

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALBERTO
ANTICAMARA Y CABILLO AND FERNANDO CALAGUAS FERNANDEZ
A.K.A. LANDO CALAGUAS, APPELLANTS.**

G.R. No. 178771. June 08, 2011

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-178771/>

PERALTA, J.:

This is an appeal from the Decision [1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00556, affirming the trial court's judgment finding appellants Fernando Calaguas Fernandez (Lando) and Alberto Cabillo Anticamara (Al) guilty beyond reasonable doubt of the crime of Murder in Criminal Case No. 4498-R and of the crime of Kidnapping and Serious Illegal Detention in Criminal Case No. 4481-R.

Lando, Al, Dick Tañedo (Dick), Roberto Tañedo (Bet), Marvin Lim (Marvin), Necitas Ordeñiza-Tañedo (Cita), and Fred Doe are charged with the crimes of Murder and of Kidnapping/Serious Illegal Detention in two separate Informations, which read:

For Murder (Criminal Case No. 4498-R)

That on or about the early morning of May 7, 2002, in Sitio Rosalia, Brgy. San Bartolome, Municipality of Rosales, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with a hand gun, conspiring, confederating and mutually helping one another, with intent to kill, with treachery, evident premeditation and superior strength, did then and there, willfully, unlawfully and feloniously take Sulpacio Abad, driver of the Estrellas, hog tied (sic) him, brought (sic) to a secluded place, shoot and bury in a shallow grave, to the damage and prejudice of the heirs of the victim.

Contrary to Article 248, Revised Penal Code.

For Kidnapping/Serious Illegal Detention (Criminal Case No. 4481-R)

That on or about the 7[th] day of May 2002, more or less 3:00 o'clock in the early morning, at the Estrella Compound, Brgy. Carmen East, Municipality of Rosales, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, who are private persons, conspiring, confederating and mutually helping one another, armed with firearms, did then and there willfully, unlawfully and feloniously kidnap Sulpacio Abad and AAA, [2] both employees of the Estrellas, thereby depriving them of their liberty, all against their will for a period of twenty-seven (27) days.

That in the course of the kidnapping, Sulpacio Abad was killed and buried in Brgy. Carmen, Rosales, Pangasinan and AAA was raped for several times by her abductors.

Contrary to Article 267 of the Revised Penal Code, in relation to RA 7659.

When arraigned of the aforementioned crimes, Lando, Al and Cita all pleaded not guilty, while Dick, Bet, Marvin and Fred Doe remained at-large. Thereafter, a joint trial ensued.

As summarized in the People's brief, the facts as established by the evidence of the prosecution are as follows:

About 3 o'clock in the early morning of May 7, 2002, househelper AAA and driver Abad Sulpacio were sleeping in their employers' house located in Barangay Carmen East, Rosales, Pangasinan. Their employers, Conrado Estrella and his wife, were out of the house at that time (TSN, December 4, 2002, pp. 4-7). Momentarily, AAA was jolted from sleep when she heard voices saying, "We will kill her, kill her now" and another voice saying, "Not yet!" Hiding under her blanket, AAA later heard someone saying, "We only need money, we only need money." Thereafter, she heard someone talking in Ilocano which she could not understand. Then she heard somebody say, "Cebuana yan, Cebuana yan, kararating lang galing Cebu." AAA heard the persons conversing which she estimated about four to five meters away (TSN, *ibid.*, pp. 11-12).

Thereafter, AAA observed about six (6) persons enter the house, who she later identified as accused Dick Tañedo, Marvin Lim, Bert Tañedo, a certain Fred and appellants Alberto Anticamara alias "Al Camara," and Fernando Fernandez alias "Lando Calaguas." One of the intruders approached her and told her not to move (TSN, *ibid.*, p. 8).

Later, when AAA thought that the intruders were already gone, she attempted to run but to her surprise, someone wearing a bonnet was watching her. Someone, whom she later recognized as Dick Tañedo, tapped her shoulder. AAA asked Tañedo, "Why Kuya?" Tañedo replied, "Somebody will die." After a brief commotion, appellant alias "Lando Calaguas" asked the group saying, "What shall we do now?" They then decided to tie AAA. Later, AAA was untied and led her outside the house. Outside, AAA saw Abad, who was also tied and blindfolded, seated inside a vehicle (TSN, April 26, 2004, pp. 6-10).

The group later brought AAA and Abad to the fishpond owned by their employers. AAA saw Cita Tañedo there. The group brought Abad outside the vehicle and led him away (TSN, December 2, 2002, pp. 13-18; TSN, February 17, 2003, pp. 5-8).

Later, alias "Fred" returned telling the group, "Make the decision now, Abad has already four bullets in his body, and the one left is for this girl." When Cita Tañedo made a motion of cutting her neck, appellant alias "Lando Calaguas" and "Fred" boarded the vehicle taking along with them AAA. They later proceeded towards San Miguel Tarlac, where Lando Calaguas resided. They stayed in Lando's house where they kept AAA from May 7 to May 9, 2002 (TSN, December 4, 2002, pp. 18-22; TSN, February 17, 2003, pp. 7-9).

On May 9, 2002, appellant Lando Calaguas told AAA that Fred and Bert Tañedo would kill her. Lando then brought AAA to a hotel in Tarlac, telling AAA that he would leave her there as soon as Fred and Bert Tañedo leave the place. However, once inside the hotel room, appellant Lando Calaguas sexually molested AAA. Lando told AAA to follow what he wanted, threatening her that he would turn her over to Fred and Bert Tañedo. After Lando raped AAA, he brought her back to his house. Later, Fred, Bert Tañedo and Lando Calaguas transferred AAA to Riles, Tarlac (TSN, *ibid.*, pp. 9-13).

AAA was brought to the residence of Fred's niece, a certain Minda, where Fred kept AAA as his wife. At nighttime, Fred would repeatedly ravish AAA, threatening her that he would give her back to appellant Lando Calaguas who, AAA knew, killed Abad Sulpacio. She was afraid Lando might also kill her (TSN, *ibid.*, pp. 14-16).

On May 22, 2002, Fred brought AAA to Carnaga (should be Kananga), Leyte, together with his wife Marsha and their children. AAA stayed in the house of Marsha's brother Sito, where she was made as a house helper (TSN, *ibid.*, p. 17).

On June 4, 2002, AAA escaped from the house of Sito. She proceeded to Isabel, Leyte and sought the help of her friend Susana Ilagan. After hearing AAA's plight, Susana called AAA's brother in Cebu, who later fetched AAA in Isabel, Leyte and brought her to Mandaue City. When they arrived in Mandaue City, they immediately reported the incident to the police authorities. On June 23, 2002, AAA executed a Sworn Statement (Exh. "D,"

TSN, *ibid.*, pp. 18-20).

Meanwhile, Dr. Ronald Bandonil, Medico-Legal Officer of the National Bureau of Investigation (NBI), conducted an autopsy on the cadaver of Sulpacio Abad. Dr. Bandonil prepared Autopsy Report No. N-T2-23-P (Exh. "A") which contains the following findings, to wit:

x Remains placed in a sealed metal coffin, wrapped in two (2) layers of black, plastic garbage bags, and covered in (sic) a red-stripped cotton blanket. A thick layer of lime embeds the whole torso.

x Remains in a far advanced state of decomposition, with the head completely devoid of soft tissue. A cloth is wrapped around the eyesockets and tied to the back of the skull. The skull does not show any signs of dents, chips nor fractures. The other recognizable body part is the chest area which retained a few soft tissues and skin, but generally far advanced in decomposition. The whole gamut of internal organs have undergone liquefaction necrosis and have been turned into grayish-black pultaceous masses. Worn on top of the remaining chest is a sando shirt with observable holes at the left side, both front and back. A large hole is seen at the area of the left nipple, with traces of burning at its edges and inward in direction. A tied cloth is also observable at the remnants of the left wrist.

x At the upper chest, which is the most recognizable, remaining and intact part of the torso, a hole, 1.0 cm. x 2.0 cms., with signs of burning, edges inverted, is seen at the left anterior axillary line just below the left nipple. Another hole is seen 1.5 cms. x 2.5 cms. in diameter, edged averted (sic) at the right chest, along the right anterior axillary line, 5.0 cms. below the right nipple. A 3[rd] hole, almost unrecognizable is seen at the left groin area.

x The other parts of the cadaver are too far advanced in decomposition to have remarkable findings.

CAUSE OF DEATH:

GUNSHOT WOUNDS, TRUNK [3]

In his defense, Lando denied having committed the crimes charged and interposed alibi as a defense. He claims that at the time of the incident on May 7, 2002, he was in Barangay Maligaya, San Miguel, Tarlac, with his family. He denied ever going to the Estrella farm in Sitio Rosalia, Barangay San Bartolome, Rosales, Pangasinan.

Al claimed that he acted as a lookout and was tasked to report to his companions if any person or vehicle would approach the house of the Estrellas. He said that he was forced to follow what was ordered of him and did not report the matter to the police because he was threatened to be killed, including the members of his family who were in Cebu.

On August 23, 2004, the Regional Trial Court (RTC) of Rosales, Pangasinan, Branch 53, rendered its Decision, [4] the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered as follows:

I. In Criminal Case No. 4498-R for Murder:

A. Accused Nicetas "Cita" Tañedo is hereby acquitted of the crime charged for insufficiency of evidence;

B. Accused Fernando Calaguas Fernandez (alyas Lando Calaguas) and Alberto Anticamara (alyas Al Camara) are hereby found guilty beyond reasonable doubt, as principal, of the crime of Murder qualified by treachery, defined and penalized under Article 248 of the Revised Penal Code. Considering the presence of aggravating circumstance of pre-meditation, with no mitigating circumstance to offset the same, the penalty of DEATH is hereby imposed upon the two (2) accused Fernando Calaguas Fernandez (Lando Calaguas) and Alberto Anticamara (Al Camara). They are also ordered jointly and severally [to] pay the heirs of the victim Abad

Sulpacio the following:

- 1) Fifty Thousand Pesos (P50,000.00) as moral damages;
- 2) Seventy-Five Thousand Pesos (P75,000.00) as indemnity for the death of the victim;
- 3) Fifty-Seven Thousand One Hundred Twenty-Two Pesos and Thirty Centavos (P57,122.30) as actual damages; and
- 4) The cost of suit.

II. Criminal Case No. 4481-R for Kidnapping/Serious Illegal Detention:

A) Accused Nicetas "Cita" Tañedo is hereby acquitted of the crime charged for insufficiency of evidence;

B) Accused Fernando Calaguas Fernandez (alyas Lando Calaguas) and Alberto Anticamara (alyas Al Camara) are hereby found guilty beyond reasonable doubt, as principal, of the crime of Kidnapping/Serious Illegal Detention of the victim AAA as charged, defined and penalized under Article 267 of the Revised Penal Code, as amended by R.A. 7659. Considering that the victim AAA was raped during her detention, the maximum penalty of DEATH is hereby imposed upon the two accused, Fernando Calaguas Fernandez (Lando Calaguas) and Alberto Anticamara (Al Camara). The two accused are also ordered to pay, jointly and severally, the victim AAA the amount of:

- 1) One Hundred Thousand Pesos (P100,000.00) as moral damages;
- 2) Fifty Thousand Pesos (P50,000.00) as exemplary damages; and
- 3) Cost of suit.

As to the rest of the accused who are still at-large, let this case be set to the archives until they are apprehended.

SO ORDERED. [5]

In light of the Court's ruling in *People v. Mateo*, [6] the records of the cases were forwarded by the RTC to the CA for its review. The CA rendered a Decision dated December 15, 2006, affirming the decision of the RTC in Criminal Case Nos. 4498-R and 4481-R. However, in view of the abolition of the death penalty pursuant to Republic Act (R.A.) No. 9346, which was approved on June 24, 2006, the appellants were sentenced to reclusion perpetua.

On January 9, 2007, Lando, through the Public Attorney's Office (PAO), appealed the Decision of the CA to this Court. Lando had assigned the following errors in his appeal initially passed upon by the CA, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT CONSPIRACY EXISTED BETWEEN AND AMONG THE ALLEGED PERPETRATORS OF THE CRIME.

II

ASSUMING THAT THE ACCUSED-APPELLANT IS GUILTY, THE LOWER COURT GRAVELY ERRED IN CONVICTING HIM OF THE CRIME OF MURDER INSTEAD OF HOMICIDE.

III

THE TRIAL COURT GRAVELY ERRED IN IMPOSING UPON THE ACCUSED-APPELLANT THE SUPREME PENALTY OF DEATH FOR THE CRIME OF KIDNAPPING/SERIOUS ILLEGAL DETENTION, AGGRAVATED BY RAPE, IN SPITE OF THE FACT THAT THE CRIME OF RAPE WAS NOT DULY PROVEN BEYOND REASONABLE DOUBT.

IV

THE TRIAL COURT GRAVELY ERRED IN GIVING SCANT CONSIDERATION TO THE EVIDENCE PRESENTED BY THE ACCUSED-APPELLANT WHICH IS MORE CREDIBLE THAN THAT OF THE PROSECUTION

V

THE TRIAL COURT GRAVELY ERRED IN RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT THE GUILT OF THE ACCUSED-APPELLANT WAS NOT PROVEN BEYOND REASONABLE DOUBT. [7]

On January 9, 2007, Al, through the PAO, appealed the Decision of the CA to this Court. Al had assigned the following errors, to wit:

I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF KIDNAPPING/SERIOUS ILLEGAL DETENTION IN SPITE OF THE FAILURE OF THE PROSECUTION TO PROVE BEYOND REASONABLE DOUBT THAT HE CONSPIRED WITH HIS CO-ACCUSED TO COMMIT THE CRIME CHARGED.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING UPON THE ACCUSED THE SUPREME PENALTY OF DEATH FOR THE SPECIAL COMPLEX CRIME OF KIDNAPPING/SERIOUS ILLEGAL DETENTION WITH RAPE, IN SPITE OF THE FACT THAT HE HAD NO PARTICIPATION IN THE COMMISSION OF [TWO] SEXUAL ABUSES AGAINST THE VICTIM.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF MURDER IN SPITE OF THE FAILURE OF THE PROSECUTION TO PROVE BEYOND REASONABLE DOUBT THAT HE CONSPIRED WITH HIS CO-ACCUSED TO COMMIT THE SAME. [8]

In capsule, the main issue is whether the appellants are guilty of the crimes charged.

In Criminal Case No. 4498-R for Murder:

Circumstantial Evidence

The trial court found that although there was no direct eyewitness in the killing of Sulpacio in the early morning of May 7, 2002 at Sitio Rosalia, Barangay San Bartolome, Rosales, Pangasinan, the prosecution adduced sufficient circumstantial evidence to establish with moral certainty the identities and guilt of the perpetrators of the crime.

Circumstantial evidence consists of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience . [9] Circumstantial evidence is sufficient to sustain conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; (c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. [10] A judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator. [11]

In this case, the circumstantial evidence presented by the prosecution, when analyzed and taken together, lead to

the inescapable conclusion that the appellants are responsible for the death of Sulpacio. The Court quotes with approval the lower court's enumeration of those circumstantial evidence:

The testimony of AAA had clearly established the following facts:

1. At about 3:00 in the early morning of May 7, 2002, while she and the victim Abad Sulpacio were sleeping inside the house of the Estrella family in Barangay Carmen, Rosales, Pangasinan several persons entered to rob the place;
2. Inside the house, she saw and recognized the accused Lando Calaguas and Dick Tañedo, and heard the latter uttering "somebody will die";
3. Bringing her outside the house, Lando pushed her into the Revo where she saw inside Abad Sulpacio who was blindfolded and with his hands tied;
4. Inside the Revo, she recognized the accused Dick Tañedo, Lando Calaguas, Marvin Lim, Roberto Tañedo, Alberto Anticamara and Fred;
5. The Revo then proceeded towards the fishpond owned by the Estrellas in Sitio Rosalia, Brgy. San Bartolome, Rosales, Pangasinan;
6. The last time that she saw Abad Sulpacio was when he was dragged out from the vehicle by Lando, Fred, Marvin and Al upon reaching Sitio Rosalia. At that, time Dick Tañedo stayed with her in the vehicle;
7. Thereafter, when Fred returned to the vehicle, she heard him uttered (sic): "Make a decision now. Abad has already four (4) bullets in his body, and the one left is for this girl." [12]

In addition to these circumstances, the trial court further found that AAA heard Fred utter "Usapan natin pare, kung sino ang masagasaan, sagasaan." (Our agreement is that whoever comes our way should be eliminated). Moreover, NBI Agent Gerald V. Geralde testified that on June 23, 2002, appellant Al admitted his participation as lookout and naming his companions Dick, Lando, Fred, Marvin and Bet as the ones who took AAA and Sulpacio from the house of the Estrellas and brought them to the fishpond. Al also pointed and led the authorities to a shallow grave in Sitio Rosalia, Barangay San Bartolome, Rosales, Pangasinan, where the remains of Sulpacio were buried. The autopsy conducted on the body, prepared by the Medico Legal Officer Dr. Bandonil, shows that several holes were found on various parts of the body of the victim and Dr. Bandonil concluded that the cause of the victim's death was the gunshot wounds. The report also indicates that a piece of cloth was found wrapped around the eye sockets and tied at the back of the skull, and another cloth was also found tied at the remnants of the left wrist.

In the case at bar, although no one directly saw the actual killing of Sulpacio, the prosecution was able to paint a clear picture that the appellants took Sulpacio away from the house of the Estrellas, tied and blindfolded him, and brought him to another place where he was repeatedly shot and buried.

Conspiracy

Under Article 8 of the Revised Penal Code, there is conspiracy when two or more persons come to an agreement concerning a felony and decide to commit it. It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances. [13] To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act or need not even know the exact part to be performed by the others in the execution of the conspiracy. Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact,

constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals. [14]

In the present case, prior to the commission of the crime, the group met at the landing field in Carmen, Pangasinan and discussed their plan to rob the house of the Estrellas with the agreement that whoever comes their way will be eliminated. [15] Appellant Al served as a lookout by posting himself across the house of the Estrellas with the task of reporting any movements outside. Fred then climbed the old unserviceable gate of the Estrella compound and then opened the small door and the rest of the group entered the house of the Estrellas through that opening. [16] After almost an hour inside the house, they left on board a vehicle with AAA and Sulpacio. AAA and Sulpacio were brought to Sitio Rosalia, Brgy. San Bartolome, Rosales, Pangasinan. In that place, Sulpacio was killed and AAA was brought to another place and deprived of her liberty. These circumstances establish a community of criminal design between the malefactors in committing the crime. Clearly, the group conspired to rob the house of the Estrellas and kill any person who comes their way. The killing of Sulpacio was part of their conspiracy. Further, Dick's act of arming himself with a gun constitutes direct evidence of a deliberate plan to kill should the need arise.

Appellant Al attempts to evade criminal liability by alleging that he was only forced to participate in the commission of the crime because he and his family were threatened to be killed. Al's defense fails to impress us. Under Article 12 [17] of the Revised Penal Code, a person is exempt from criminal liability if he acts under the compulsion of an irresistible force, or under the impulse of an uncontrollable fear of equal or greater injury, because such person does not act with freedom. [18] To avail of this exempting circumstance, the evidence must establish: (1) the existence of an uncontrollable fear; (2) that the fear must be real and imminent; and (3) the fear of an injury is greater than, or at least equal to, that committed. [19] For such defense to prosper, the duress, force, fear or intimidation must be present, imminent and impending, and of such nature as to induce a well-grounded apprehension of death or serious bodily harm if the act be done. A threat of future injury is not enough. [20]

There is nothing in the records to substantiate appellant Al's insistence that he was under duress from his co-accused while participating in the crime that would suffice to exempt him from incurring criminal liability. The evidence shows that Al was tasked to act as a lookout and directed to station himself across the house of the Estrellas. Al was there from 7:30 p.m. to 1:00 a.m. [21] of the following day, while the rest of the group was waiting in the landing field. Thus, while all alone, Al had every opportunity to escape since he was no longer subjected to a real, imminent or reasonable fear. However, he opted to stay across the house of the Estrellas for almost six (6) hours, [22] and thereafter returned to the landing field where the group was waiting for his report. Subsequently, the group proceeded to the Estrellas' house. When the group entered the house, Al stayed for almost one (1) hour outside to wait for his companions. Later, when the group left the house aboard a vehicle, Al rode with them in going to Sitio Rosalia, Brgy. San Bartolome, Rosales, Pangasinan, bringing with them Sulpacio and AAA. [23] Clearly, appellant Al had ample opportunity to escape if he wished to, but he never did. Neither did he request for assistance from the authorities or any person passing by the house of the Estrellas during the period he was stationed there. Clearly, Al did not make any effort to perform an overt act to dissociate or detach himself from the conspiracy to commit the felony and prevent the commission thereof that would exempt himself from criminal liability. [24] Therefore, it is obvious that he willingly agreed to be a part of the conspiracy.

Alibi and Denial

Appellant Lando denied having committed the crime charged and interposed alibi as a defense. He claims that at the time of the incident he was in his house at Tarlac, together with his family. On the other hand, the appellants were positively identified by AAA, as two (2) of the six (6) malefactors who forcibly took her and Sulpacio from

the Estrella house in the early morning of May 7, 2002. Both the trial court and the CA found the testimony of AAA credible. The Court gives great weight to the trial court's evaluation of the testimony of a witness because it had the opportunity to observe the facial expression, gesture, and tone of voice of a witness while testifying; thus, making it in a better position to determine whether a witness is lying or telling the truth. [25]

Between the categorical statements of the prosecution witness, on one hand, and the bare denial of the appellant, on the other, the former must perforce prevail. An affirmative testimony is far stronger than a negative testimony especially when it comes from the mouth of a credible witness. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law. They are considered with suspicion and always received with caution, not only because they are inherently weak and unreliable but also because they are easily fabricated and concocted. [26] Denial cannot prevail over the positive testimony of prosecution witnesses who were not shown to have any ill-motive to testify against the appellants. [27]

As to the defense of alibi. Aside from the testimony of appellant Lando that he was in Tarlac at the time of the incident, the defense was unable to show that it was physically impossible for Lando to be at the scene of the crime. Basic is the rule that for alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime. Physical impossibility refers to the distance between the place where the appellant was when the crime transpired and the place where it was committed, as well as the facility of access between the two places. [28] Where there is the least chance for the accused to be present at the crime scene, the defense of alibi must fail. [29] During the trial of the case, Lando testified that the distance between his house in Brgy. Maligaya, San Miguel, Tarlac to the town of Rosales, Pangasinan is only around forty (40) kilometers. Such distance can be traversed in less than 30 minutes using a private car and when the travel is continuous. [30] Thus, it was not physically impossible for the appellant Lando to be at the locus criminis at the time of the incident. In addition, positive identification destroys the defense of alibi and renders it impotent, especially where such identification is credible and categorical. [31]

Qualifying and Aggravating Circumstances

In convicting the appellants, the courts a quo appreciated treachery in qualifying the killing to murder and evident premeditation in imposing the penalty of death. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to ensure its execution without risk to himself arising from the defense that the offended party might make. [32] Two conditions must concur for treachery to exist, namely, (a) the employment of means of execution gave the person attacked no opportunity to defend himself or to retaliate; and (b) the means or method of execution was deliberately and consciously adopted. [33]

In the case at bar, it was proven that when AAA boarded the vehicle, she saw Sulpacio tied and blindfolded. Later, when they reached the fishpond, Sulpacio, still tied and blindfolded, was led out of the vehicle by the group. When the remains of Sulpacio was thereafter found by the authorities, the autopsy report indicated that a piece of cloth was found wrapped around the eye sockets and tied at the back of the skull and another cloth was also found tied at the left wrist of the victim. There is no question therefore, that the victim's body, when found, still had his hands tied and blindfolded. This situation of the victim when found shows without doubt that he was killed while tied and blindfolded; hence, the qualifying aggravating circumstance of treachery was present in the commission of the crime. In *People v. Osianan*, [34] the Court held that:

x x x In the case at bar, the means used by the accused-appellants to insure the execution of the killing of the victims, so as to afford the victims no opportunity to defend themselves, was the act of tying the hands of the victims. Teresita saw the accused-appellants hog-tie the victims and take them away with them. Later that night, Dionisio Palmero saw the victims, still hog-tied, walking with the accused-appellants. The following

day, the victims were found dead, still hog-tied. Thus, no matter how the stab and hack wounds had been inflicted on the victims in the case at bar, we are sure beyond a reasonable doubt that Jose, Ronilo and Reymundo Cuizon had no opportunity to defend themselves because the accused-appellants had earlier tied their hands. The fact that there were twelve persons who took and killed the Cuizon further assured the attainment of accused-appellants' plans without risk to themselves. [35]

The aggravating circumstance of superior strength cannot be separately appreciated because it is absorbed by treachery. [36]

The circumstance of evident premeditation requires proof showing: (1) the time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused has clung to his determination; and (3) sufficient lapse of time between such determination and execution to allow him to reflect upon the consequences of his act. [37] The essence of premeditation is that the execution of the act was preceded by cool thought and reflection upon the resolution to carry out the criminal intent during a space of time sufficient to arrive at a calm judgment. [38] From the time the group met at the landing field at around 6:30 p.m. of May 6, 2002, and discussed the possibility of killing anyone who stands on their way, up to the time they took Sulpacio away from the Estrellas' house and eventually killed him thereafter at around past 3:00 a.m., more than eight hours had elapsed - sufficient for the appellants to reflect on the consequences of their actions and desist from carrying out their evil scheme, if they wished to. Instead, appellants evidently clung to their determination and went ahead with their nefarious plan.

In Criminal Case No. 4481-R for Kidnapping and Serious Illegal Detention.

The Court finds appellant Lando guilty of the special complex crime of kidnapping and serious illegal detention with rape, defined in and penalized under Article 267 of the Revised Penal Code. The elements of kidnapping and serious illegal detention under Article 267 of the Revised Penal Code [39] are: (1) the offender is a private individual; (2) he kidnaps or detains another or in any other manner deprives the latter of his liberty; (3) 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) the kidnapping or detention lasts for more than 3 days; or (b) it is committed by simulating public authority; or (c) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or (d) the person kidnapped or detained is a minor, female, or a public officer. [40]

The crime of kidnapping was proven beyond reasonable doubt by the prosecution. Appellants Lando and Al, both private individuals, forcibly took AAA, a female, away from the house of the Estrellas and held her captive against her will. Thereafter, appellant Lando brought AAA to his house in San Miguel Tarlac, whereby she was deprived of her liberty for almost one month. It is settled that the crime of serious illegal detention consists not only of placing a person in an enclosure, but also in detaining him or depriving him in any manner of his liberty. [41] For there to be kidnapping, it is enough that the victim is restrained from going home. [42] Its essence is the actual deprivation of the victim's liberty, coupled with indubitable proof of the intent of the accused to effect such deprivation. [43] Although AAA was not confined in an enclosure, she was restrained and deprived of her liberty, because every time appellant Lando and his wife went out of the house, they brought AAA with them. The foregoing only shows that AAA was constantly guarded by appellant Lando and his family.

The crime of rape was also established by the prosecution. Appellant Lando succeeded in having carnal knowledge of AAA through the use of threat and intimidation. AAA testified that on May 9, 2002, appellant Lando brought her to a hotel to hide her from Fred and Bert, who intended to kill her. Appellant Lando told her to follow his orders, otherwise, he will give her to Fred and Bert. While in the hotel, appellant Lando raped her. [44] Clearly, for fear of being delivered to Fred and Bert and of losing her life, AAA had no choice but to give in to

appellant Lando's lustful assault. In rape cases, the credibility of the victim's testimony is almost always the single most important factor. When the victim's testimony is credible, it may be the sole basis for the accused's conviction. [45] This is so because owing to the nature of the offense, in many cases, the only evidence that can be given regarding the matter is the testimony of the offended party. [46]

The last paragraph of Article 267 of the Revised Penal Code provides that if the victim is killed or dies as a consequence of the detention, or is raped or subjected to torture or dehumanizing acts, the maximum penalty shall be imposed. In *People v. Larrañaga*, [47] this provision gives rise to a special complex crime. Thus, We hold that appellant Lando is guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with rape in Criminal Case No. 4481-R.

However, the Court does not agree with the CA and trial court's judgment finding appellant Al liable for Rape in Criminal Case No. 4481-R. In *People v. Suyu*, [48] We ruled that once conspiracy is established between several accused in the commission of the crime of robbery, they would all be equally culpable for the rape committed by anyone of them on the occasion of the robbery, unless anyone of them proves that he endeavored to prevent the others from committing rape. [49] Also, in *People v. Canturia*, [50] the Court held that:

x x x For while the evidence does convincingly show a conspiracy among the accused, it also as convincingly suggests that the agreement was to commit robbery only; and there is no evidence that the other members of the band of robbers were aware of Canturia's lustful intent and his consummation thereof so that they could have attempted to prevent the same. x x x

The foregoing principle is applicable in the present case because the crime of robbery with rape is a special complex crime defined in and penalized under Article 294, paragraph 1 of the Revised Penal Code, and the crime of kidnapping with rape in this case is likewise a special complex crime as held in the case of *People v. Larrañaga*. [51] There is no evidence to prove that appellant Al was aware of the subsequent events that transpired after the killing of Sulpacio and the kidnapping of AAA. Appellant Al could not have prevented appellant Lando from raping AAA, because at the time of rape, he was no longer associated with appellant Lando. AAA even testified that only Fred and appellant Lando brought her to Tarlac, [52] and she never saw appellant Al again after May 7, 2002, the day she was held captive. She only saw appellant Al once more during the trial of the case. [53] Thus, appellant Al cannot be held liable for the subsequent rape of AAA.

The Penalties

In Criminal Case No. 4498-R, the attendant circumstance of treachery qualified the killing to murder. The penalty for murder under Article 248 of the Revised Penal Code is reclusion perpetua to death. Since the aggravating circumstance of evident premeditation was alleged and proven, the imposable penalty upon the appellants is death, pursuant to Article 63, paragraph 1, of the Revised Penal Code. [54] In view, however, of the passage of R.A. No. 9346, [55] prohibiting the imposition of the death penalty, the penalty of death is reduced to reclusion perpetua, [56] without eligibility for parole. [57]

In Criminal Case No. 4481-R, the penalty for the special complex crime of kidnapping and serious illegal detention with rape is death. In view of R.A. No. 9346, the penalty of death is reduced to reclusion perpetua, [58] without eligibility for parole. [59] Accordingly, the imposable penalty for appellant Lando is reclusion perpetua.

As to appellant Al, the prescribed penalty for serious illegal detention under Article 267 of the Revised Penal Code is reclusion perpetua to death. There being no aggravating or mitigating circumstance in the commission of the offense, the proper penalty to be imposed is reclusion perpetua, pursuant to Article 63 [60] of the Revised Penal Code.

The Damages

In Criminal Case No. 4498-R, the award of civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime. [61] In *People v. Quiachon*, [62] even if the penalty of death is not to be imposed because of the prohibition in R.A. 9346, the civil indemnity of P75,000.00 is proper, because it is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. As explained in *People v. Salome*, [63] while R.A. No. 9346 prohibits the imposition of the death penalty, the fact remains that the penalty provided for by law for a heinous offense is still death, and the offense is still heinous. Accordingly, the award of civil indemnity in the amount of P75,000.00 is proper.

Anent moral damages, the same are mandatory in cases of murder, without need of allegation and proof other than the death of the victim. [64] However, consistent with recent jurisprudence on heinous crimes where the imposable penalty is death but reduced to reclusion perpetua pursuant to R.A. No. 9346, the award of moral damages should be increased from P50,000.00 to P75,000.00. [65]

The award of exemplary damages is in order, because of the presence of the aggravating circumstances of treachery and evident premeditation in the commission of the crime. [66] The Court awards the amount of P30,000.00, as exemplary damages, in line with current jurisprudence on the matter. [67]

Actual damages is also warranted. Modesta Abad, the spouse of victim Sulpacio, incurred expenses in the amount of P57,122.30, which was duly supported by receipts. [68]

In Criminal Case No. 4481-R, AAA is entitled to civil indemnity in line with prevailing jurisprudence that civil indemnification is mandatory upon the finding of rape. [69] Applying prevailing jurisprudence, AAA is entitled to P75,000.00 as civil indemnity. [70]

In addition, AAA is entitled to moral damages pursuant to Article 2219 of the Civil Code, [71] without the necessity of additional pleadings or proof other than the fact of rape. [72] Moral damages is granted in recognition of the victim's injury necessarily resulting from the odious crime of rape. [73] Such award is separate and distinct from the civil indemnity. [74] However, the amount of P100,000.00 awarded as moral damages is reduced to P75,000.00, in line with current jurisprudence. [75]

The award of exemplary damages to AAA in the amount of P50,000 is hereby reduced to P30,000.00 in accordance with recent jurisprudence. [76]

As to appellant Al. In the absence of conspiracy, the liability of the accused is individual and not collective. [77] Since appellant Al is liable only for the crime of serious illegal detention, he is jointly and severally liable only to pay the amount of P50,000.00 as civil indemnity. For serious illegal detention, the award of civil indemnity is in the amount of P50,000.00, in line with prevailing jurisprudence. [78]

Along that line, appellant Al's liability for moral damages is limited only to the amount of P50,000.00. [79] Pursuant to Article 2219 of the Civil Code, moral damages may be recovered in cases of illegal detention. This is predicated on AAA's having suffered serious anxiety and fright when she was detained for almost one (1) month. [80]

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00556 is AFFIRMED with MODIFICATIONS as follows:

(a) In Criminal Case No. 4498-R, appellants Fernando Calaguas Fernandez alias "Lando" and Alberto Cabillo Anticamara alias "Al" are found GUILTY beyond reasonable doubt of the crime of Murder and are sentenced to

suffer the penalty of Reclusion Perpetua, without eligibility of parole, and to pay, jointly and severally, the heirs of Sulpacio Abad the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P30,000.00 as exemplary damages, and P57,122.30 as actual damages.

(b) In Criminal Case No. 4481-R, appellant Fernando Calaguas Fernandez alias "Lando" is found GUILTY beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with rape and is sentenced to suffer the penalty of Reclusion Perpetua, without eligibility of parole, and to pay the offended party AAA, the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages. Appellant Alberto Cabillo Anticamara alias "Al" is found GUILTY beyond reasonable doubt of the crime of kidnapping and serious illegal detention and is sentenced to suffer the penalty of Reclusion Perpetua. He is also directed to pay, jointly and severally, with appellant Fernando Calaguas Fernandez alias "Lando," the victim AAA the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

Corona, C.J.,[*] Carpio, (Chairperson), Abad, and Mendoza, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per raffle dated March 11, 2009.

[1] Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justices Mariano C. Del Castillo (now a member of this Court) and Ricardo R. Rosario, concurring; rollo, pp. 2-21.

[2] In view of our ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, the real name and identity of the rape victim are withheld.

[3] CA rollo, pp. 210-215.

[4] Id. at 4-41.

[5] Id. at 38-41.

[6] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, modifying Sections 3 and 10 of Rule 122, Section 13 of Rule 124, and Section 3 of Rule 125 of the Revised Rules on Criminal Procedure.

[7] CA rollo, pp. 122-123.

[8] Id. at 53-54.

[9] *Diega v. Court of Appeals*, G.R. Nos. 173510 and 174099, March 15, 2010, 615 SCRA 399, 407.

[10] Rules of Court, Rule 133, Sec. 4.

[11] *Diega v. Court of Appeals*, supra note 9, at 408.

[12] CA rollo, pp. 19-20.

[13] *Go v. Fifth Division, Sandiganbayan*, G.R. No. 172602, April 13, 2007, 521 SCRA 270, 290.

[14] *People v. De Jesus*, 473 Phil. 405, 429 (2004).

[15] Sworn statement of AAA. (Records, vol. II, p. 10)

[16] Sworn statement of appellant Al. (Records, vol. II, p. 15)

[17] Circumstances which exempt from criminal liability. - The following are exempt from criminal liability:

x x x x

5. Any person who acts under the compulsion of an irresistible force.

6. Any person who acts under the impulse of an uncontrollable fear of an equal or greater injury.

x x x x

[18] *People v. Anod*, G.R. No. 186420, August 25, 2009, 597 SCRA 205, 210.

[19] *People v. Baron*, G.R. No. 185209, June 28, 2010, 621 SCRA 646, 663.

[20] *People v. Anod*, supra note 18.

[21] Sworn Statement of Alberto Anticamara, records, vol. II, p. 15.

[22] *Id.*

[23] *Id.* at 16.

[24] *People v. De Jesus*, supra note 14.

[25] *People v. Pillas*, 458 Phil. 347, 369 (2003).

[26] *People v. Togahan*, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 573-574.

[27] *Gan v. People*, G.R. No. 165884, April 23, 2007, 521 SCRA 550, 575.

[28] *People v. Delim*, G.R. No. 175942, September 13, 2007, 533 SCRA 366, 379.

[29] *People v. Dela Cruz*, G.R. No. 168173, December 24, 2008, 575 SCRA 412, 439.

[30] TSN, September 17, 2003, pp. 10-11.

[31] *People v. Casitas, Jr.*, 445 Phil. 407, 425 (2003).

[32] Revised Penal Code, Art. 14, par. 16.

[33] *People v. Lopez*, G.R. No. 176354, August 3, 2010, 626 SCRA 485, 500.

[34] G.R. No. 182548, September 30, 2008, 567 SCRA 319.

[35] *People v. Osianas*, supra.

[36] *People v. Banhaon*, 476 Phil. 7, 39 (2004).

[37] *People v. Agudez*, G.R. Nos. 138386-87, May 20, 2004, 428 SCRA 692, 709.

[38] *People v. PO3 Tan*, 411 Phil. 813, 837 (2001).

[39] ART. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death;

1. If the kidnapping or detention shall have lasted more than three days.

2. If it shall have been committed simulating public authority.

3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to

kill him shall have been made.

4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances abovementioned were presented in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.

[40] *People v. Nuguid*, 465 Phil. 495, 510 (2004).

[41] *People v. Domasian*, G.R. No. 95322, March 1, 1993, 219 SCRA 245, 253.

[42] *People v. Acbangin*, 392 Phil. 232, 240 (2000).

[43] *People v. Obeso*, 460 Phil. 625, 634 (2003).

[44] CA rollo, p. 34.

[45] *People v. Talan*, G.R. No. 177354, November 14, 2008, 571 SCRA 211, 217.

[46] *People v. Gan*, No. L-33446, August 18, 1972, 46 SCRA 667, 678.

[47] 466 Phil. 324, 386-387 (2004).

Where the law provides a single penalty for two or more component offenses, the resulting crime is called a special complex crime. Some of the special complex crimes under the Revised Penal Code are (1) robbery with homicide, (2) robbery with rape, (3) kidnapping with serious physical injuries, (4) kidnapping with murder or homicide, and (5) rape with homicide. In a special complex crime, the prosecution must necessarily prove each of the component offenses with the same precision that would be necessary if they were made the subject of separate complaints. As earlier mentioned, R.A. No. 7659 amended Article 267 of the Revised Penal Code by adding thereto this provision: "When the victim is killed or dies as a consequence of the detention, or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed; and that this provision gives rise to a special complex crime. (*Italics in the original*)

[48] *People v. Suyu*, G.R. No. 170191, August 16, 2006, 499 SCRA 177.

[49] *Id.* at 202.

[50] 315 Phil. 278, 290-291 (1995).

[51] *Supra* note 47.

[52] TSN, February 17, 2003, p. 8.

[53] TSN, February 24, 2003, p. 24.

[54] x x x In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied. x x x

[55] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[56] R.A. 9346, Sec. 2.

[57] R.A. 9346, Sec. 3.

[58] R.A. 9346, Sec. 2.

[59] R.A. 9346, Sec. 3.

[60] x x x In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof: x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied. x x x

[61] People v. Molina, G.R. No. 184173, March 13, 2009, 581 SCRA 519, 542.

[62] G.R. No. 170236, August 31, 2006, 500 SCRA 704, 719.

[63] 500 Phil. 659, 676 (2006).

[64] People v. Molina, supra note 61, at 542.

[65] People v. Regalario, G.R. No. 174483, March 31, 2009, 582 SCRA 738, 760-761.

[66] People v. Balais, G.R. No. 173242, September 17, 2008, 565 SCRA 555, 571-572.

[67] People v. Ortiz, Jr., G.R. No. 188704, July 7, 2010, 624 SCRA 533, 541.

[68] Records, vol. I, pp. 115-117.

[69] People v. Madsali, G.R. No. 179570, February 4, 2010, 611 SCRA 596, 621.

[70] Id.

[71] Civil Code, Art. 2219. Moral damages may be recovered in the following and analogous cases: x x x

(3) Seduction, abduction, rape, or other lascivious acts; x x x.

[72] People v. Ospig, 461 Phil. 481, 496 (2003).

[73] Id. at 496-497.

[74] People v. Sabardan, G.R. No. 132135, May 21, 2004, 429 SCRA 9, 29.

[75] People v. Madsali, supra note 69, at 621-622.

[76] People v. Anguac, G.R. No. 176744, June 5, 2009, 588 SCRA 716, 726.

[77] People v. Miana, Sr., 414 Phil. 755, 770 (2001).

[78] People v. Solangon, G.R. No. 172693, November 21, 2007, 537 SCRA 746, 758.

[79] In line with recent jurisprudence, the amount of moral damages to be awarded is P50,000.00 (People v. Madsali, supra note 69, at 622.)

[80] People v. Madsali, supra note 69, at 621.

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.