

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO DEDUYO Y  
PIRYO ALIAS "BATMAN"; AND ISAGANI MAÑAGO  
(ACQUITTED), ACCUSED.**

*G.R. No. 138456. October 23, 2003*

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**PER CURIAM:**

This is an appeal from the decision,[1] dated February 20, 1998, of the Regional Trial Court of Antipolo, Rizal, Branch 71, in Criminal Case No. 94-10874 finding the appellant, Rolando Deduyo alias Batman, guilty beyond reasonable doubt of the crime of kidnapping for ransom and sentencing him to suffer the penalty of reclusion perpetua.

The information charged the appellant, Rolando Deduyo, and his co-accused, Isagani Mañago, with the crime of kidnapping for ransom, as follows:

That on or about the 30[th] day of January 1994, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, said accused, including one alias "Bayani" who is still at large, conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously kidnap and detain thereby restraining the liberty of one Johnny Mauricio y Patasin, a minor 16 years of age, with threats to kill him while carrying knives, for the purpose of extorting ransom in the amount of P100,000 or P50,000 from his parents.

CONTRARY TO LAW.[2]

Upon arraignment on June 7, 1994, the appellant, Rolando Deduyo, and his co-accused, Isagani Mañago, with the assistance of counsel, pleaded not guilty to the crime charged.[3] Before the trial proper which was scheduled to start on September 20, 1994, the appellant escaped from the Rizal Provincial Jail in a mass jailbreak at dawn on July 29, 1994. [4] As he had already been arraigned, trial on the merits ensued (trial in absentia). On February 19, 1998, the warden of the Rizal Provincial Jail informed the court of appellant's re-arrest and detention. On March 30, 1998, in the presence of the appellant and his counsel, the court promulgated its decision dated February 20, 1998:

WHEREFORE, the Court finds that the guilt of the accused Isagani Mañago has not been proven beyond reasonable doubt and he is hereby ACQUITTED from the charge.

However, the Court finds the accused Rolando Deduyo GUILTY beyond reasonable doubt as principal, and he is hereby sentenced to suffer and undergo imprisonment of reclusion perpetua, and to pay the costs.

Let alias warrants of his arrest be issued furnishing with copies thereof the NBI Director, Manila; the Chief, CIG, Camp Crame, Quezon City; the PNP Provincial Director, Hilltop, Taytay, Rizal; the PNP Station Commander, Sariaya, Quezon and the Station Commander, Antipolo PNP Station, Antipolo, Rizal.

SO ORDERED.[5]

The facts of the case follow.

At about 4:00 p.m. on January 30, 1994, Johnny Mauricio, a sixteen-year-old boy, was on board his tricycle waiting for passengers beside Mercury Drug Store, Sumulong St., Antipolo, Rizal. Appellant Rolando Deduyo alias Batman approached and asked Johnny to accompany him to the airport "to get a baggage" which they would bring back to Johnny's house.[6] Johnny refused because he had not asked permission from his mother. Appellant told him that he already did on his behalf. Since Johnny knew the appellant, a former lessee of their other house at General Luna St., Antipolo, Rizal for more than a year, he trustingly went with the appellant and left his tricycle with an acquaintance named Baby.[7]

Appellant and Johnny boarded a passenger jeep and alighted at Barangay Bagong Ilog, Pasig City. They proceeded to a house where two persons were drinking gin. The two persons were appellant's co-accused, Isagani Mañago, and a certain Bayani. Appellant joined the drinking session. An hour after, appellant told Johnny that he and Isagani would be the ones to get the baggage at the airport. Johnny asked permission to go home but appellant told him to stay behind and wait for the baggage. Johnny was left with Bayani who continued drinking alone. While drinking, Bayani took out his fan knife, played with it and threatened Johnny that "ang puma pasok dito ay hindi na nakakalabas ng buhay" ("whoever enters this house will never come out alive"). Johnny was afraid of what he heard but he did not run away because Bayani might do what he had just said.[8]

An hour after, appellant and Isagani returned. They resumed drinking with Bayani and some people in the neighborhood. Appellant introduced Johnny as his nephew. Around 10:00 p.m., they went to sleep. There was no partition or bed in the small house which measured only about 3 x 4 square meters. They slept on the floor with Johnny between appellant and Isagani, and Bayani beside the door. Johnny noticed that Bayani's knife was tucked in his waist. When Johnny woke up the next day, Isagani, Bayani and the appellant were already awake, talking to each other. Johnny again asked permission from the appellant to go home but the appellant assured him that they would go back together to Antipolo with the baggage.[9]

Johnny wanted to go home but he did not have any money. While Bayani was preparing their meal, he noticed that the door was closed. When he asked permission to urinate, Bayani accompanied him outside the house. He was afraid of Bayani because of what latter had told him the night before.[10]

Around noontime, appellant and Isagani again left "to get the baggage at the airport." Around 3:00 p.m., appellant returned without Isagani. He first talked to Bayani alone and thereafter called Johnny and gave him P12 as his fare to go back to Antipolo. He accompanied Johnny to where he could take a ride home.[11]

Once home, Johnny was surprised to know that the appellant demanded ransom from his family. In his anger, Johnny went wild and threw all his clothes. The victim did not even know he had been kidnapped. The police fetched Johnny and brought him to the police station where they took his statement. During trial, Johnny identified and affirmed his sworn statement.[12]

Johnny's mother, Salvacion Mauricio testified that around 5:00 p.m. on January 30, 1994, she was tending her clothing store at the second floor of the Antipolo public market when her co-vendor handed her a handwritten letter. The letter demanded a ransom of P100,000, or at least P50,000, otherwise she would not see her son again. The letter instructed her to be ready with the money the next day and bring it to the Antipolo Church around noontime. The letter warned her not to tell the police otherwise "itutumba namin kayong lahat" ("we will kill all of you"). The kidnap group claimed that they were members of the New People's Army (NPA) and warned Salvacion that her house and store were being watched by them. Salvacion was too frightened to report the incident to the police. However, after conferring with her family, they secretly alerted the police.[13]

The next day, as instructed in the ransom letter, Salvacion proceeded to the Antipolo Church around noontime. She brought money with her but only in the amount of P5,100 because that was all she was able to borrow. She

waited inside the Church but nobody approached her. On her way out at around 1:30 p.m., a man wearing a green shirt walked beside her and asked "Inang, dala mo ba'ng pera?" She answered yes but asked to see her son first. But the man immediately ran away. He was chased by a police officer in plain clothes. The man was later identified as Isagani Mañago.[14]

When asked by Salvacion who kidnapped her son, Isagani told her that it was Batman (the appellant). Thereafter, Salvacion and the police officers proceeded to Bagong Ilog, Pasig to look for Johnny. They did not find him there but they were able to catch and arrest the appellant who was about to escape on board a tricycle. Appellant told Salvacion that Johnny was already in Antipolo. Salvacion knew the appellant since he used to rent their other house in Gen. Luna St., Antipolo, Rizal from 1991 to 1992 and he was the husband of her store helper. Appellant and Johnny were close friends. At about 1:00 p.m. on January 30, 1994, Salvacion recalled that she saw the appellant at the second floor of the Antipolo Public Market. He even went to her store and asked about the whereabouts of her brother.[15]

PO3 Eduardo Salabit testified that he was a member of the surveillance team which monitored the kidnapping. He positioned himself in front of the Antipolo Church at about 11:00 a.m. on January 31, 1994. He saw Salvacion Mauricio enter the church and when she came out two hours later, a man followed her closely and talked to her. As the man was acting suspiciously, he called his attention but he immediately ran away. He gave chase and, together with Police Officer Dominador Demdam, he caught the man later identified as Isagani Mañago. He handcuffed and frisked the man, and retrieved a fan knife from him. He turned over the knife to their investigator, SPO2 Delfin Grutta. At the station, Isagani Mañago told them that he had companions and the mastermind was the appellant. He told them they could find the appellant in Barangay Bagong Ilog, Pasig. Upon proceeding there, they caught the appellant in the act of escaping on board a tricycle. His team was able to identify the appellant as one of them knew him.[16]

SPO3 Dominador Demdam corroborated the testimony of PO3 Eduardo Salabit. Their surveillance team positioned themselves near the church. After a short while, he noticed PO3 Salabit running after a man. He joined the chase and together they caught the man who was later identified as Isagani Mañago. They recovered a fan knife from him which they turned over to the custodian of Rizal Provincial Prosecutor's Office in Pasig City. During investigation at the police station, Mañago told them he had other companions who were in Barangay Bagong Ilog, Pasig. With this information, they immediately conducted a follow-up operation in Bagong Ilog where they caught the appellant while trying to escape. He frisked the appellant and recovered a fan knife which his team turned over to the custodian of the Prosecutor's Office.[17]

SPO2 Delfin Grutta testified that he was the one who took the sworn statements of the victim, his mother Salvacion Mauricio, and Police Officers Salabit and Demdam. He identified in court the statements he took. He presented in court the ransom note and the knife turned over to him by the apprehending officers. He kept the note and the knife in a locked filing cabinet to which only himself and their chief investigator had access.[18]

Appellant was at large during the trial so he was not presented to testify. The defense presented appellant's co-accused, Isagani Mañago, and Romulo Amargo.

Romulo Amargo testified that he was a resident of Muntingbayan, Sariaya, Quezon for about ten years. He had known Isagani Mañago for the same period of time as the latter was also a resident of Sariaya, Quezon. In the afternoon of January 29, 1994, he was with Isagani on their way home from work. Isagani's house was along his route in going to and from work. When they arrived at Isagani's house at around 6:00 p.m., appellant was there waiting. He heard appellant ask Isagani to accompany him to pick up a package at the airport in Manila. After a short while, Amargo went home and did not see either Isagani or the appellant anymore the following day. He

remembered the day he saw the appellant with Isagani Mañago because it was the day he paid for the installment of his pants and t-shirt.[19]

Isagani Mañago denied participation in the kidnapping. He testified that, on January 30, 1994, he was with the appellant in the house of Bayani at Bagong Ilog, Pasig. He arrived there with the appellant at around 8:00 a.m. from his hometown in Quezon Province. Appellant left and returned in the afternoon with Johnny Mauricio whom he introduced as his nephew. The next day, appellant asked Isagani to accompany him to Antipolo to get a package. They arrived in Antipolo around lunchtime. Appellant told Isagani to wait for him in front of the Antipolo Church. When appellant failed to return, he decided to go back to Bagong Ilog, Pasig but, on his way to the jeepney terminal, he heard somebody shouting at him. When he looked, a man was running towards him holding a gun. He ran but the man caught up with him and boxed him. He told the man he did not do anything wrong but they still brought him to the PNP headquarters at Hilltop, Taytay, Rizal. Upon investigation by the police, he told them the appellant could be found in Pasig. He was made to go to Pasig with the policemen and, once there, he saw appellant inside a mobile car lying face down with his mouth bleeding.[20]

After weighing the evidence presented, the trial court found the appellant guilty beyond reasonable doubt of the crime of kidnapping for ransom but acquitted appellant's co-accused, Isagani Mañago:

The court believes that the conspiracy of accused Deduyo and Mañago as alleged in the Information was not convincingly established. The only damaging circumstance against accused Mañago was that he accompanied Deduyo from Sariaya, Quezon to Pasig, Metro Manila and that he was apprehended near the Antipolo Church after asking Salvacion Mauricio if she had the money. What bothers the mind of the court was the manner Mañago testified. He appeared so frank and confident in denying the charge against him. He did not stammer during his entire testimony, and the court did not observe any mannerism that would betray his innocence. He claimed that he did not do anything wrong - that he did not know anything about the whole incident.

However, with regard to the prosecution evidence against accused Rolando Deduyo who was tried in absentia the court is convinced that he masterminded the crime charged - and he alone appears to be criminally liable. The court is moreover convinced of his guilt, because of his escape from Rizal Provincial jail during the pendency of this case. His flight is clearly indicative of his guilt. The ransom note (Exh. C) demanding for the sum of P100,000 for the safety of Johnny Mauricio characterizes the crime as one of kidnapping for ransom.

Aggrieved, appellant Rolando Deduyo filed the instant appeal with a lone assigned error:

THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF KIDNAPPING FOR RANSOM.

The appeal has no merit.

The crime of kidnapping and serious illegal detention is defined and penalized under Article 267 of the Revised Penal Code, as amended by RA 7659. The elements are: (1) that the offender is a private individual; (2) that he kidnaps or detains another, or in any manner deprives the latter of his liberty; (3) that the act of detention or kidnapping must be illegal and (4) in the commission of the offense, any of the following circumstances is present: (a) that the kidnapping or detention lasts for more than three days or (b) that it is committed simulating public authority or (c) that any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made or (d) that the person kidnapped or detained is a minor, female or public officer. It is not necessary that any of the foregoing circumstances (letters a to d) be present if the kidnapping is committed for the purpose of extorting ransom.[21]

The primary element of the crime of kidnapping is the actual confinement or restraint of the victim, or the deprivation of his liberty. It is not necessary for the victim to be locked up or placed in an enclosure; it is

sufficient for him to be detained or deprived of his liberty in any manner.[22] In the present case, the testimony and sworn statement of the victim showed that he was effectively restrained of his liberty. He candidly testified that he went with the appellant in the belief that, with his mother's permission, they were going to get a baggage from the airport and bring it back to their house in Antipolo. When they proceeded instead to Pasig, the victim thought they would just be dropping by. When the appellant told him to stay in the house in Pasig while he and his friend, Isagani Mañago, instead "got the baggage," the victim immediately asked permission to go home. To make him stay, the appellant assured him twice that they would return to Antipolo together with the baggage - first, on the night of January 30, 1994 and second, in the morning of January 31, 1994. In addition to being tricked by the appellant to stay in Bayani's house in Pasig, the victim was also so afraid of Bayani that he could not leave the place even if he wanted to. Bayani had a knife in his waist even while sleeping and even threatened the victim "ang pumapasok dito ay di na nakakalabas ng buhay." Bayani guarded him on the two occasions that appellant left, even accompanying the victim to urinate outside the house. Given all these circumstances, the victim was effectively restrained of his liberty - the primary element of the offense of kidnapping and serious illegal detention. Pertinent portions of his sworn statement and testimony follow.

SWORN STATEMENT:

"Tanong

Ng ikaw ay mapilitang sumama kay Batman, siya ba ay may hawak na anumang uri ng patalim?

Sagot

Wala po.

T

Bakit ka sumama sa kanya (Batman)?

S

Dahil sa nagpapasama siya na may kukuning baggage sa airport at di umano ay dadalhin sa bahay namin sa Carigma St., Antipolo, Rizal.

xxx xxx xxx

T

Kayo ba ay nakarating sa airport?

S

Hindi ho, dahil niloko lang nila ako na pupunta sa airport pero sa Pasig lang pala ang punta namin.

T

Ng nalaman mong sa Pasig lang pala ang punta ninyo, ano ang ginawa mo?

S

Ang ginawa ko ho ng sabihin ko sa kanilang uuwi na ako ng Antipolo ay hindi ako pinaalis at ang sabi nila Batman at Isagani ay hindi ako pwedeng makaalis at sila ang pupunta sa airport.

T

Nakaalis ba naman sila Batman?

S Oho.

T

Ng makaalis sila Batman, bakit hindi ka umalis din para makauwi?

S

Hindi ho ako makaalis dahil binabantayan ako ni Bayani at isa pa ay wala akong perang pamasahé dahil kinuha lahat ni Batman ang aking pera pati na ang aking singsing.

xxx xxx xxx

T

Ng ikaw ay magising hindi ka ba nagsabi sa kanila na ikaw ay uuwi na?

S

Nagsabi ako sa kanila na uuwi na, subalit ang sabi nila ay isasabay ako pauwi sa Antipolo kapag nakuha na nila ang bagahe sa airport.

T

Ang ibig mong sabihin ay umalis uli sila papuntang airport?

S

Oho, si Batman at si Isagani.

T

Bumalik ba silang dalawa?

S

Si Batman lang ho ang bumalik.

T

Ng makabalik si Batman, anong oras ito?

S

Mga magaalas-3:00 :00 ng hapon.

T

Sinabi ba niya kung bakit hindi niya kasama si Isagani?

S

Sangayon sa kanya ay iniwan siya ni Isagani at tinawag niya si Bayani subalit hindi nila ako pinapalapit at nag-usap sila ng mga ilang sandali at narinig kong sinabi ni Bayani na pupunta siya sa Makati at si Batman naman ay tinawag ako at binigyan ako ng P12.00 pamasahé pauwi sa Antipolo at di umano ay pupunta siya ng Olongapo.

xxx xxx xxx

T

Ng ikaw ay makauwi, ano ang nalaman mo?

S

Nalaman ko na lang ng makauwi ako na ako pala ay ipinatutubos ng isandaang libong piso."[23]

DIRECT TESTIMONY:

"ATTY. CORNAGO:

Q:

What time was it when you arrived at that house in Bagong Ilog?

A:

At about six o'clock in the evening.

Q:

You were referring at the same day January 30, 1994?

A:

Yes sir.

Q:

How long did the drinking last?

A:

About an hour, sir.

xxx xxx xxx

Q:

After that what happened then, if any?

A:

Batman and Isagani left.

Q:

Did you know where they leave for (sic)?

A:

According to them, they were going to get the baggage.

Q:

Did you go with them to get the baggage?

A:

They did not let me go with them.

Q:

Why?

A:

According to them they will be the ones to get the baggage.

xxx xxx xxx

Q:

And when Rolando Deduyo and Isagani Mañago left to get the baggage purportedly (sic) who was left with you in that house?

A:

Bayani, sir.

Q:

When you were left with Bayani what did Bayani do?

A:

He put out a knife and told me that "Ang pumapasok dito ay hindi na nakakalabas ng buhay."

xxx xxx xxx

Q:

Was Batman or Rolando Deduyo and Isagani able to return that same day?

A:

Yes sir.

xxx xxx xxx

Q:

At about ten o'clock in the evening what happened then?

A:

Bayani invited us to go to sleep.

xxx xxx xxx

Q:

Where?

A:

We slept together and I was surrounded by them when we sleep (Sic).

Q:

What do you mean you were cornered?

A:

I was placed in the middle when we went to sleep.

xxx xxx xxx

Q:

How about the three, Batman, Bayani, and Isagani where did they lie down to sleep also?

A:

Isagani and Batman were beside me, I was in the middle while Bayani was near the door.

Q:

At the time you lied (sic) down did you notice where the knife of Bayani, which you was (sic) shown earlier was (sic)?

A:

It was still stuck to his waist.

xxx xxx xxx

Q:

And how far was Bayani in relation to the door of the house where you slept?

A:

Bayani was beside the door.

xxx xxx xxx

Q:

When did you wake up?

A:

About seven o'clock of the following morning.

Q:

When you woke up where were the three, Batman, Isagani, and Bayani?

A:

We were still beside each other.

Q:

What were they doing if they were doing anything?

A:

They were talking with each other.

xxx xxx xxx

COURT:

Why? Did you not try to go home in Antipolo at that time?

A:

Because Bayani told me not to and I felt threatened when Bayani uttered "ang pumapasok dito ay hindi na lumalabas ng buhay." Also, I did not have the money for my fare.

ATTY. CORNAGO:

That morning of January 31, what did Bayani, Isagani and Batman do if they did anything?

xxx xxx xxx

A:

Batman and Isagani leave (sic) again and Bayani was left with me.

Q:

When you were left alone with Bayani what happened if any?

A:

We stayed inside the house, sir.

Q:

For how long was (sic) Isagani and Batman away?

A:

Batman arrived at about three o'clock in the afternoon.

xxx xxx xxx

Q:

You said that you were brought to a house at Bagong Ilog in the evening of January 30, 1994, for how long did you stay in that house?

A:

Up to January 31, in the afternoon.

Q:

You stayed there up to the afternoon of January 31 why did you not leave that house earlier?

A:

I was afraid because of the threat of Bayani.

CROSS-EXAMINATION:

ATTY. MENDOZA:

xxx xxx xxx

Q:

You said Bayani pulled out a small knife?

A:

Yes sir.

Q:

He did not open the said knife in front of you?

A:

He opened the knife and he also played with it.

Q:

At that time Bayani in your opinion was drinking, is that correct?

A:

Yes sir.

Q:

And when he uttered the statement "ang pumapasok dito ay hindi nakakalabas ng buhay" He did it jokingly, is that correct?

A:

He was serious when he uttered those remarks.

xxx xxx xxx

Q:

From the time you arrived in that house up to the time you left you did not urinate?

A:

I did.

Q:

Where did you urinate?

A:

Just outside the door.

Q:

While you were urinating where were Bayani, Isagani Mañago and Rolando Deduyo?

A:

Bayani was following me.

xxx xxx xxx

Q:

While Bayani was cooking lunch in the kitchen you remained in the sala?

A:

Yes sir.

Q:

Why did you not ran away from Bayani and shouted that you were being kidnapped?

A:

I could not ran (sic) because the door was closed."[24] (emphasis ours)

The appellant contends that there was no kidnapping because the victim voluntarily went with him. This contention holds no water. In the case of *People vs. Santos*,<sup>[25]</sup> we ruled that the fact that the victim voluntarily went with the accused did not remove the element of deprivation of liberty because the victim went with the accused on a false inducement without which the victim would not have done so. Such is the situation in the present case - the victim, a boy 16 years of age, would not have voluntarily left with the appellant if not for the false assurance that his mother had supposedly permitted him to accompany the appellant to the airport "to get the baggage" and bring it back to the victim's house. Moreover, it is important to emphasize that, in kidnapping, the victim need not be taken by the accused forcibly or against his will. What is controlling is the act of the accused in detaining the victim against his or her will after the offender is able to take the victim in his custody. In short, the carrying away of the victim in the crime of kidnapping and serious illegal detention can either be made forcibly or fraudulently.<sup>[26]</sup>

Since the crime charged is kidnapping in its qualified form, that is, committed for the purpose of exacting ransom, the abduction must in addition be shown to have been committed for such purpose. Actual demand for, or payment of, ransom is not necessary; it is enough if the crime is committed "for the purpose of extorting ransom."<sup>[27]</sup> In the present case, there was sufficient circumstantial evidence on record to prove that appellant abducted the victim for ransom, thus:

- in the afternoon of January 30, 1994, appellant tricked Johnny into accompanying him to the airport allegedly to get a baggage;
- instead of going to the airport, appellant brought Johnny to his friend's house in Pasig where his co-accused Isagani Mañago was waiting;
- at the same time that appellant enticed Johnny to go with him, Johnny's mother received a ransom letter demanding P100,000, or at least P50,000, for Johnny's release;
- before the mother received the ransom letter, she saw appellant at the public market; he even talked to her, looking for her brother;
- around noon the next day, appellant and his co-accused Isagani Mañago, left allegedly to go to the airport leaving Johnny behind in the house of Bayani;
- at around the same time, Johnny's mother, as instructed in the ransom letter, went to the Antipolo church;
- after she had waited for two hours inside the church, she went out and Isagani approached her asking if she brought the money;
- Isagani ran away when a police officer shouted at him;
- when apprehended, Isagani pleaded innocence and pointed at the appellant as the mastermind, revealing where he could be found, and
- the police went to Bagong Ilog, Pasig where they caught the appellant as he was about to escape on board a tricycle.

While appellant was not the one who approached Johnny's mother at the Antipolo Church to get the ransom, there

was enough circumstantial evidence that it was the appellant who planned the entire kidnapping for the purpose of extorting ransom from the victim's parents. The defense evidence itself showed that the appellant went to Sariaya, Quezon Province, the day before the kidnapping to persuade his co-accused, Isagani Mañago, to help him carry out the kidnapping. This the appellant did not controvert nor deny in his appeal before us. And, as aptly observed by the trial court, appellant was in a position to know the financial capacity of the victim's family since he was the husband of their store helper and he stayed in their other house for more than a year. All these circumstances, coupled with the victim's positive testimony that it was the appellant who kidnapped him, lead us to no other reasonable conclusion than that it was the appellant who planned and executed the kidnapping for ransom.

It is well settled that direct evidence of the commission of the crime is not the only matrix from which the court may draw its conclusion and make a finding of guilt. Conviction can just as well be had on the basis of circumstantial evidence if the established circumstances constitute an unbroken chain leading to the fair and reasonable conclusion that the accused is the author of the crime, to the exclusion of all others.[28] Such is the situation here.

Moreover, the flight of the appellant only served to strengthen the finding of guilt. He escaped from jail and was able to evade arrest for nearly three years (July 29, 1994 to March 26, 1997). His flight clearly evinced a consciousness of guilt and a silent admission of culpability. Indeed, "the wicked flee, when no man pursueth, but the innocent are as bold as a lion." [29]

Because the appellant escaped, trial in absentia proceeded against him. Sec. 14 (2) of the Constitution allows trial in absentia provided the accused has been arraigned and his failure to appear after due notice is unjustifiable. In the present case, trial in absentia was properly conducted by the trial court inasmuch as the appellant had already been arraigned when he escaped. By escaping, the appellant waived his right to be present on all subsequent trial dates until his custody was regained.[30]

The crime was committed after the death penalty was reimposed by RA 7659 on December 31, 1993. Since kidnapping for ransom carries the penalty of death under Article 267 of the Revised Penal Code, as amended by RA 7659, no other penalty can be imposed on the appellant. Thus, we modify the penalty imposed by the trial court from reclusion perpetua to death.

Lastly, the trial court correctly did not award any damages. Article 2219, paragraph 5, of the Civil Code provides that moral damages may be granted in cases of illegal or arbitrary detention. Nothing in the records, however, shows that the victim or his family suffered sleepless nights, serious anxiety or other similar injury. Inasmuch as moral damages are granted not to enrich but rather to compensate the victim for the injury suffered, proof of moral suffering must be introduced, failing in which such an award is not proper.[31]

Three members of the Court maintain their position that RA 7659, insofar as it prescribes the death penalty, is unconstitutional. Nevertheless, they submit to the ruling of the Court, by a majority vote, that the law is constitutional and that the death penalty should be accordingly imposed.

WHEREFORE, the decision of the Regional Trial Court of Antipolo, Rizal, Branch 71, in Criminal Case No. 94-1 0874 is hereby **AFFIRMED** with **MODIFICATION** in the penalty imposed. The appellant, Rolando Deduyo alias Batman, is hereby sentenced to suffer the supreme penalty of death.

In accordance with Article 83 of the Revised Penal Code, as amended by Section 25 of RA 7659, upon finality of this decision, let the records of these case be forwarded to the Office of the President for possible exercise of executive clemency.

**SO ORDERED.**

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

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[1] Penned by Hon. Judge Felix Caballes; Rollo, pp. 18-24.

[2] Rollo, p. 7.

[3] Records, p. 8.

[4] Id., p. 23.

[5] Rollo, pp. 18-24.

[6] Sinumpaang Salaysay dated January 31, 1994, pp. 1-2.

[7] TSN, October 20, 1994, pp. 3-6.

[8] Id., pp. 6-12, 24.

[9] TSN, October 20, 1994, pp. 12-16; Sinumpaang Salaysay dated January 31, 1994, pp. 2-3.

[10] TSN, October 20, 1994, pp. 27-28.

[11] Id., pp. 17-18.

[12] Id., pp. 19-21.

[13] TSN, April 10, 1995, pp. 3-5; Sinumpaang Salaysay dated January 31, 1994, p. 1; Exhibit "C" (ransom letter).

[14] TSN, April 10, 1995, pp. 5-6.

[15] TSN, April 10, 1995, pp. 6-9; TSN, April 11, 1995, pp. 2-4.

[16] TSN, April 18, 1995, pp. 2-12.

[17] TSN, January 17, 1995, pp. 2-9.

[18] TSN, April 24, 1995, pp. 6-11.

[19] TSN, September 9, 1996, pp. 2-12.

[20] Trial Court's decision, p. 4-5; Rollo, pp. 21-22.

[21] Article 267, Revised Penal Code, as amended by RA 7659.

[22] *People vs. Gungon*, 287 SCRA 618 [1998]; *People vs. Santos*, 283 SCRA 443 [1997]; *People vs. Crisostomo*, 46 Phil 775 [1923].

[23] Sinumpaang Salaysay dated January 31, 1994, pp. 2-4; Records, pp. 3-5.

[24] TSN, October 20, 1994, pp. 2-30.

**[25] 283 SCRA 443 [1997].**

**[26] FLORENZ D. REGALADO, CRIMINAL LAW CONSPECTUS 488 [2000].**

[27] People vs. Salimbago, 314 SCRA 282 [1999].

[28] People vs. Mendoza, 301 SCRA 66 [1999].

[29] People vs. Sabado, 345 SCRA 269 [2000]; U.S. vs. Alegado, 25 Phil 510 [1913].

[30] Marcos vs. Ruiz, 213 SCRA 177; 2000 Revised Rules of Criminal Procedure, Rule 115, Section (c).

[31] People vs. Dela Cruz, 277 SCRA 173 [1997].

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