

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TERESA BERNARDO Y TAMBIEN, ACCUSED-APPELLANT.

G.R. No. 144316. March 11, 2002

Ponente: MELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-144316/>

MELO, J.:

A moment of indiscretion oftentimes leads to a lifetime of regret.

Before this Court is an appeal from the decision of the Regional Trial Court of the National Capital Judicial Region (Branch XVIII, Manila) in its Criminal Case No. 99-173104 convicting appellant of the crime of kidnapping and failure to return a minor under Article 270 of the Revised Penal Code; and sentencing her to suffer the penalty of reclusion perpetua, and to indemnify the complainant, Rosita Tolibas y Aguada P300,000.00 as moral damages and P50,000.00 as nominal damages, and to pay the costs.

The Information for the crime of kidnapping and failure to return a minor filed against appellant on May 19, 1999 reads:

That on or about May 13, 1999, in the City of Manila, Philippines, the said accused being then a private individual and without authority of law, did then and there willfully, unlawfully and feloniously kidnap and carry away one ROSELYNN TOLIBAS y AGUADA, a minor, 15 day old baby girl, represented by her mother, ROSITA TOLIBAS y AGUADA, thereby depriving the said ROSELYNN TOLIBAS y AGUADA of her liberty against her will and consent.

Contrary to law.

(p. 5, Rollo.)

Upon her arraignment on June 23, 1999, appellant pleaded not guilty to the charges. Trial thereafter followed.

The facts, as adduced by the prosecution, are faithfully summarized in the brief submitted by the Solicitor General, to wit:

On May 13, 1999, around 11:30 in the morning, 12-year old Maria Roselle Tolibas y Aguada and her 15-day old sister, Rosalyn Tolibas, were with their mother, Rosita Tolibas y Aguada, at the Fabella Memorial Hospital on Felix Huertas Street, Sta. Cruz, Manila. Rosita and her daughter Roselle were at the hospital for medical check up and tooth extraction, respectively (TSN dated August 25, 1999, pp. 1-3).

While Rosita was undergoing medical check up inside the hospital, her two daughters waited at the lobby. Roselle was seating on a bench with her 15-day old sister on her lap when the appellant sat beside her. Appellant befriended Roselle and asked her if the baby was a boy or a girl, and Roselle replied that the baby was a girl (Ibid).

After a while, the appellant gave P3.00 to Roselle and asked her to buy ice water. The appellant took the 15-day old baby from Roselle and assured her that she (accused) would take care of her (Roselle's) sister, while she was buying ice water. Roselle was not able to find ice water for sale and on her way back to the

hospital, she saw the accused running away with her baby sister. She chased the appellant and when she caught up with her, the appellant told her that she was running after her (Roselle's) mother. Roselle did not believe the appellant and she held and pulled the appellant's skirt to prevent her from getting away with her (Roselle's) baby sister, but the appellant persisted in running with Roselle holding on to the appellant's skirt. To slow down the accused, Roselle wrapped her arms around the accused, who struggled and pinched Roselle to free herself from her hug. Roselle shouted for help, thereby attracting the attention of Emerento Torres, a Kagawad of Barangay 311, Zone 21, Sta. Cruz, Manila, who was then resting in front of his house on Felix Huertas Street (Ibid, pp;. 3-4, TSN, dated Oct. 19, 1999, pp. 2-4).

Torres saw the appellant carrying a child and struggling with Roselle, who kept on shouting: "Akina ang kapatid ko, akina ang kapatid ko." Torres accosted appellant, who told him that she was looking for the mother of the baby she was carrying so that she could return the baby to her, but Roselle begged him to help her because her mother was at the Fabella Memorial Hospital and the accused was getting her baby sister. Torres took the baby from the appellant and entrusted the baby to his wife. Then he led appellant and Roselle to the hospital to look for the mother of the baby. Torres found Rosita at the hospital and she confirmed to him that she was the mother of the baby (Ibid.).

Torres requested the hospital's security guard to blotter the incident, after which, he turned over the appellant to the police authorities at the WPDC-PNP Headquarters on U.N. Avenue, Manila. The case was investigated by PO3 Renato Guzman, who took down the sworn statements of Roselle, Torres and Rosita, Exhibits "A", "B" and "C", respectively (Id.).

(pp. 75-77, Rollo.)

On the other hand, the defense presented appellant as its sole witness, who narrated a different version of the incident.

Appellant claimed that on May 13, 1999 at around 10 o'clock in the morning, she was at the Fabella Hospital for a medical check-up, being then on her fifth month of pregnancy. At around 10:30 A.M., while she was waiting for her live-in partner at the hospital, a girl carrying a baby came by and asked her to hold said baby. After she accepted the baby, the girl ran away. After thirty minutes of waiting, she decided to go to the hospital's entrance gate to look for the girl. It was when she was already outside the hospital's entrance gate when the girl reappeared, shouting and calling for help, claiming that the appellant was kidnapping the baby. This caused several persons, including a barangay kagawad, to come to the girl's aid. Appellant was, immediately thereafter, taken to the police station.

On July 3, 2000, the trial court rendered the assailed decision, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused, Teresa Bernardo y Tambien, guilty beyond reasonable doubt of kidnapping and failure to return a minor under Article 270 of the Revised Penal Code and sentences her to suffer reclusion perpetua with all the accessory penalties provided by law and to pay the costs. On the civil liability of the accused, she is ordered to pay the complainant, Rosita Tolibas y Aguada, moral and nominal damages in the sum of P300,000.00 and P50,000.00, respectively, with interest thereon at the legal rate or 6% per annum from this date until fully paid.

(p. 12, Rollo.)

Aggrieved, appellant now appeals her conviction on the following grounds:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING HEREIN APPELLANT OF THE CRIME CHARGE DESPITE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND

REASONABLE DOUBT.

II

GRANTING ARGUENDO THAT HEREIN APPELLANT IS GUILTY, THE COURT A QUO GRAVELY ERRED IN AWARDING MORAL AND NOMINAL DAMAGES WITH INTEREST.

In assailing her conviction, appellant contends that there was no deliberate failure on her part to restore the minor Rosalyn Tolibas to her parents or guardians, stating that the charge filed against her was a mere overreaction on the part of the prosecution witnesses to her act of going out of the hospital to look for the mother of the child. She maintains that Roselle left the baby with her and after waiting for several minutes, she thought it best to look for the mother of Roselyn. This was the reason she went out towards the hospital's gate. Appellant alleged that it came as a surprise to her when Roselle started crying for help allegedly because appellant was kidnapping Roselle's baby sister.

Appellant's allegations are hard to swallow.

Initially, appellant testified that the baby was left with her by Roselle, a complete stranger, who then ran away (tsn, October 25, 1999, pp. 3-4). The Court finds this claim to be illogical for why would anyone, regardless of age, entrust a child to a complete stranger and then just run away without saying where she was going or when she was returning. We are more inclined to believe the testimony of Roselle when she explained that the reason she entrusted baby Roselyn to appellant was because the latter befriended her and subsequently asked her to buy ice water, giving P3.00 as payment (TSN, August 25, 1999, pp. 3-4). Secondly, appellant testified that she knew there was an information counter at the hospital (TSN, October 25, 1999, p. 7) and yet she did not leave word there that she was going to the hospital's entrance gate to look for the child's mother, just in case Roselle would return looking for her sister. The only justification this Court finds for this act is that appellant deliberately failed to leave word with the information counter since she did not want anyone to know that she was leaving the hospital with the baby.

Finally, appellant claimed that she went towards the hospital's entrance gate to locate the child's mother. This assertion would have gained currency - if not for prosecution witness Barangay Kagawad Emerento Torres who testified that he saw Roselle struggling with appellant. He stated that Roselle was trying to stop appellant from leaving the hospital by holding on to her and at the same time shouting "akina ang kapatid ko, akina ang kapatid ko." Moreover, Emerento Torres testified that the only time appellant stopped was when he confronted them and asked what the commotion was all about (tsn, October 19, 1999, pp. 2-3). Too, Roselle narrated that while she was holding on to appellant to prevent her from leaving the premises, appellant pinched her on her right side of her belly so she would let go (TSN, October 25, 1999, p. 3). These declarations run counter to appellant's claims that she went out of the hospital to look for the baby's mother. A person whose only intention is to look for the child's mother would generally return the child to the person who entrusted the child to her. This did not happen in the present case. The only logical conclusion we can derive from appellant's actions is that her intention was really to kidnap the child - not to look for the child's mother.

The crime committed by appellant in the case at bar falls under Article 267 of the Revised Penal Code, which provides:

Article 267. Kidnapping and failure to return a minor — The penalty of reclusion perpetua shall be imposed upon any person who, being entrusted with the custody of a minor person, shall deliberately fail to restore the latter to his parents or guardians.

It has two essential elements, namely: (1) the offender is entrusted with the custody of a minor person; and (2) the

offender deliberately fails to restore the said minor to his parents or guardians (People vs. Bondoc, 232 SCRA 478 [1997]). In People vs. Ty (263 SCRA 745 [1996]), we stated that the essential element of the crime of kidnapping and failure to return a minor is that the offender is entrusted with the custody of the minor, but what is actually being punished is not the kidnapping of the minor but rather the deliberate failure of the custodian of the minor to restore the latter to his parents or guardians. Indeed, the word deliberate as used in Article 270 of the Revised Penal Code must imply something more than mere negligence — it must be premeditated, headstrong, foolishly daring or intentionally and maliciously wrong.

When Roselle entrusted Roselyn to appellant before setting out on an errand for appellant to look for ice water, the first element was accomplished and when appellant refused to return the baby to Roselle despite her continuous pleas, the crime was effectively accomplished. In fine, we agree with the trial court's finding that appellant is guilty of the crime of kidnapping and failure to return a minor.

However, as to the matter of both moral and nominal damages, we find the contention of appellant to be meritorious.

Article 2219 of the Civil Code is the applicable provision with regard to the awarding of moral damages. It provides that:

Article 2219. Moral damages may be recovered in the following and analogous cases:

x x x

(5) Illegal and arbitrary detention or arrest;

x x x

Since the crime committed in this case is kidnapping and failure to return a minor under Article 270 of the Revised Penal Code, the same is clearly analogous to illegal and arbitrary detention or arrest, thereby justifying the award of moral damages. However, taking into consideration the fact that appellant had custody of the child only for a few minutes before being apprehended, we find the amount of P300,000.00 awarded by the trial court to be exorbitant. We therefore reduce such amount to P10,000.00.

Likewise, the award of nominal damages is allowed under Article 2221 of the New Civil Code which states that:

Article 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

Nonetheless, given the relatively short duration of the child's kidnapping, we find the amount of P50,000.00 awarded as nominal damages excessive, and hereby reduce the same to P10,000.00.

WHEREFORE, premises considered, the appealed judgment finding appellant Teresa Bernardo y Tambien guilty beyond reasonable doubt of the crime of kidnapping and failure to return a minor is hereby **AFFIRMED** with the **MODIFICATION** that the awards for moral and nominal damages are reduced to Ten Thousand Pesos (P10,000.00) each. No special pronouncement is made as to costs.

SO ORDERED.

Vitug, Panganiban, Sandoval-Gutierrez, and Carpio, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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