PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PABLO L. ESTACIO, JR. AND MARITESS ANG, APPELLANTS.

G.R. No. 171655. July 22, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Appellant Maritess Ang (Maritess) was charged before the Regional Trial Court (RTC) of Quezon City with kidnapping for ransom, allegedly committed as follows:

> That on or about the 10[th] of October 1995, in Quezon City, Philippines, the above-named accused conspiring together, confederating with two (2) other persons whose true names, identities and whereabouts have not as yet been ascertained and mutually helping one another did then and there, willfully, unlawfully and feloniously kidnap one CHARLIE CHUA, a businessman, from the Casa Leonisa Bar located at Examiner Street, Quezon City and brought him to an unknown place and detained him up to the present for the purpose of extorting ransom money in the amount of P15,000,000.00, Philippine Currency, thereby depriving him of his liberty from October 10, 1995 up to the present, to the damage and prejudice of said offended party.[1]

The Information was subsequently amended to implead the other appellant, Pablo Estacio, Jr. (Estacio), and to change the charge from kidnapping for ransom to kidnapping with murder. The accusatory portion of the Amended Information reads:

> That on or about the 11[th] day of October, 1995, in Quezon City, Philippipnes, the above-named accused, conspiring, confederating with another person whose true name and identity has not as yet been ascertained and mutually helping one another, did then and there, willfully, unlawfully and feloniously kidnap one CHARLIE MANCILLAN CHUA, a businessman, with the use of motor vehicle from Casa Leonisa Bar located at Examiner Street, Quezon City and brought him to BRGY. STO. CRISTO, San Jose, del Monte, Bulacan and thereafter with intent to kill, qualified by evident premeditation, did, then and there, willfully, unlawfully and feloniously repeatedly stab said CHARLIE MANCILLAN CHUA on the different parts of his body with the use of [a] fan knife, thereby inflicting upon him serious and mortal wounds, which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said Charlie Mancillan Chua.[2] (Underscoring in the original.)

Still later, the Information was further amended to additionally implead one Hildo Sumipo (Sumipo)[3] who was, however, subsequently discharged as state witness.[4]

The evidence for the prosecution presents the following version of events:[5]

At around 10:00 in the evening of October 10, 1995, Maritess, together with Estacio and Sumipo, arrived at Casa Leonisa, a bar-restaurant at Examiner Street, Quezon City where the three of them would meet with Charlie Mancilla Chua (the victim). Maritess had earlier told Sumipo that she would settle her debt to the victim and then "deretsong dukot na rin x x x kay Charlie [the victim]."[6] Sumipo assumed, however, that Maritess was just joking.

After the victim arrived past midnight and talked to Maritess for a short while, the group boarded his car, Maritess taking the seat beside the victim who was driving, as Estacio and Sumipo took the backseat.

Not long after, Estacio pulled out a gun and ordered the victim to pull the car over. As the victim complied, Estacio, with a gun pointed at him, pulled him to the backseat as Maritess transferred to the backseat, sat beside the victim, tied the victim's hands behind his back, and placed tape on his mouth. Estacio then directed Sumipo to take over the wheels as he did.[7]

While Sumipo tried to dissuade appellants from pursuing their plan, they replied that they would kill the victim so that he would not take revenge.[8] Thereupon, the victim told Maritess, "bakit mo nagawa sa akin ito sa kabila ng lahat?," to which she replied, "Bayad na ako sa utang ko sa iyo ngayon."

On Estacio's instruction, Sumipo drove towards San Jose del Monte, Bulacan and on reaching a secluded place, Estacio ordered Sumipo to stop the car as he did. Maritess and Estacio then brought the victim to a grassy place. Estacio with bloodied hands later resurfaced.

The three then headed towards Malinta, Valenzuela, Bulacan. On the way, Estacio and Maritess talked about how they killed the victim, Estacio telling Maritess, "Honey, wala na tayong problema dahil siguradong patay na si Charlie sa dami ng saksak na nakuha niya."

On Estacio's and Maritess' directive, Sumipo stopped by a drug store where Maritess bought alcohol to clean their hands. Along the way, Maritess and Estacio threw out the victim's attaché case. Maritess later told Estacio "Honey, sana hindi muna natin pinatay si Charlie para makahingi pa tayo ng pera sa mga magulang [niya]."

The three later abandoned the car in Malinta.

The following morning, Estacio went to the residence of Sumipo where he called up by telephone the victim's mother and demanded a P15,000,000 ransom. The mother replied, however, that she could not afford that amount.

In the afternoon of the same day, Maritess and Estacio went to Sumipo's residence again where Estacio again called up the victim's mother, this time lowering the ransom demand to P10,000,000 which she still found to be too steep. Sumipo expressed his misgivings about future calls, as they might get caught, but Estacio and Maritess assured him that that call would be the last.

The group then went to Greenhills where Estacio still again called up the victim's mother, still lowering the ransom demand to P5,000,000, P1,000,000 of which should be advanced. The victim's mother having agreed to the demand, Maritess and Estacio directed her to place the money in a garbage can near Pizza Hut in Greenhills at 11:30 in the evening. Estacio and Sumipo later proceeded to Pizza Hut, and as they were seated there, a patrol car passed by, drawing them to leave and part ways.

Sumipo soon learned that Maritess and Estacio sold Chua's gun, watch, and necklace from the proceeds of which he was given P7,000.

On May 16, 1996, Sumipo surrendered to the National Bureau of Investigation. On May 23, 1996, Estacio surrendered to the police. The police then informed the victim's mother that Estacio had admitted having killed her son, and that he offered to accompany them to the crime scene.

The police, accompanied by the victim's mother and Estacio, went to the crime scene and recovered the remains of the victim who was identified by his mother by the clothes attached to his bones. The victim's dentist found his teeth to match his dental record.

Sumipo explained in an affidavit,[9] which he identified in open court,[10] that Maritess got angry with the victim

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after he lent money to her husband, one Robert Ong,[11] enabling him to leave the country without her knowledge, while Estacio was jealous of the victim with whom Maritess had a relationship.[12]

In his affidavit[13] which he identified in open court, Estacio claimed that a quarrel broke out in the car between the victim and Maritess about a debt to the victim; that he tried to pacify the two, but the victim got angry at him, prompting him to point a fan knife at his neck; and that he then asked Sumipo to drive the car up to Barangay Sto. Cristo, San Jose del Monte, Bulacan where he dragged the victim away from the car and accidentally stabbed him.

When asked on cross-examination why the stabbing was accidental, Estacio replied that he and Maritess originally planned to leave the victim in Bulacan, but since there was talk of the victim getting back at them, he "got confused and so it happened."[14]

Maritess for her part denied[15] having conspired with Estacio. She claimed that while on board the car, the victim took issue with her "friendship" with Estacio, whom he insulted. Incensed, Estacio grabbed the victim by the collar, prompting the victim to pull out a gun from under the driver's seat which he aimed at Estacio.

Continuing, Maritess claimed that she tried to pacify the quarreling men; that the car stopped at San Jose del Monte and the three men alighted; that Sumipo returned to the car and was later followed by Estacio who said "Masama raw ang nangyari,"[16] he adding that he did not intend to stab the victim.

Branch 219 of the Quezon City RTC found both Estacio and Maritess guilty of "kidnapping on the occasion of which the victim was killed," disposing as follows:

> WHEREFORE, finding accused Pablo Estacio, Jr. and Maritess Ang guilty beyond reasonable doubt of the crime of kidnapping on the occasion of which the victim was killed, the court hereby sentences each of them to suffer the maximum penalty of Death; to jointly and severally pay the heirs of Charlie Chua the amount of P200,000.00, as actual damages, and P1,000,000.00, as moral damages; and to pay the costs.
>
> SO ORDERED.[17] (Emphasis and underscoring supplied)

The case was forwarded to this Court for automatic review.[18] However, the Court referred it to the Court of Appeals for intermediate review following People v. Mateo.[19]

Estacio faulted the trial court for:

> I
>
> x x x FINDING THAT THE GUILT OF HEREIN ACCUSED-APPELLANT FOR THE CRIME CHARGED WAS PROVEN BEYOND REASONABLE DOUBT.
>
> II
>
> x x x CONVICTING HEREIN ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE THE INDISPENSABLE ELEMENTS OF DETENTION AND "LOCK UP".[20] (Emphasis and underscoring supplied)

As for Maritess, she faulted the trial court for:

> A. x x x Discharging Sumipo as State Witness and in Relying on His Testimony for the Conviction of Appellant Ang.[21]
>
> x x x
>
> B. x x x Finding That There was Kidnapping with Murder and That Appellant Ang is Guilty Thereof.
>
> C. x x x Not Concluding that the Crime Committed was Plain Homicide, and That Accused Estacio is Solely

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> Responsible Therefor.[22] (Emphasis and underscoring in the original)

By Decision[23] of May 12, 2005, the Court of Appeals affirmed, with modification, the trial court's decision, disposing as follows:

> WHEREFORE, in view of all the foregoing, the decision of the Regional Trial Court of Quezon City in Criminal Case No. Q-95-63818 finding accused-appellants Maritess Ang and Pablo Estacio, Jr. guilty beyond reasonable doubt of the crime of kidnapping with murder and sentencing them to each suffer the penalty of DEATH, is AFFIRMED with MODIFICATION. Accused-appellants are ordered to pay, jointly and severally, the heirs of the deceased the amounts of P50,000.00 as civil indemnity; P25,000.00 as exemplary damages and P500,000.00 as moral damages.
>
> In view of the death penalty imposed, let the entire records of this case be forwarded to the Honorable Supreme Court for further review.
>
> SO ORDERED.[24] (Emphasis and underscoring supplied)

Appellants manifested before this Court that supplemental pleadings would not be necessary, all relevant matters having already been taken up.[25]

Findings of fact of the trial court, its calibration of the testimonies of witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect, if not conclusive effect, by this Court because of the trial court's unique advantage in observing and monitoring at close range the demeanor, deportment, and conduct of the witnesses as they testify.[26] This Court need not thus pass upon the findings of fact of the trial court, especially if they have been affirmed on appeal by the appellate court, as in the present case.[27] Nevertheless, the Court combed through the records of the case and found no ground to merit a reversal of appellants' conviction.

The Court finds, however, that the offense of which appellants were convicted was erroneously designated.

Appellants were eventually charged with and convicted of the special complex crime of kidnapping with murder, defined in the last paragraph of Article 267 of the Revised Penal Code. In a special complex crime, the prosecution must prove each of the component offenses with the same precision that would be necessary if they were made the subject of separate complaints.[28]

In the case at bar, kidnapping was not sufficiently proven. Although appellants bound and gagged Chua and transported him to Bulacan against his will, they did these acts to facilitate his killing, not because they intended to detain or confine him. As soon as they arrived at the locus criminis, appellants wasted no time in killing him. That appellants' intention from the beginning was to kill the victim is confirmed by the conversation which Sumipo heard in the car in which Maritess said that a knife would be used to kill him so that it would not create noise.[29] The subsequent demand for ransom was an afterthought which did not qualify appellants' prior acts as kidnapping.

People v. Padica[30] instructs:

> We have consistently held that where the taking of the victim was incidental to the basic purpose to kill, the crime is only murder, and this is true even if, before the killing but for purposes thereof, the victim was taken from one place to another. Thus, where the evident purpose of taking the victims was to kill them, and from the acts of the accused it cannot be inferred that the latter's purpose was actually to detain or deprive the victims of their liberty, the subsequent killing of the victims constitute the crime of murder, hence the crime of kidnapping does not exist and cannot be considered as a component felony to produce the complex crime of kidnapping with murder. In fact, as we held in the aforecited case of Masilang, et. al., although the accused had

> planned to kidnap the victim for ransom but they first killed him and it was only later that they demanded and obtained the money, such demand for ransom did not convert the crime into kidnapping since no detention or deprivation of liberty was involved, hence the crime committed was only murder.
>
> That from the beginning of their criminal venture appellant and his brothers intended to kill the victim can be readily deduced from the manner by which they swiftly and cold-bloodedly snuffed out his life once they reached the isolated sugarcane plantation in Calamba, Laguna. Furthermore, there was no evidence whatsoever to show or from which it can be inferred that from the outset the killers of the victim intended to exchange his freedom for ransom money. On the contrary, the demand for ransom appears to have arisen and was consequently made as an afterthought, as it was relayed to the victim's family very much later that afternoon after a sufficient interval for consultation and deliberation among the felons who had killed the victim around five hours earlier.
>
> x x x The fact alone that ransom money is demanded would not per se qualify the act of preventing the liberty of movement of the victim into the crime of kidnapping, unless the victim is actually restrained or deprived of his liberty for some appreciable period of time or that such restraint was the basic intent of the accused. Absent such determinant intent and duration of restraint, the mere curtailment of freedom of movement would at most constitute coercion.[31] (Underscoring supplied)

The crime committed was thus plain Murder. The killing was qualified by treachery. The victim was gagged, bound, and taken from Quezon City to an isolated place in Bulacan against his will to prevent him from defending himself and to facilitate the killing.

This Court's finding that the offense committed is Murder notwithstanding, the resulting penalty is the same. Under Article 248 of the Revised Penal Code, murder shall be punished by reclusion perpetua to death. The use of a motor vehicle, having been alleged in the Information and proven, can be appreciated as a generic aggravating circumstance. There being one generic aggravating circumstance, the resulting penalty is death. In view, however, of the enactment of Republic Act No. 9346 on June 24, 2006 prohibiting the imposition of death penalty, the penalty is reduced to reclusion perpetua, without eligibility for parole.

Respecting the assigned error in discharging Sumipo as a state witness, the same does not lie.

The conditions for the discharge of an accused as a state witness are as follows:

> (a) There is absolute necessity for the testimony of the accused whose discharge is requested;
>
> (b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;
>
> (c) The testimony of said accused can be substantially corroborated in its material points;
>
> (d) Said accused does not appear to be the most guilty; and
>
> (e) Said accused has not at any time been convicted of any offense involving moral turpitude.[32]

These conditions were established by the prosecution. Sumipo was the only person other than appellants who had personal knowledge of the acts for which they were being prosecuted. Only he could positively identify appellants as the perpetrators of the crime. He does not appear to be the most guilty. He did not participate in planning the commission of the crime. He in fact at first thought that Maritess was joking when she said, "Diretsong dukot na rin kay Charlie." He tried to dissuade appellants from pursuing their plan. He did not participate in the actual stabbing. And he tried to extricate himself from the attempts to extract ransom from the victim's family.

Sumipo's testimony was corroborated on material points. The victim's mother testified regarding the demands for

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ransom.[33] Cesar Moscoso, an employee of Casa Leonisa, testified to seeing the victim, Estacio, and Maritess at the bar-restaurant on the day and at the time in question.[34] Henry Hong, the victim's cousin who arrived at Pizza Hut, Greenhills ahead of the victim's brother during the scheduled delivery of the ransom, testified to seeing Estacio there with companions.[35] And the victim's skeletal remains were found at the scene of the crime upon Estacio's information and direction.

And there is no proof that Sumipo had, at any time, been convicted of a crime involving moral turpitude.

Even assuming arguendo that the discharge of Sumipo as a state witness was erroneous, such error would not affect the competency and quality of his testimony.[36]

Finally, the Court brushes aside Maritess' disclaimer of participation in killing the victim. It was she who bound the hands and gagged the victim. When Estacio, in Maritess' company, brought the victim to the scene of the crime and thereafter returned to the car, her and Estacio's hands were bloodied.

Parenthetically, prosecution witness Arlene Francisco, Maritess' friend who visited her in prison, testified that Maritess admitted having killed Chua.[37] And the prosecution presented letters from Maritess to Estacio, written from prison, where she admitted the deed.[38]

WHEREFORE, the Decision of the Court of Appeals of May 12, 2005 is AFFIRMED with MODIFICATION. The Court finds appellants Maritess Ang and Pablo Estacio, Jr. guilty beyond reasonable doubt of Murder, with the generic aggravating circumstance of use of motor vehicle. And in view of the enactment of Republic Act No. 9346 on June 24, 2006, the penalty is reduced to reclusion perpetua without eligibility for parole.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ.

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[1] Information, records, p. 1.

[2] Id. at 49.

[3] Id. at 52.

[4] Id. at 167.

[5] Vide TSN, September 24, 1996, pp. 2-75; TSN, September 30, 1996, pp. 2-59; TSN, October 8, 1996, pp. 2-84; TSN, October 14, 1996, pp. 2-56; TSN, October 22, 1996, pp. 3-34; TSN, November 4, 1996, pp. 2-47; TSN, November 7, 1996, pp. 3-91; TSN, November 11, 1996, pp. 3-27; TSN, December 4, 1996, pp. 2-32; TSN, January 15, 1997, pp. 3-81; TSN, February 24, 1997, pp. 3-77; TSN, March 5, 1997, pp. 3-45; TSN, April 14, 1997, pp. 2-35; TSN, May 5, 1997, pp. 2-30; RTC records, pp. 171-241, 243.

[6] TSN, January 15, 1997, p. 12.

[7] TSN, Jan. 15, 1997, p. 25.

[8] Id. at 26-29.

[9] Records, pp. 237-240.

[10] TSN, January 15, 1997, pp. 61-62.

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[11] TSN, Oct. 13, 1997, p. 93.

[12] Records, p. 237.

[13] Exhibit "AA," supra note 9.

[14] TSN, July 16, 1997, p. 10.

[15] Vide TSN, October 13, 1997, pp. 3-146.

[16] Id. at 54.

[17] Records, p. 402.

[18] Rollo, p. 1.

[19] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 656. Vide rollo, p. 2.

[20] CA rollo, pp. 161-162.

[21] Id. at 54.

[22] Id. at 56.

[23] Penned by Court of Appeals Associate Justice Eliezer R. de los Santos, with the concurrence of Associate Justices Eugenio S. Labitoria and Arturo D. Brion. CA rollo, pp. 225-246.

[24] CA rollo, pp. 245-246.

[25] Rollo, pp. 26-27.

[26] Vide Nombrefia v. People, G.R. No. 157919, January 30, 2007, 513 SCRA 369, 376-377.

[27] First Corporation v. Former Sixth Division of the Court of Appeals, G.R. No. 171989, July 4, 2007, 526 SCRA 564, 575.

[28] People v. Larrañaga, G.R. Nos. 138874-75, February 3, 2004, 421 SCRA 530, 580.

[29] TSN, February 24, 1997, p. 70-71.

[30] G.R. No. 102645, April 7, 1993, 221 SCRA 362.

[31] Id. at 371-372.

[32] Rules of Court, Rule 119, Section 17.

[33] TSN, September 30, 1996, pp. 5-18.

[34] TSN, October 14, 1996, pp. 6-56.

[35] TSN, November 7, 1996, pp. 3-24.

[36] Vide People v. De Guzman, G.R. No. 118670, February 22, 2000, 326 SCRA 131, 141.

[37] TSN, September 24, 1996, p. 14.

[38] Exhibit "N -4," (transcript), pp. 209-210. Original: Exhibit "C-5," records, p. 185.

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