj. Cruz and was brought to Camp Crame; it was only when he was transferred to a detention cell that he met his co-accused; although he knew victim Uy, he thought that he was being charged with the killing of his employer, Reynaldo Tan; he was surprised when he learned that he was being implicated in the kidnapping of Uy.[11]

Nadel Francisco, a college student taking up Management course, testified that at "around 4 o'clock to 5 o'clock in the afternoon" of March 25, 1996, Richard Dimal visited him at his house at de Castro, Pasig City. They chatted for about one hour. Dimal invited him to go swimming in Villa Cristina Resort but he declined because he

has an examination the following day. Francisco belied Dimal's statement that they were together until 12 o'clock midnight as he was already asleep in his house at that time. He further stated that he did not see appellant Ramil Madriaga on said day.[12] On cross-examination, Francisco admitted that appellant Ramil's girlfriend asked him to testify but he clarified that he was testifying not because of such request, but because of the subpoena issued to him.[13]

Appellant Rosendo Madriaga testified thus -- At around 8 o'clock in the evening of March 25, 1996, Richard Dimal, together with a certain Nestor, went to his house and invited him for a swim in Antipolo, Rizal, as it was Nestor's birthday. They arrived at Villa Cristina Resort at around 10 o'clock in the evening and rented a "cottage table" near the pool. While he and Nestor were swimming, he saw Dimal talk to some men and then go upstairs. Later, he noticed that Nestor was no longer around. Afterwards, Dimal came back and invited him to drink. They went to a veranda and there, he saw Nestor drinking Fundador with the same men he previously saw talking to Dimal. Appellant Rosendo recalls the names of two of the men as Allan and Bong. At around 4 o'clock in the morning (March 26, 1996), Dimal confided to him that they were going to actually stand guard over a person. Dimal pulled him towards a room where Rosendo saw a person with bound feet and hands lying on his belly on the floor. When Rosendo told Dimal that he wanted to leave, he was told that Bong's group had men posted at the gate and he might be killed if he left. Scared, he stayed inside the room. Per instructions of Dimal, Rosendo burned all the things belonging to the captive but Rosendo kept a PLDT bill. When Dimal had gone asleep, Rosendo went to the resort's canteen and called the number of Virginia Avelita reflected on the PLDT bill but the person answering the phone hung up on him several times. He then called up his cousin, appellant Ramil Madriaga, and asked for his help. Ramil initially didn't want to intervene but eventually agreed to help him. He gave the number on the phone bill and appellant Ramil assured him that he will contact such person. He then went back to the veranda where he slept. The next day (March 27, 1996), between 3 o'clock and 4 o'clock in the afternoon, he heard somebody calling his name, and saw appellant Ramil who was with several armed men, running towards him. Dimal then ran and threw a gun near the trees.[14]

Appellant Rosendo further testified that he saw appellant James Patano for the first time in the afternoon of March 28 on board a van at the resort,[15] while he saw Oswaldo Banaag for the first time at the PACC office.[16] Rosendo avers that Dimal implicated him because the latter thinks he was the one who caused his arrest.[17] Further, Rosendo testified that in the room where he, Patano and Dimal were brought by Maj. Cruz, victim Uy only pointed to Dimal as the one who kidnapped him.[18]

Appellant James Patano recounted that: on March 28, 1996, after having gone for a swim, Maj. Quidato arrested him while he was urinating in one of the corners in the resort; he was brought inside a comfort room in one of the cottages where he was asked if he knew Dimal or appellant Rosendo; when he was brought out of the room, he was already unconscious as he was mauled and a plastic bag was placed on his head; he regained consciousness inside a vehicle; from the resort, he was brought to the PACC office; at the PACC office, Dimal's kin, particularly Dimal's sister Arlene and her husband Willie Pangan, asked him to testify against the Madriagas, but he turned them down; and he was also asked to sign an affidavit but he likewise refused. Patano further denied knowing his co-accused in the case.[19]

Appellant Ramil Madriaga asserts his innocence of the crime charged. He testified as follows -- In the early morning of March 26, 1996, his cousin Rosendo called him up asking for his help. Rosendo told Ramil that he was in the resort and was unexpectedly mixed up in a kidnapping; that he could not get out of the resort because there were "look-outs" posted in the area. Rosendo gave Ramil a name and a number written in a PLDT bill. Appellant Ramil was hesitant because the results of the Bar examinations were coming out that day; but nevertheless, he went to see a certain Lt. Capitulo in Camp Aguinaldo and told him about his cousin's

predicament.[20] The next day, March 27, 1996, Ramil went to see Virginia Avelita, the name given by appellant Rosendo written on the PLDT bill. He showed her his school I.D. and asked her if she knows anybody who is missing, and the latter replied, “si Vicente ko.” He was then made to talk over the phone to Vicente Uy’s daughter, who asked him to wait. Virginia, meanwhile, told him that she was going out. After an hour, Virginia, Lucy, three old women, their driver, PACC operatives and Maj. Cruz arrived. After a short conversation, they left for the resort, leaving Virginia behind. He asked the latter to look after his white Toyota Corolla car which he left in her residence. Upon reaching the resort, they were approached by Maj. Quidato who asked him questions. He got off the car when he saw his cousin Rosendo near the pool with Dimal. He pointed the two to Maj. Cruz who instructed his men to scatter. He then started walking towards his cousin, and when appellant Rosendo saw him, he told the latter, “mga kasama natin ito, huwag kang matakot.” When he got to Rosendo, he pulled him and they leaned on the wall for fear that they might get shot. Dimal ran upstairs while Rosendo pointed to the place where Uy was being kept. They went inside the cottage and Ramil removed the plaster bindings on Uy.[21]

The trial court convicted appellants James Patano, Ramil Madriaga and Rosendo Madriaga of the crime of Kidnapping for Ransom, but acquitted their co-accused Oswaldo Banaag.

The dispositive portion of the assailed decision, reads:

WHEREFORE, judgment is hereby rendered as follows:

- With respect to the Criminal Case No. 110090, on the ground of insufficiency of evidence, all the accused are ACQUITTED.

- With respect to Criminal Case No. 110089-H, on the ground of insufficiency of evidence, accused OSWALDO P. BANAAG is hereby ACQUITTED. The jail warden of Mandaluyong City is hereby directed to immediately release his person unless there are other legal grounds to justify his continued detention. However, with respect to accused ROSENDO B. MADRIAGA, JAMES M. PATANO, and RAMIL L. MADRIAGA, judgment is hereby rendered finding them GUILTY beyond reasonable doubt of the crime of kidnapping and serious illegal detention defined and penalized under Article 267 of the Revised Penal Code. Accordingly, said accused are hereby sentenced to suffer the penalty of death, as provided for under said Article 267 of the Revised Penal Code, to suffer the appropriate accessory penalties consequent thereto, and to proportionally pay the costs.

SO ORDERED.[22]

Appellants insist that they are innocent of the crime of Kidnapping for Ransom, arguing that:

- THE TRIAL COURT ERRED GROSSLY IN CONVICTING ACCUSED-APPELLANTS WITHOUT BEING IDENTIFIED AS THE ABDUCTORS/KIDNAPPERS OR CULPRITS OF THE ALLEGED KIDNAPPING.

- THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANTS SOLELY ON THE BASIS OF THE LONE AND UNCORROBORATED TESTIMONY OF THE CO-CONSPIRATOR.[23]

Bearing in mind that it devolves upon the State to establish by proof all the essential elements of the crime with which appellants are charged and to establish beyond reasonable doubt that they are guilty of said crime,[24] the Court, after a meticulous examination of the evidence of the prosecution, finds that appellants James Patano, Ramil Madriaga and Rosendo Madriaga should have been acquitted by the trial court. The prosecution failed to overthrow the constitutional presumption of innocence in favor of appellants. It failed to adduce the quantum of proof necessary to convict them.

In convicting appellants, the trial court gave great weight and evidentiary value to the uncorroborated testimony

of prosecution witness Richard Dimal on appellants' alleged participation in the crime. It stated that Dimal's testimony is "direct, straightforward and spontaneous" thus justifying the conclusion that appellants acted in concert in carrying into effect the kidnapping of Vicente Uy. The trial court totally disregarded appellants' testimonies on the ground that they failed to support their versions of the incident.

It is well settled that the testimony of a single witness is sufficient to support a conviction so long as it is clear, straightforward and worthy of evidence by the trial court.[25] It is likewise a settled doctrine that when it comes to credibility of witnesses, the findings of a trial court on such matter will not be disturbed unless the lower court overlooked, ignored, misapprehended, or misinterpreted certain facts or circumstances which are so material such as to affect the outcome of the case.[26]

Although the trial court described the testimony of Dimal as "direct, straightforward and spontaneous", it should not automatically endow outright probative weight to his testimony or its veracity, to the exclusion of the testimonies of other witnesses. Many witnesses can give testimonies that are blatant lies, even if they appeared poker-faced and did not bat their eyelashes.

After a careful scrutiny of the testimony of prosecution witness Dimal, the Court finds that the trial court failed to consider some significant facts and circumstances which affect his credibility. His version of the incident is so incredible that a complete reversal of the findings of the trial court is warranted.

To begin with, Dimal testified that he was with Nadel Francisco on the night of the kidnapping when appellant Ramil passed by and invited him "to go around".[27] Dimal likewise declared in his Sworn Statement dated April 1, 1996 that he was with Francisco when appellant Ramil Madriaga invited him at around 12 o'clock midnight, viz.:

SAGOT - 13. Noong ganap na ika-pito ng gabi ng Marso 25, 1996, ako ay nagpunta sa Star Gazer Video Shop sa Azucena Street, De Castro, Pasig upang mag-arkila ng VHS tapes. Mayamaya ay nagkita kami doon ng kaibigan ko na si NADEL FRANCISCO at nagkuwentuhan kami doon sa tapat ng nasabing video shop hanggang bandang alas-dose ng hatinggabi. Habang nagkukuwentuhan kami ay napadaan sa harapan namin si kuya Amel na lulan ng isang kotse at niyaya niya akong sumama sa kanya at sinabing mayroon daw kaming happenings.[28] (Emphasis Ours)

But defense witness Francisco categorically denied Dimal's assertions. While he admitted that he saw Dimal that day, he testified that they merely chatted for only about one and a half (1 ½) hours and parted ways at around 5:30 o'clock in the afternoon. Francisco testified thus:

Q

You said you talked with Richard Dimal for one hour, more or less, will you tell this Honorable Court what time did Richard and you started to talk?

A

Approximately 4:00 o'clock in the afternoon, sir.

Q

It lasted around 5:30 o'clock?

A

Yes, sir.

Q

What subject matter did you talk with Richard Dimal?

A

I cannot remember anymore, we just chat about the lives of our friends, sir.

Q

Who among your friends were talked about?

A

I cannot remember anymore, sir.

Q

Before you and Ricard Dimal parted ways, what did Dimal tell you, if any?

A

He invited me to go with him for swimming, sir.

Q

Will you tell this Honorable Court what place he is going to have swimming?

A

Villa Cristina, sir.

Q

Tell this Honorable Court what was your reaction to the invitation of Ricahrd Dimal to go with him at Villa Cristina?

A

I did not go with him, sir.

Q

Why?

A

I have an examination on the following day, sir.

Q

I am showing to you a statement of Mr. Ricard Dimal attached to the records of this case found on page 64 consisting of 6 pages, on page 65 or the second page of the statement of Richard Dimal, question #13 and the answer thereto, I'm reading it to you and please listen. "Maaari bang ikuwento mo dito kung paano ka nadamay sa nasabing kaso? And the answer, "Noong ganap na ika-pito ng gabi ng Marso 25, 1996, ako ay nagpunta sa Star GazarVideo Shop sa Azucena St., De Castro, Pasig upang mag-arkila ng VHS tapes. Mayamaya ay nagkita kami doon ng kaibigan ko na si Nedel Francisco at nagkuwentuhan kami sa tapat ng nasabing video shop hanggang bandang alas-dose ng hatinggabi. Habang nagkukuwentuhan kami ay napadaan sa harapan namin si Kuya Amel na lulan ng isang kotse at niyaya niya akong sumama sa kanya at sinabing mayroon day kaming happenings". Did you hear what I read?

A

Yes, sir.

Q

Did you understand what I read?

A

Yes, sir.

Q

What can you say about what I have read which is the statement of Richard Dimal?

A

I do not know about that alleged happening, sir.

Q

On that date, around 12:00 o'clock midnight, where were you?

A

I was already sleeping during that time, sir.

Q

During your conversation with Richard Dimal from 4:00 to 5:30 o'clock in the afternoon of March 25, 1996, tell this Honorable Court whether you saw Kuya Amel?

A

I did not see him that day, sir.[29]

The trial court chose to ignore Francisco's testimony. It did not explain in its decision why it opted not to consider his testimony, why it relied on the testimony of Dimal despite Francisco's explicit testimony that he and Dimal talked only up to 5:30 o'clock in the afternoon and that it is not true that he saw Ramil with his car around midnight or at any time of that day. The Court is confounded why the trial court entirely overlooked or disregarded the testimony of Francisco who is a disinterested witness and had nothing to gain from belying Dimal's claim. Dimal regards Francisco as his friend;^[30] and Francisco considers Dimal as a closer friend of his than Ramil's.^[31] Thus, when Francisco repudiated Dimal's testimony, there was no reason for him to discredit Dimal except to tell the truth. The credibility of Dimal is thereby eroded. There is no reason for the trial court to discredit the testimony of Francisco. One may assert that while it may be true that after Francisco and Dimal parted ways at 5:30 o'clock in the afternoon, it could have happened that Dimal and appellant Ramil had met at midnight. But this posture could not be upheld because of the testimony of Dimal himself that Francisco was present when Ramil invited him to roam around at about midnight, which could not be believed because Francisco was, in fact, not present. In effect, from the start, Dimal is shown to be concocting his version of the kidnapping incident.

Furthermore, the trial court erred in accepting Dimal's testimony as gospel truth considering that his account of the events that transpired is replete with incredible happenings that should not have been accepted by the trial court as part of ordinary human experience and common sense. For example, Dimal testified that he went with Ramil upon the invitation of the latter and they went to his (Dimal's) house located at No. 046 Blk. I, PFCI Brgy. San Andres, Cainta, Rizal;^[32] that through a cellular phone, Ramil told the passengers of the Nissan Patrol

parked in front of Dimal's house that they could not do what they have to do in that place and that they have to find a darker place.[33] Why then did Ramil have to meet the passengers of the Nissan Patrol in front of Dimal's house when the place is not suitable to his (Ramil's) plans in the first place? Why did Ramil have to go to Dimal's house when he could have used the cellular to tell them the place where he thought would be a better place to meet them? There is nothing in Dimal's testimony to explain said incongruities.

In addition, Dimal testified that they went to Taytay, Rizal and stopped behind the new market place where Dimal saw something transferred from the Nissan Patrol to the trunk of the Toyota Corolla of Ramil;[34] that thereafter, from Taytay, Rizal, they roamed around and then went to Bulacan with the Nissan Patrol still tailing Ramil's car; that upon reaching Bulacan, Ramil alighted from his car and talked with the passengers of the Nissan Patrol; that Ramil went back to his car and told Dimal that they will go to Antipolo, Rizal; that upon reaching Antipolo, the passengers of the Nissan Patrol transferred to Ramil's car[35] and then they proceeded to Villa Cristina Resort in Antipolo, Rizal. From Taytay, Rizal, why do they have to roam around, go to Bulacan and then back to Rizal? From past midnight to 6 o'clock in the morning, why did Dimal, Ramil and the passengers of the Nissan Patrol have to go around killing time when the final destination of all of them together is the resort in Antipolo, Rizal? Why did the Nissan Patrol have to tail them all the while from Taytay, Rizal to Bulacan after the victim was transferred to the car of Ramil only to go to Antipolo, Rizal, a nearby town of Taytay, Rizal? Said acts are so preposterous that no amount of stretching of imagination could bring the same within the realm of human understanding.

The test to determine the value of the testimony of a witness is whether such is in conformity with knowledge and consistent with the experience of mankind; whatever is repugnant to these standards becomes incredible and lies outside of judicial cognizance.[36] Further, absent any other evidence to explain or corroborate such implausible actuations, the trial court committed a reversible error in considering the testimony of Dimal credible enough to sustain a conviction of all appellants. Evidence to be believed must not only come from the mouth of a credible witness but must also be credible in itself.[37]

It may be posited that in the commission of the crime of kidnapping with ransom, the culprits usually adopt and pursue unfamiliar schemes or strategies not only to avoid easy detection or monitoring of their movements, but to confuse the police authorities, the victim and the family of the victims; that the incredible happenings narrated by Dimal only highlight his knowledge of the details of the facts surrounding the kidnapping for ransom. This may be so if the credibility of Dimal on the fact that he and Ramil had met that night of the kidnapping is beyond question.

In any event, if a set of facts admits of two interpretations, then the one consistent with the presumption of innocence and in favor of the accused should prevail.[38]

The trial court declared that "there was never any positive identification made on any of the accused, and that the prosecution presented evidence which are circumstantial in nature to support the charge." [39]

It is a hornbook doctrine that conspiracy must be proved by positive and convincing evidence. The prosecution miserably fell short of this requirement.

The trial court explicitly declared that the prosecution witness is not a co-conspirator and therefore his testimony may be taken in evidence against all the appellants without running counter to Section 30, Rule 130 of the Rules of Court.[40]

The court a quo seriously erred in this aspect. Based on Dimal's sworn statement, marked as Exhibit "A", [41] and his testimony, Dimal admitted and confessed as to his participation.[42]

In addition, the following manifestation of Atty. Marcelino Arias, to wit:

Atty. Arias

Before the prosecution starts the direct examination, as per record, I learned that his Richard Dimal is one of the suspects and he was arrested in all these cases but he was not included as one of the suspects, I want to put that on record, as far as the record is concern, he is one of those who allegedly took the victim, he confessed by means of an affidavit, now he is a witness and not one of the accused, your Honor.

Court

Everything you have said will be put on record, and for your own information defense counsel, that is the prerogative of the prosecution and no longer of the defense.

Atty. Arias

Considering that I noticed that the prosecution is in possession of an Affidavit of this witness which was not included in the records of this case, may I ask to be furnished of this affidavit.

Fiscal Abesamis

The purpose of the testimony of Richard Dimal is to show the circumstances before, during and after the kidnapping of Mr. Vicente Uy, to show the conspiracy acts of the accused in this case of said kidnapping and to identify some evidence and thereafter to identify the accused in this case. With the permission of this Honorable Court.[43]

was not refuted by the prosecution.

Section 30, Rule 130 of the Rules of Court provides:

SECTION 30. Admission by conspirator. – The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act of declaration.

Thus, conspiracy must be proven by evidence other than the testimony of Dimal.

Proof of conspiracy need not rest on direct evidence as the felonious covenant itself may be inferred from the conduct of the parties before, during, and after the commission of the crime disclosing a common understanding between them relative to its commission.[44]

In its assessment, the trial court declared that the evidence for the prosecution is purely circumstantial,[45] on which basis it ruled that appellants conspired in perpetrating the crime of kidnapping with ransom.

For circumstantial evidence to be sufficient to support a conviction, all the circumstances must be consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.[46] The following elements must concur: (1) there must be more than one circumstance; (2) the facts on which the inference of guilt is based must be proved; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[47]

In the present case, the totality of the pieces of circumstantial evidence presented by the prosecution is not sufficient to establish the guilt of appellants. Not one of the prosecution witnesses saw the actual abduction. Witness Dimal admitted during cross-examination that he did not see appellants actually kidnap or abduct Uy, viz.:

Q You know that you never saw Ramil kidnapped Vicente Uy?

A No, sir.

Q You never saw your Kuya Sendong kidnapped kidnapped (sic) Mr. Uy?

A Yes, sir.

Q You never saw Oswaldo Banaag kidnapped Mr. Uy?

A No, sir.

Q You never saw James Patano kidnapped Mr. Uy?

A No, sir.

Q Never did you see Mr. Ramil Madriaga kidnapped Mr. Uy?

A Yes, sir.[48]

There could not be any misinterpretation in the meaning of the above testimonies. If the testimony of Dimal is taken in its entirety, it mainly revolved around events that allegedly occurred after the abduction was already consummated. As such, one would readily conclude that Dimal did not really see the act of kidnapping and therefore, he did not see any of the appellants perform the actual act of kidnapping. Besides, the trial court itself declared that “there was never any positive identification made on any of the accused.”[49]

Further, the prosecution evidence failed to sufficiently prove overt acts on the part of appellants that will convincingly show their direct participation or complicity in the kidnapping.

In the case of appellant James Patano, he was condemned to death for his presence in the resort. The trial court held that since appellant Patano failed to corroborate his excuse that he was just there for a swim with friends, then, the same must be ignored.[50] The Court disagrees. If at all, what the prosecution was able to establish is that appellant Patano knocked on the door of cottage no. 2, and Maj. Quidato heard him say: “(P)are kaibigan ninyo ito, dala ko ang pera”.[51] Such alleged statement by Patano, even if true, is equivocal and ambiguous. He did not state for what purpose the money is to be used. No probative weight may be given to the testimony of Maj. Quidato that the amount of one thousand pesos (P1,000.00) is for the payment of the cottage because it is a mere conclusion on his part based on his bare claim that the security guard and the official of the resort were preventing the victim from leaving because the cottage has not been paid yet. Quidato did not testify that he heard appellant Patano say that the alleged money he had with him was for the rental of the cottage. In other words, even if appellant Patano really brought money to the cottage, the prosecution failed to connect the participation of Patano in the commission of the crime of Kidnapping for Ransom. Absent any other proof of overt act necessary or essential to the perpetration of the kidnapping, Patano’s alleged presence and utterance cannot be a valid basis for his conviction. The Court cannot accept the trial court’s sweeping conclusion against Patano. The mere presence of appellant Patano at the resort after the commission of the crime does not imply conspiracy. Mere knowledge, acquiescence to or agreement to cooperate, is not enough to constitute one as a party to a conspiracy, absent any active participation in the commission of the crime, with a view to the furtherance of the common design and purpose.[52] Conspiracy transcends companionship.[53] Neither can the Court rely on the uncorroborated testimony of Dimal whose testimony at the outset had been found not to be credible. The failure of appellant Patano to present the friends he was with is not sufficient to support a finding of guilt beyond reasonable doubt. An accused should be found guilty on the basis of the strength of prosecution evidence and not on the weakness of the defense.[54]

Settled is the rule that conviction should rest on the strength of the evidence of the prosecution and not on the weakness of the defense. The identity of the offender, like the crime itself, must be proved beyond reasonable

doubt. Even though appellant Patano invokes the inherently weak defense of denial, such defense nonetheless acquired commensurate strength in the instant case where no positive and proper identification has been made by the prosecution witnesses of the offender, as the prosecution still has the onus probandi in establishing the guilt of the accused. The weakness of the defense does not relieve the prosecution of this responsibility. Besides, the Court has held that the testimony of witness Dimal is not credible and not worthy of belief. There is reasonable doubt as to his guilt or participation in the commission of the crime of Kidnapping for Ransom. The doubt should therefore be resolved in favor of appellant James Patano.[55]

As regards appellant Ramil Madriaga, the trial court refused to accept his testimony and found his claim that he was responsible for the rescue of Uy to be “beyond ordinary human comprehension deserving of no evidentiary value”.[56] Instead, it banked on the suspicions entertained by the police operatives that appellant Ramil’s actuations during the rescue were suspect, and that the latter failed to present Lts. Capitulo and Lim, often referred to by him in his testimony.[57] The Court does not agree. Mere suspicion, speculation, relationship, association and companionship do not prove conspiracy.[58]

The Court scrutinized the testimony of appellant Ramil Madriaga and there is nothing therein which is beyond ordinary understanding or which indicates any suspicious behavior on his part that would create doubt on his account of what really transpired. In fact, appellant Ramil exhibited candor and sincerity when he admitted that he was initially ambivalent in helping out his cousin Rosendo because of fear and of the fact that the results of the Bar examinations were coming out that day.[59] Also, the victim’s daughter, Lucy Ngo, did not sense any suspicious behavior on the part of appellant Ramil, and she testified that she even believed that the latter was trying to help them, thus:

Q

Will you tell us what do you mean by that?

A

‘Nagmamagandang loob is parang tumutulong siya,’ sir.

x x x

Q

The man who was ‘nagmamagandang loob’. Are you referring to Ramil Madriaga as the one who was ‘nagmamagandang loob’?

A

He is the one who was ‘nagmamagandang loob’. Yes, sir.

Q

Even before, you knew Ramil Madriaga was incarcerated and one of the accused in this case, were you surprised to know that Ramil Madriaga who according to you ‘nagmamagandang loob’ is now one of the accused in this case?

A

Yes, sir.[60]

It cannot be denied that appellant Ramil played a major part in the rescue of Vicente Uy. The testimonies of Lucy Ngo, Virginia Avelita and Maj. Cruz all show that it was through the information given by appellant Ramil that

they were able to locate Vicente Uy. If it were really true that appellant Ramil was one of the conspirators of the crime of Kidnapping for Ransom, it is absolutely incredible that Ramil would openly go to the house of the victim's common-law wife and place himself at the risk of being identified as one of the conspirators when he could have accomplished the same purpose by other means at the same time protect himself from being identified by witnesses. Neither did Virginia Avelita nor Lucy Ngo testify that Ramil asked for ransom. What then could be the motive of Ramil in going to the house of Avelita if not to help his cousin out of his predicament? Whatever suspicions the police operatives entertained were pure speculations, insufficient to warrant the conclusion that appellant Ramil participated in the kidnapping. The required quantum of evidence is proof beyond reasonable doubt.[61] "The sea of suspicion has no shore, and the court that embarks upon it is without rudder or compass." [62]

The testimonies of prosecution witnesses Maj. Cruz, Virginia Avelita and Chief Inspector Quidato were all based on what appellant Ramil had purportedly told them. The veracity of what they claimed was told them by Ramil is highly dubious in view of the testimony of prosecution witness Lucy Ngo, daughter of the victim, affirming that appellant Ramil was the one who was "nagmamagandang-loob" and who told them about the kidnapping of her father and where he could be found.

The Court went over the testimonies of prosecution witnesses Cruz, Avelita and Quidato and it found that certain portions thereof were tailored to suit the charges against appellants.

Both Cruz and Quidato testified that appellant Ramil rushed to the cottage as soon as they arrived at the resort and that they found appellant Rosendo inside the cottage with victim Uy, giving the impression that appellant Ramil knew exactly where the victim was and, therefore, appellants Ramil and Rosendo were two of the kidnappers.[63] However, Lucy Ngo contradicted their testimonies. Lucy, instead, confirmed the testimonies of appellants Ramil and Rosendo that the latter was outside the cottage and that Ramil rushed to Rosendo only after getting instructions from Maj. Cruz.[64]

The Court is likewise wary of the testimony of Virginia Avelita insinuating appellant Ramil's complicity for knowing the details of the crime. If it were true that she suspected Ramil, then there was utterly no reason for her to tell Lucy Ngo when she called up the latter that there was a certain person who was offering his assistance ("nagmamagandang-loob") in locating Uy.[65] Instead, she would have forewarned Ngo about appellant Ramil.

Consequently, the Court cannot give much weight to the testimonies of these prosecution witnesses as they suffer from infirmities.

Besides, it is a settled rule that the testimony of a witness who merely recites what someone else has told him, whether orally or in writing is hearsay and has no probative value[66] under Section 36, Rule 130 of the Rules of Court. Neither could the same be validly regarded as an exception to the hearsay rule considering that the details testified to by said witnesses were directly refuted by appellant Ramil when he testified in court and asserted the fact that appellant Ramil merely went to Avelita's house to tell her of the location of her common-law husband, Vicente Uy, and to help his cousin, co-appellant Rosendo; which fact is confirmed by prosecution witness Lucy Ngo.

The failure of appellant Ramil to present Lts. Capitulo and Lim does not denigrate the credibility of his own testimony. As stated above, the prosecution must rely on the strength of its own evidence and not on the weakness of that of the defense.

Thus, the Court finds that the prosecution evidence lacks that degree of conclusiveness required to convict appellant Ramil Madriaga.

With regard to appellant Rosendo Madriaga, the Court also finds that there is no sufficient evidence proving beyond reasonable doubt that he was involved in the kidnapping of Vicente Uy. As with appellant Patano, there is lack of adequate evidence of conspiracy insofar as appellant Rosendo is concerned. No proof was adduced by the prosecution to show that Rosendo knew about the kidnapping and that he had actively participated in its execution. When victim Uy identified Rosendo in the courtroom as the person he saw handcuffed after his blindfold was removed, Uy admitted that he was not sure of Rosendo's identity as the latter is without a moustache. The testimony of prosecution witness Dimal in this regard is quite revealing. Dimal admitted that he was the one who fed the victim and that he was wearing a moustache at the time of his arrest on March 27, 1996.[67]

Appellant Rosendo testified that he called up his cousin Ramil and asked for his help as he got unintentionally mixed up in a kidnapping.[68] Appellant Rosendo convincingly explained that he could not do anything because he was afraid.[69] Such is not far-fetched or improbable. The Court is cognizant of the fact that fear is an effective anesthetic that can paralyze one into inaction. Rosendo's failure to report his predicament with the police is not an indicium or positive proof that he actively took part in the crime and, therefore, it could not be a valid basis for a finding of guilt for the crime of kidnapping for ransom. What is clear is that appellant Rosendo called up his cousin, appellant Ramil, for help because he was in a predicament over which he had no control.

All told, while the crime of Kidnapping for Ransom has been proven, appellants' participation therein had not been adequately proven beyond reasonable doubt. Hence, all three appellants must be acquitted.

WHEREFORE, the decision of the Regional Trial Court of Pasig City, Branch 262 in Criminal Case No. 110089-H convicting appellants JAMES PATANO y MARCAIDA, RAMIL MADRIAGA y LAGONOY and ROSENDO MADRIAGA is REVERSED and SET ASIDE, and another is hereby rendered ACQUITTING them of the crime of Kidnapping for Ransom as charged for failure of the prosecution to prove their guilt beyond reasonable doubt.

The Director of the Bureau of Corrections is directed to cause the immediate release of appellants, unless they are being lawfully held for another cause, and to inform this Court of the date of their release or the ground for their continued confinement, within five (5) days from notice of this decision.

The Director of the National Bureau of Investigation and the Director- General of the Philippine National Police are directed to cause the arrest of accused Manolo Babac and Allan Duarte who have remained-at-large as well as other persons who appear criminally responsible for herein subject crime. The prosecution must exert more diligent efforts next time.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.
Ynares-Santiago, J., on leave.

[1] Original Records, pp. 52-53.

[2] TSN, August 12, 1996, pp. 4-13.

[3] Id., pp. 14-16.

- [4] Interchangeably referred to as “Maj.” in the transcripts.
- [5] TSN, August 12, 1996, pp. 30-42.
- [6] TSN, August 19, 1996, pp. 5-21, 31.
- [7] TSN, August 27, 1996, pp. 5-26.
- [8] Id., pp. 38, 46 and 51.
- [9] TSN, August 28, 1996, pp. 4-20.
- [10] TSN, September 9, 1996, pp. 5-25.
- [11] TSN, November 4, 1996, pp. 4-21.
- [12] TSN, November 19, 1996, pp. 3-9.
- [13] Id., p. 11.
- [14] TSN, January 28, 1997, pp. 3-25.
- [15] Id., p. 28.
- [16] Id., p. 33.
- [17] Id., p. 32.
- [18] Id., pp. 35-36.
- [19] TSN, February 3, 1997, pp. 6-22.
- [20] TSN, March 4, 1997, pp. 11-16.
- [21] Id., pp. 23-32.
- [22] Original Records, pp. 501-502.
- [23] Rollo, p. 83.
- [24] *People v. Berroya*, 283 SCRA 111, 121 [1997].
- [25] *People v. Quilloso*, 325 SCRA 747 [2000]; *People v. Lozada*, 334 SCRA 602 [2000].
- [26] *People v. Tolibas*, 325 SCRA 453 [2000]; *People v. Penaso*, 326 SCRA 111 [2000].
- [27] TSN, August 27, 1996, p. 6.
- [28] Original Records, p. 65; Exh. “A”, p. 293.
- [29] TSN, November 19, 1996, pp. 7-9.
- [30] TSN, August 27, 1996, p. 5.
- [31] TSN, November 19, 1996, p. 9.
- [32] TSN, August 27, 1996, pp. 6 and 7.
- [33] Id., p. 8.
- [34] Id., pp. 8-9.

- [35] TSN, August 22, 1996, pp. 10-11.
- [36] *People v. San Juan*, 326 SCRA 786.
- [37] *People v. Arcilla*, 256 SCRA 757; *People v. Alba*, 256 SCRA 505.
- [38] *People v. Abina*, 298 SCRA 260, 279 [1998].
- [39] RTC Decision, p. 26.
- [40] RTC decision, p. 27.
- [41] Original Records, pp. 65 and 293.
- [42] TSN, August 27, 1996, p. 39.
- [43] *Id.*, pp. 4-5.
- [44] *People v. Garcia*, G.R. No. 133489 & 143970, January 15, 2002.
- [45] Original Records, p. 496; Decision, p. 26.
- [46] *People v. Berroya*, *supra.* at pp. 122-123.
- [47] *People v. Maluenda*, 288 SCRA 225, 250 [1998].
- [48] TSN, August 27, 1996, p. 35.
- [49] *Supra*, note no. 25.
- [50] Original Records, p. 499; Decision, p. 29.
- [51] TSN, September 9, 1996, pp. 20-21.
- [52] *People v. Quinao*, 269 SCRA 495, 510 [1997].
- [53] *Id.*, pp. 510-511.
- [54] *People v. Doinog*, 332 SCRA 366, 392 [2000].
- [55] *People v. Estanislao*, 265 SCRA 810, 818 [1996].
- [56] Original Records, p. 500.
- [57] *Ibid.*
- [58] *People v. Noroña*, 239 SCRA 502, 509 [2002].
- [59] TSN, March 4, 1997, pp. 12 and 14.
- [60] TSN, August 19, 1996, p. 24.
- [61] *People v. Isla*, 278 SCRA 47, 52 [1997]; *Darvin v. Court of Appeals*, 292 SCRA 534, 543 [1998].
- [62] *People v. Marquita*, 327 SCRA 41, 51-52 [2000].
- [63] TSN, August 12, 1996, p. 37; TSN, September 9, 1996, pp. 15-16.
- [64] TSN, August 19, 1996, p. 15.
- [65] TSN, August 28, 1996, pp. 11-12.

[66] *People v. Obello*, 284 SCRA 79, 91 [1998].

[67] TSN, August 27, 1996, pp. 23-24; pp. 46-47; p. 51.

[68] See note no. 46, *supra*.

[69] TSN of January 28, 1997, pp. 14-15.

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