

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO ENTILA Y PINEDA ALIAS "BOGIE",
ACCUSED-APPELLANT.**

G.R. No. 135368. February 09, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is an appeal from the Decision[1] dated March 11, 1998 of Branch 26 of the Regional Trial Court (RTC) of Manila finding appellant Alfredo Entila alias "Bogie" guilty beyond reasonable doubt of the crime of kidnapping and sentencing him to suffer the penalty of reclusion perpetua.

The Information reads as follows:

"The undersigned accuses ALFREDO ENTILA Y PINEDA of the crime of Kidnapping, committed as follows:

"That on or about and during the period comprised between December 15, 1995 and February 21, 1996, in the City of Manila, Philippines, the said accused, being then a private individual, did then and there wilfully, unlawfully, feloniously, and illegally kidnap or detain or in any manner deprive ten years (sic) old THERESA ADATO of her liberty and deliberately failed to return or restore her to her guardian.

"Contrary to law."[2]

Upon arraignment, appellant pleaded "not guilty"; and trial on the merits ensued.

Prosecution witness Araceli Mendiola testified that the victim, Theresa Adato, was entrusted to her custody since 1995 by a friend;[3] and that in 1995, her ten (10) year old ward was enrolled in the Justo Lucban Elementary School in Paco, Manila. On December 19, 1995, Adato failed to come home, from her afternoon classes, at the usual time of six o'clock in the evening. Worried by Adato's failure to come home on time, Mendiola went to the school to look for her. When Mendiola arrived at the school at 6:30 in the evening, it was already closed. Outside the school, she met one of Adato's classmates who informed her that he saw Adato forcibly being taken by a man. Mendiola immediately reported the incident to the barangay authorities. But when the barangay authorities were unable to find Adato, Mendiola sought the help of one SPO2 Conrado Quilala.[4]

SPO2 Conrado Quilala testified for the prosecution and stated that Mendiola approached him regarding the case of Adato on January 29, 1996. At that time, he was an intelligence operative of the Task Force Spider at Camp Bagong Diwa, Bicutan, Taguig. He invited Mendiola to file a formal complaint at the police precinct in Bicutan, and Mendiola readily complied. Quilala then advised Mendiola to gather more information pertaining to the whereabouts of her ward and the appellant.[5]

Later, Mendiola received a call from one Bobby Cabanero who was a housemate of appellant in Tuguegarao, Cagayan informing her that appellant was there with Adato.[6] Mendiola relayed this information to Quilala on February 19, 1996.

Thereafter, a team, composed of Quilala, Captain Cabigas and SPO2 Camacho, was organized to rescue Adato. The team then proceeded to Cagayan on February 21, 1996. Upon reaching Cagayan, they proceeded to Barangay Bag-ay where appellant was renting a house. They were, however, informed that appellant had already left for work at Barangay Abay and that Adato was with him.[7]

In Barangay Abay, the team found appellant in a shop where he was painting a car. They approached him and informed him that Mendiola had filed a complaint against him. When asked about Adato, the appellant replied that she was just within the vicinity playing "sungka". True enough, they found Adato playing some fifty (50) meters away from the shop. The team arrested appellant on the spot and brought him and Adato back to Manila.[8]

Adato narrated that on December 15, 1995, at around eleven o'clock in the morning, she was at the Jose Lucban Elementary School. She saw appellant near the entrance of the market which is two (2) meters away from the school gate. Appellant was familiar to her as they lived in the same house with Adato and her guardian, Mendiola, occupying the second floor, and the appellant and his children staying in the ground floor. Thus, when appellant summoned her, she readily approached the former. Thereupon, the appellant pulled Adato inside the sidecar that he was driving.[9] Then she was told by the appellant, to keep quiet and he threatened to box her should she say anything.[10] Appellant brought Adato to a house in Mataas na Lupa near Paco which, Adato later came to know, was owned by appellant's friend, Chit.[11] On the way to Mataas na Lupa, Adato could not alight from the sidecar because appellant held her whenever the traffic stopped. Appellant also discouraged Adato from shouting for help by telling her that no one would be able to hear her.[12]

According to Adato, she was locked inside a room in Chit's house for more or less one (1) week. During that time, she did not see appellant, and it was Chit who gave her food.[13]

Adato only saw appellant again when the latter fetched her and brought her to the bus terminal where they were to board a bus for Tuguegarao. While waiting for their bus, Adato did not ask help from any of the other passengers in the bus terminal since appellant had threatened her life before leaving Chit's house.[14]

When they reached Tuguegarao, they initially stayed in the house of Bobby Cabanero who was introduced to Adato as appellant's cousin. Appellant and Adato occupied one room in Cabanero's house. Upon the appellant's instructions, Adato did not leave the room except to eat and to relieve herself.[15]

After a while, appellant and Adato transferred residence to a rented house in Barrio Bag-ay.[16] While they lived together, appellant repeatedly had sexual intercourse with Adato against her will. The appellant first abused Adato sexually on January 15, 1996 and this continued until the policemen rescued her and brought her home to Mendiola.[17]

For his part, appellant interposed the defense of denial and claimed that Adato voluntarily went with him to Tuguegarao to escape the unhappy life she led under the care of her guardian, Mendiola.

Appellant testified that he was an overseas contract worker in Saudi Arabia from 1984 to March 15, 1995 when he returned to the Philippines after hearing of his wife's critical condition. After his wife's demise on July 10, 1995, appellant decided not to go back to Saudi Arabia anymore. He stayed with his children in their house in Paco, Manila. According to the accused-appellant, he rented out the second floor of the said house to his cousin, Mendiola, who was living there with her family and ward, Adato.[18]

In the early morning of December 15, 1995, appellant informed his children that he was going to Tuguegarao as his friend, Bobby Cabanero, had offered him a job there. His children agreed, and he proceeded to his mother's house in Santiago Street, Paco, Manila, to ask for her blessing. Outside his mother's house, he saw his cousin,

Arvie Entila, driving a sidecar. He then asked Arvie Entila to bring him to Quirino Highway where he planned to wait for a ride going to the bus terminal. Arvie Entila acceded to his request and brought him to the highway. While appellant was waiting for a ride, Adato approached him. According to appellant, Adato wanted to go with him, and when he told her to go back to her foster mother, she replied that Mendiola and her husband had no business meddling in her life as they were not her real parents. Adato also complained that she always quarreled with Pollard, Mendiola's real son, who often taunted her: "salot ka, umalis ka dito" (you are a curse, go away). Taking pity on Adato, appellant agreed to let her tag along.[19]

Appellant and Adato took the bus from Manila to Tuguegarao that same morning. Upon reaching Tuguegarao, they proceeded to the house of Bobby Cabanero in Barrio Calita. According to appellant, they talked about the car repair job that Cabanero had promised him,[20] and that he and Adato stayed at the residence of Cabanero for about two (2) weeks during which time, Adato slept in the room of Cabanero's mother, while he stayed in the room of Cabanero's brothers.[21]

Thereafter, appellant proceeded to a repair shop in Barangay Bag-ay where the car repair job was waiting for him. While working at the repair shop owned by a certain Vito, appellant stayed at a house being rented by the niece of Vito while Adato stayed in a neighbor's house.[22]

One and a half weeks later, SPO2 Quilala arrived at Barangay Bag-ay with his companions. Quilala informed appellant that Mendiola had filed a complaint against him for the kidnapping of Adato. Appellant was stunned by the seriousness of Mendiola's charges, and although he denied the same to Quilala, he readily acceded to the latter's request that he go back to Manila with them.[23]

Before going back to Manila, however, appellant was brought to the Tuguegarao Municipal Hall where he was investigated by Colonel Peñalosa. Thereafter, appellant, together with Quilala's team and Adato, boarded an Island Liner bus bound for Manila. When they reached Manila, they proceeded to Camp Ricardo Papa in Bicutan, Taguig.[24]

Appellant was detained in Camp Ricardo Papa for two (2) days without an investigation being conducted by the police officers. Thereafter, he was transferred to the Manila City Jail. Appellant claims that while at the Manila City Jail, police officers forced him to affix his signature to a document, the contents of which were not explained to him. The fiscal investigated appellant only after he had already been detained for two (2) days.[25]

Arvie Entila corroborated the testimony of appellant that Adato voluntarily went with the former.

According to Entila, while he was driving his sidecar along Quirino Highway on December 14, 1995 at around eleven o'clock in the morning, he saw Adato with a classmate. Entila who knew Adato as the ward of his aunt, Mendiola, asked her why she was there, but he received no reply from the latter.[26]

Later that day, Entila heard that Mendiola[27] was looking for Adato so he went to the house of Mendiola to inform her that he had seen Adato along Quirino Highway. However, Mendiola did not react to Entila's information.[28]

At around 8:30 in the evening of same day, Entila saw Mendiola walking along Santiago Street in Paco, Manila. He asked her if Adato had already gone home, and Mendiola replied in the affirmative. On his way out of Santiago Street, he met Adato who was apparently on her way home.[29]

The following day, at around 5:30 in the morning, Entila was outside his grandmother's house in Santiago Street. While waiting for his grandmother, he saw his uncle, the appellant. The latter approached him and told him that he was going to Olongapo to work there. Appellant then asked Entila to inform his grandmother, that is,

appellant's mother, about his plan to leave town.[30]

Appellant then requested Entila to take him to Quirino Highway where he planned to hail a cab. Entila acceded and drove appellant to Quirino Highway. While appellant was waiting for a cab, Entila saw Adato come out from behind some plants at the side of Lanuza Street. He overheard Adato asking appellant to allow her to go with him because she was being given away by Mendiola. At first, appellant refused, saying that Mendiola might get angry. However, when Adato cried, appellant eventually succumbed to her pleas and took her with him.[31]

After weighing the evidence presented by both parties, the trial court found appellant's denial unworthy of merit in the face of Adato's positive declaration that appellant forcibly brought her first to a friend's house and then to Tugugarao, and deprived her of liberty for more than two (2) months. The trial court thus declared that appellant's guilt of the crime of kidnapping has been established beyond reasonable doubt. Accordingly, appellant was meted out the penalty of reclusion perpetua.[32]

Hence, this appeal where the appellant contends that:

"The Court A Quo Erred:

"1) In convicting appellant of the crime of Kidnapping; and

2) In the appreciation of the Evidence presented by the parties."[33]

We find for the accused-appellant.

At the outset, this Court observes that a material point of inconsistency has unfortunately been totally disregarded by the trial court and even by the prosecution and defense. The actual date of the alleged commission of the crime has been subject of varying testimonies.

During the direct and cross-examination of Mendiola, she consistently referred to December 19, 1995[34] as the day when Adato failed to come home from school. Thus, if Mendiola's testimony is to be given any weight, then the accused-appellant kidnapped the victim on December 19, 1995, and held her captive until February 21, 1996. However, Adato herself testified that the appellant kidnapped her on December 15, 1995. In denying Adato's charges, appellant declared that Adato voluntarily went with him on December 15, 1995, and this was corroborated by defense witness Arvie Entila.

Mendiola's sworn statements before the police authorities are likewise not helpful and merely add to the confusion. On January 29, 1996, she executed a sworn statement before SPO2 Simplicio Robles of the Philippine National Police at Camp Ricardo Papa, Taguig, Metro Manila where she said that her ward, Adato, failed to come home on December 15, 1995.[35] In a subsequent statement given to SPO1 Celso Zapata also of the PNP at Camp Ricardo Papa, Mendiola reported that Adato had been missing since December 19, 1995.[36] Earlier, however, Mendiola had executed an affidavit of complaint against appellant wherein she stated that Adato failed to return home on December 15, 1995.[37]

What baffles this Court even more is that the trial court completely ignored this discrepancy, and the prosecution exerted no effort whatsoever to explain these inconsistencies.

This is not to say, however, that we are acquitting appellant solely on the basis of Mendiola's inconsistent statements with respect to the date Adato failed to return home. But we acquit appellant because a judicious review of the records of this case reveals that the defense had presented evidence, which if given due credence by the trial court, would have been sufficient to acquit him on the ground of reasonable doubt. We refer to the corroborative testimony of defense witness Arvie Entila.

Consistent with the appellant's allegation that Adato voluntarily accompanied him to Tuguegarao is the following testimony of defense witness Arvie Entila:

"q

On December 15, 1995 at about five thirty in the morning can you tell us where were you, Mr. witness?

a

I was at home, sir.

q

What were you doing at that time?

a

I was about to bring my grandmother to the market.

q

By the way, Mr. witness, what is the exact address of your house?

a

1265 Santiago street.

q

While saiting (sic) for your grandmother what happened, if any, Mr. witness, at that time?

a

I fixed my sidecar.

q

While you were fixing your sidecar what happened, if any, Mr. witness?

a

I saw my uncle.

q

What is the name of your uncle, Mr. witness?

a

Alfredo Entila, sir.

q

What was he doing at that time when you saw him?

a

He was carrying a TV set approaching me.

q

What did you do, Mr. witness, when you saw your uncle carrying a TV set.

a

I asked him where he would go.

q

What was the answer of your uncle?

a

He said that he would go to Olongapo because he would work there.

q

You said that he was carrying a television set, will you tell us how big is that television set?

a

21-inch TV set, sir.

q

What did you do when your uncle answered you that he will be going to Olongapo?

a

I did not say anything.

q

After that what happened, if any?

a

He asked for my grandmother.

q

What was your answer, if any, Mr. witness?

a

I told him that she was upstairs.

q

What did your uncle do when you informed him that your grandmother was upstairs?

a

He told me to inform my grandmother about his leaving.

q

Did you do that, Mr. witness, as requested?

a

Yes, sir.

q

After that what happened?

a

Alfredo requested me to bring him to Quirino Highway.

q

Did you bring him to Quirino Highway as per request?

a

Yes, sir.

q

While at Quirino Highway what happened, if any, Mr. witness?

a

He called a taxi.

q

After that what happened, what else happened, if any?

a

Suddenly Teresa went out.

q

From where?

a

At the side of the plants.

q

In what particular place, Mr. witness?

a

Side of Lanuza street, sir.

q

What did Teresa do after you saw yer (sic) came (sic) out from Lanuza at the side of Lanuza street?

a

She wanted to go with Alfredo, my uncle.

q

How did she ask Alfredo Entila that she would go with him?

a

she told my uncle that she was being given away by Chi.

q

What was the answer of Alfredo Entila of (sic) the information given to him?

a

Alfredo told Teresa that Chi might get angry.

q

What did Teresa do after being informed that this Entila does not want Teresa to go with him?

a

She forced Alfredo.

q

What did Alfredo do, if any?

a

Teresa was crying.

q

Did Alfredo eventually agree?

pros. icay

Leading, Your Honor.

defense counsel

I will reform.

court

Reform.

defense counsel

q

What did Alfredo Entila do when Teresa Adato cried and informed him that she wanted to go with him?

a

Alfredo brought Teresa with him.

q

Do you know where?

a

Olongapo.

q

Teresa Adato or Teresa testified here that she was forcibly taken by Alfredo Entila on December 15, 1995 at about eleven o'clock in the morning, what can you say about it, Mr. witness?

a

That is not true, sir.

q

Why do you say that Teresa Adato was not telling the truth when she said that she was forcibly taken by Alfredo Entila on that particular date?

a

I was the one who brought my uncle."[38]

The prosecution would have us believe that defense witness Arvie Entila's testimony was motivated by nothing more than the natural desire to help the appellant who is his uncle. It is true that in most instances, corroboration by relatives of an accused is accorded scant consideration in view of the truism that blood is thicker than water.[39] However, a witness' testimony cannot be stripped of full faith and credit simply on account of his relationship to the parties.[40] Although relationship can put the testimony of a witness in doubt, it cannot affect credibility itself.[41] The Judge should have subjected the testimony of defense witness Arvie Entila to the ordinary process of evaluation and accordingly assigned to it the proper intrinsic weight.[42]

Furthermore, the basis for disregarding Arvie Entila's testimony in this case, simply does not exist. It should be remembered that defense witness Arvie Entila is related to the families of both the appellant and Mendiola, guardian of Adato. While appellant is his uncle, Mendiola is also his aunt, being the first cousin of his father.[43] There is no indication whatsoever that defense witness Arvie Entila favored one relative over another nor is there any proof that he harbored any improper motive to testify against Mendiola or her ward.[44] On the contrary, there exists evidence that defense witness Arvie Entila was just as concerned over the welfare of his aunt's ward, Theresa Adato. Thus, having heard that Mendiola was looking for Adato, Entila did not waste any time in informing Mendiola that he had seen Adato in Quirino Highway. Later that day, Entila again asked about Adato. Hence:

"q

Mr. witness, On December 14, 1995 at about eleven o'clock (sic) in the morning can you tell us where were you?

a

I was in the market, sir.

q

Where is this market located, Mr. witness?

a

In Paco, Manila, sir.

q

What were you doing at that particular place and time?

a

I was driving my sidecar looking for passenger (sic), sir.

q

While thereat, Mr. witness, can you tell us what happened, if any?

a

I have no passenger, sir.

q

So what did you do then, Mr. witness?

a

So I went around, sir.

q

Where?

a

Quirino Highway, sir.

q

Where is this Quirino Highway located, Mr. witness?

a

Corner of Lanuza.

q

Is this located within Manila?

a

Yes, sir.

q

While at Pres. Quirino Highway looking for passenger (sic) while you were driving your pedicab what happened, if any?

a

I saw Teresa, sir.

q

Who is this Teresa, Mr. witness?

a

Chit was the one who was taking care of Teresa, a ward of Chit.

q

If this Teresa is here in court can you point her to us, Mr. witness?

a

Yes, sir.

q

Will you (sic) please stand up and point her to us?

There sir.

interpreter

Witness pointing to a person who when asked her name answered

...

complainant

Teresa Adato.

defense counsel

q

What was Teresa doing when you saw her at Quirino Highway on December 14, 1995 at about eleven o'clock in the morning?

a

She was with her classmate sitting.

q

What did you do, Mr. witness, when you saw this Teresa Adato?

a

I asked her why she was there.

q

What was her answer, Mr. witness?

a

She did not answer.

q

At about four o'clock in the afternoon of the same date, Mr. witness, can you tell us where were you?

a

I was also still in the market.

q

What were you doing there, Mr. witness?

a

Still waiting for passenger.

q

Were you able to get a passenger at that time?

a

Yes, sir.

q

What happened when you were able to get that passenger?

a

I brought them at (sic) Santiago street.

q

Where is this Santiago street?

a

Paco, Manila, sir,

q

Were you able to bring that passenger of yours at (sic) Santiago street?

a

Yes, sir.

pros. icay

Leading, Your Honor.

defense counsel

Already answered, Your Honor.

q

What happened when you arrived together with your passenger at Santiago street?

a

I went to my aunt.

q

And where?

a

1238 Santiago street.

q

On your way to the house of your aunt what happened, if any, Mr. witness?

a

I heard that Chi was looking for Teresa.

q

Who is this Chi?

a

She is the one taking care of Teresa.

q

Is this Chi here in court now?

a

No, sir.

q

What did you hear, Mr. witness, from Chi?

a

That she was looking for Teresa.

q

Do you know the reason why this Chi was looking for Teresa?

pros. icay

Incompetent.

court

Witness may answer.

witness

a

She did not come here.

defense counsel

q

What did you tell her when you heard that this Chi was looking for Teresa?

a

I told her that I saw Teresa along Quirino Highway.

q

What was the reaction of this Chi, if any, when you tell (sic) her that you saw Teresa at the Highway?

a

No reaction, sir.

q

Mr. witness, at about eight thirty p.m. on the same date can you tell us where were you?

a

I was in the house of my aunt, sir.

q

While at the house of your aunt what happened, Mr. witness?

a

I went out.

q

To where?

a

I went out of Santiago street.

q

On your way out of Santiago street (sic) will you tell us what happened, if any, Mr. witness?

a

I saw Chi.

q

what was Chi doing at that time, Mr. witness?

a

She was walking.

q

What else happened, if any, Mr. witness?

a

I asked Chi if Teresa has arrived.

q

What was the answer of Chi?

a

And she answered yes.

q

What did you do after that, Mr. witness, if any?

a

I was on my way out of Santiago street when I saw Teresa.

q

What was Teresa doing then, Mr. witness?

a

She is on her way home.

q

What did you do when you saw Teresa at that time?

a

I told Teresa that you are really here.

q

what was the answer of Teresa, if any, Mr. witness?

a

She did not answer."[45]

Even the testimonies of prosecution witnesses, SPO2 Quilala and SPO2 Camacho, show that Adato's actuations were inconsistent with those expected of one who has been kidnapped.

SPO2 Camacho testified as follows:

"Q

you said that when you arrived in Cagayan you were able to contact Magno Quilang, is that correct?

a

no, the informant first.

q

But eventually you were able to contact Magno Quilang?

a

yes, sir. Scã juris

q

and in fact, you said you were able to talk to him?

a

yes, sir.

q

did you ask him when did they start renting the place?

a

no, sir.

q

and you said you proceeded to Barangay Bagay and you were able to see Entila?

a

yes, maam.

q

and he even told you that the girl is just nearby playing?

a

yes, maam.

q

can you describe the place where the girl was all gedly (sic) playing sungka?

a

the house is very near the repair shop.

q

is this a close place?

a

open place.

q

so, the child is free to go out?

a

YES.

q

She was not (sic) detained at that (sic) time?

q

did the child told (sic) you that she was kidnapped, raped or sexually abused at the time you saw her playing?

a

no, maam. I did not ask.

q

But the child did not inform you of such fact?

a

no, maam."[46]

Curiously, Adato did not exhibit any sign of hostility towards her alleged tormentor. On the contrary, she prevented the police officers from handcuffing appellant during the trip from Tuguegarao to Manila.

SPO2 Quilala testified thus:

"q

Is it not true also that this Adato requested you not to handcuff Entila?

a

Yes, sir.

q

Why? Jurisä sc

a

I donot (sic) know, sir.

q

You said you reached Bicutan, at what date was that you arrived Bicutan, what date was that?

a

It was on the 22[nd] at about four thirty in the mornigg (sic).

q

As a veteran law enforcer, Mr. witness, the action of Entila and this Adato when you found them in Tuguegarao is consistent with a woman or a child which (sic) has not been detained or kidnapped, is that right?

a

Yes, sir."[47]

Adato's compassion towards appellant is more consistent with a debt of gratitude felt for one who had helped her escape a miserable life than anger and vengefulness at one who had taken her away from home and repeatedly abused her.

In convicting the appellant, the trial court relied on the oft-cited rule that denial, like alibi, is a weak defense since it is easily fabricated or concocted. There are nonetheless settled pronouncements of this Court to the effect that where an accused sets up alibi, or denial for that matter, as his line of defense, the courts should not at once look at the same with wary eyes for taken in the light of all the evidence on record, it may be sufficient to reverse the outcome of the case as found by the trial court and thereby rightly set the accused free.[48] Furthermore, the defense of alibi or denial may assume significance or strength when it is amply corroborated by a credible witness, as in the instant case.[49]

The trial court also pointed out that the defense had failed to establish any nefarious or sinister motive on the part of the victim to impute the commission of a crime to the appellant. It should be noted, however, that although Adato herself had no motive to falsely incriminate appellant, her guardian, Mendiola, had an axe to grind against appellant.

That appellant and Mendiola were feuding over the ownership of the house they were occupying in Paco, Manila is evident from their respective statements in open court.

Thus, appellant testified, thus:

"q

do you know one Araceli Mendiola, Mr. witness?

a

Yes, sir, my first cousin, sir.

q

Can you tell us ...

a

Araceli Pineda Mendiola

q

where was she residing at that time, Mr. witness, in 1995?

a

Just on the second floor of my house which I rented out.

q

You mean to say that you are the owner of the house which Araceli Mendiola was occupying at the time?

a

Yes, sir.

q

When you returned to the Philippines and after the death of your wife do you have any occasion to talk with Araceli Mendiola regarding the lease of your property?

a

No, sir, she just occupied the place.

q

My question, Mr. witness, is that did you have any occasion to talk with Araceli Mendiola after the death of your wife regarding the lease of your property?

a

Yes, sir.

q

What did you talk about, Mr. witness?

a

about the rent of the house.

q

What did you tell her regarding the lease of your property?

a

She said that if she has only available money that was the only time that she will pay me.

q

On December 14, 1995 Araceli Mendiola testified here before that she is the owner of the house from (sic) which she was residing at the time and it was located on the second storey (sic) of the place where you are residing, what can you say about that, Mr. witness?

a

I am the owners (sic), sir.

q

Do you mean to say that this Araceli Mendiola was not telling the truth when she said or testified that she is the owner of the place, Mr. witness?

pros. icay

Leading, Your Honor.

defense counsel

Point of clarification, your Honor.

court

Witness may answer.

witness

a

That is not true, sir.

defense counsel

q

what did you do when this Araceli Mendiola claims (sic) ownership over the house, over the portion of the house which you said that you only rented to her, Mr. witness, if any?

a

I did not agree to that situation, sir.

q

When you did not agree to that situation, Mr. witness, what did Araceli Mendiola do, if any?

a

She got mad at me.

q

How?

a

She said that she introduced some improvements on the property.

court

q

Do you know what was that improvement?

q

What?

a

The three G.I. sheets that she replaced, sir."[50]

On the other hand, Mendiola denied accused-appellant's ownership of the said house:

"q

Madam witness, you are residing at 1238 Santiago St., Paco, Manila?

a

Yes, sir.

q

And you are renting this place from the accused (sic), is that right?

a

No, sir.

q

And the accused is also residing at that place at 1238 Santiago St., Paco, Manila is that right?

a

Yes, sir.

q

And he is residing in that place because he is the owner of the house is that right?

a

No, sir.

q

Will you please tell us why is it that he is residing in that address?

a

He lives downstairs while I live on the second floor of the house, sir."[51]

It is therefore not altogether impossible, as alleged by the defense, that Adato was merely cajoled by Mendiola

into concocting the charges against appellant.

Defense witness Arvie Entila's testimony, coupled with the aforementioned circumstances, has engendered in the mind of this Court a nagging doubt as to the guilt of the appellant. This uneasiness has been spawned by the failure of the prosecution to convince this Court of appellant's guilt to that degree of moral certitude that is indispensable for the conviction of an accused. Hence, we have held in a long line of cases that if the inculpatory facts and circumstances are capable of two or more explanations, one consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.[52]

WHEREFORE, the Decision of Branch 26 of the Regional Trial Court of Manila in Criminal Case No. 96-147974 is REVERSED and SET ASIDE. The accused-appellant, Alfredo Entila Y Pineda alias "Bogie" is hereby ACQUITTED on the ground that his guilt was not proven beyond reasonable doubt.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Annex "A" of the Brief for Accused-Appellant, pp. 10-11; Rollo, pp. 73-74.

[2] Information dated March 4, 1996, Records, p.1.

[3] TSN dated July 22, 1996, p. 3.

[4] Id., pp. 6-8.

[5] TSN dated August 27, 1996, pp. 2-4.

[6] See note 3, supra at pp. 8-9.

[7] See note 5, supra at p. 5.

[8] Id., pp. 5-8.

[9] TSN dated February 18, 1997, pp. 3-5.

[10] TSN dated March 12, 1997, p. 9.

[11] See note 9, supra at p. 6.

[12] See note 10, supra at p. 11.

[13] See note 9, supra at pp. 7-9.

[14] TSN dated April 28, 1997, pp. 5-6.

[15] Id., p.8.

[16] Ibid.

[17] Sworn Statement of Theresa Adato dated February 22, 1996; Records, pp. 4-5.

[18] TSN dated October 22, 1997, pp. 2-3.

[19] Id., pp. 6-7.

[20] Id., p. 9.

[21] Ibid.

[22] Id., pp. 9-10.

[23] Id., pp. 10-11.

[24] Id., pp. 11-12.

[25] Id., pp. 13-14

[26] TSN dated September 24, 1997, pp. 2-3.

[27] Referred to in the TSN as "Chi".

[28] See note 26, supra at pp. 4-5.

[29] TSN dated September 24, 1997, p. 5.

[30] Id., p. 6.

[31] Id., p. 7.

[32] See note 1, supra at p.10; Rollo, p. 73.

[33] Brief for the Accused-Appellant, p. 7; Rollo, p. 43.

[34] TSN dated July 22, 1996, p. 6; TSN dated August 20, 1996, p.6.

[35] Records, p. 8.

[36] Id., p. 6.

[37] Id., p. 10.

[38] See note 26, supra at pp. 5-8.

[39] People v. Ching, 240 SCRA 267, 278 (1996).

[40] People v. Layaguin, 262 SCRA 207, 214 (1996); People v. Aliposa, 263 SCRA 471, 480 (1996).

[41] People v. Magana, 259 SCRA 380, 392 (1996).

[42] People v. Deocariza, 219 SCRA 488, 496 (1993).

[43] TSN dated September 24, 1997, p. 10.

[44] People v. Aliposa, supra.

[45] See note 26, supra at pp. 2-5.

[46] TSN dated October 8, 1996, pp. 8-9.

[47] See note 5, supra at pp. 10-11.

[48] People v. Uson, 224 SCRA 425, 435-436 (1993); People v. Aniscal, 228 SCRA 101, 113-114 (1993); People v. Abellanos, 264 SCRA 722, 746 (1996).

[49] People v. Aniscal, supra at p. 114; People v. Qindipan, 253 SCRA 421, 429 (1996).

[50] See note 18, *supra* at pp. 3-5.

[51] TSN dated August 20, 1996, pp. 2-3.

[52] *People v. Villagonzalo*, 238 SCRA 215, 230 (1994); *People v. Jubilag*, 263 SCRA 604, 616 (1996); *People v. Pagaura*, 267 SCRA 17, 25 (1997); *People v. Perucho*, G.R. No. 128869, April 14, 1999.

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