

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. ESTANLY OCTA Y BAS, ACCUSED-APPELLANT.

G.R. No. 195196. July 13, 2015

Ponente: SERENO, C.J.

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SERENO, C.J.:

Before us is a Notice of Appeal[1] dated 30 July 2010 from the Court of Appeals (CA) Decision[2] dated 19 July 2010 in CA-G.R. CR-H.C. No. 03490, affirming the Decision[3] dated 15 May 2008 in Criminal Case No. 04-224073 issued by the Regional Trial Court (RTC) Branch 48, Manila, convicting accused-appellant Estanly Octa y Bas, guilty beyond reasonable doubt of the crime of kidnapping for ransom.

As culled from the records, the prosecution's version is herein quoted:

In the morning of September 25, 2003, around 6:40 A.M., Johnny Corpuz (Johnny) and Mike Adrian Batuigas (Mike Adrian) were on board a Honda Civic Car colored silver with Plate No. UPT 697 travelling on Buenos Aires St., Sampaloc, Manila when their way was blocked by a Mitsubishi box type Lancer car colored red-orange. The four (4) armed occupants of the Lancer car alighted. Johnny did not open the door of the Honda Civic car but one of the armed men fired his pistol at the left window of the civic car, thus compelling Johnny to open the locked door of the car. The armed men went inside the car and Johnny was ordered to transfer at the back seat at that time. Inside the car, Johnny was handcuffed, blindfolded and was even boxed. The armed men asked for the names and telephone numbers of his mother-in-law. The armed men called his mother-in-law giving the information that Johnny was in their custody and they would just meet each other at a certain place. They travelled for a while and then they stopped and Johnny was brought to a safehouse.

After Johnny and Mike were kidnapped, the kidnappers communicated with Johnny's wife Ana Marie Corpuz (Ana Marie) giving the information that they have in their custody her husband Johnny and her brother Mike Adrian. Ana Marie tried to confirm the kidnapping incident by talking to her husband, who confirmed to his wife that he and Mike Adrian were indeed kidnapped and they were in the custody of their abductors. Ana Marie sought the assistance of the PACER [Police Anti-Crime and Emergency Response] and stayed in a PACER safehouse located at P. Tuazon, Cubao, Quezon City. During her stay, she had several communications with her husband's kidnappers. The latter started demanding the amount of P20 million for the release of her husband and her brother but the amount was considerably reduced up to the time that Ana Marie was able to raise the amount of P538,000.00 which was accepted by the kidnappers.

Finally, on September 30, 2003 at 10 PM, the kidnappers set up the manner on how the ransom money would be delivered. Ana Marie travelled to Quiapo Church, then to Quezon City circle up to SM Fairview and to Robinsons Fairview. She was made to stop at Red Lips Beer House and go to the nearby Caltex Auto Supply where she would see a man wearing a red cap and who would ask her "saan yong padala ni boss". She was instructed to deliver the wrapped bundled ransom money to the man wearing red cap. When she saw the man with red cap, she was asked for the money. At first, she did not give the money because she wanted to be sure that she was giving the money to the right man. Using her own cellphone, she called up the man who had been instructing her all along and asked him to confirm if the man in front of her is the right man to give the ransom money to, saying "kausapin mo muna ito kung siya ba." The man in the phone and the man in the red cap

talked for a while in another dialect which Ana Marie did not understand. When she asked the man to give back her cellphone to her, he refused and, instead instructed her to give the money to him. She described the man wearing red cap to be goodlooking, lightly built, in his early 20s, around 5'4" in height and with dimples, which she later identified in court as accused Estanly Octa.

On October 1, 2003, Johnny was released by his captors after the payment of ransom money. He was detained for the duration of six (6) days. After his release, he removed his blindfold and handcuffs but he could hardly regain his sight and see things. He flagged down a private pick-up and learned that he was in Camarin, Caloocan City. He asked a favor that he be driven to Meycauayan, Bulacan where he took a jeepney to Monumento, and from there, he took a taxi bound home. When he was released, his brother-in-law Mike Adrian was also released.[4]

The defense recounted a different set of facts, to wit:

x x x [O]n September 25, 2003, he was still in Daet, Camarines Norte working as a welder in the welding shop of his uncle Edwin delos Reyes. He went to Daet on the second week of August 2003 and returned to Manila when he was called by his father sometime in November 2003. In addition to his defense of denial and alibi, he clings to the theory that he himself was a victim of abduction. He testified that, on December 1, 2003, while crossing the street, his way was blocked by a van and thereafter, two (2) persons alighted and a gun was poked at him then he was boarded inside the van. His hands were tied and eyes covered. The incident happened at Susano Road, Camarin, Caloocan City. He was eventually brought to the PACER Office, Camp Crame, Quezon City. He claims that he was tortured to admit the charge filed against him. At the PACER's office, he was presented to a State Prosecutor of the DOJ but he claimed he was not assisted by counsel. He said that he did not submit himself for medical examination. He categorically stated that, when he was inquested by a State Prosecutor, he did not tell of the alleged torture that he suffered because he was afraid.[5]

On 4 December 2003, accused-appellant was arrested by the operatives of the Police Anti-Crime and Emergency Response (PACER) on S[usano] Road, Camarin, Caloocan City, in connection with another kidnap for ransom incident. He was identified by prosecution witness Ana Marie Corpuz from a police line-up as the person who had received the ransom money from her.[6]

Consequently, on 26 February 2004, an Information[7] was filed against accused-appellant charging him with the crime of kidnapping for ransom as follows:

That on or about 6:40 a.m. of September 25, 2003, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, did then and there wilfully, unlawfully, and feloniously kidnap and deprive JOHNNY L. CORPUZ and MIKE ADRIAN BATUIGAS, a minor, of their liberty and against their will by means of threats and intimation with the use of firearms, and then bring them through the use of a motor vehicle to a house, wherein they were detained for a period of six (6) days, and that the abduction of the said victims was for the purpose of extorting Php538,000.00 was actually delivered to the above-mentioned accused in exchange for the release of the victims.

CONTRARY TO LAW.[8]

When arraigned on 5 July 2004, accused-appellant, assisted by counsel, pleaded not guilty to the charge. Trial on the merits then ensued.[9]

On 15 May 2008, the RTC rendered a Decision,[10] the dispositive portion of which is herein quoted:

WHEREFORE, the Court finds accused Estanly Octa y Bas guilty beyond reasonable doubt for the felony charge [sic] and pursuant to law, he is hereby sentenced to suffer maximum prison term of reclusion perpetua and to pay the private aggrieved party of the following:

- The amount of P538,000.00 as actual and compensatory damages;
- The amount of P100,000.00 as moral damages; and
- The amount of P50,000.00 as exemplary damages and cost.

In view of the conviction of the accused, the Manila City Jail is ordered to commit his person to the National Penitentiary immediately without necessary [sic] delay.

SO ORDERED.[11]

In so ruling, the RTC ruled that prosecution witness Ana Marie Corpuz, wife of victim Johnny Corpuz, steadfastly testified that she gave the ransom money in the amount of P538,000 to accused-appellant. She did not waiver in identifying and describing him as good-looking, wearing red cap, light in built, in his early 20's, 5'4" and with dimples. The assertion of Ana Marie Corpuz that accused-appellant was sporting dimples was squarely corroborated by the court's observation when he took the witness stand.[12]

The trial court also viewed the act of receiving ransom money as sufficient evidence to establish accused-appellant's conspiratorial act in the kidnapping for ransom of the victims in this case.[13]

With respect to the defense of denial and alibi, the RTC found them to be inherently weak as opposed to the straightforward testimony of Corpuz. The claim of accused-appellant that he was abducted did not convince the court either, inasmuch as it was not supported by evidence, nor was it the subject of an investigation.[14]

Upon intermediate appellate review, the CA rendered a Decision[15] promulgated on 19 July 2010, to wit:

WHEREFORE, in view of the foregoing premises, the appeal in this case is DENIED and the assailed decision of the Regional Trial Court, Branch 48, in Manila in Criminal Case No. 04-224073 finding Estanly Octa y Bas guilty of the crime of kidnapping for ransom and imposing the penalty of reclusion perpetua and ordered him to pay P538,000.00 as actual and compensatory damages, P100,000.00 as moral damages and P50,000.00 as exemplary damages and cost, is hereby AFFIRMED in toto.

SO ORDERED.[16]

The CA found the positive identification of accused-appellant by prosecution witness Ana Marie Corpuz to be unwavering and steadfast. It stressed that his positive identification, when categorical, consistent, straightforward, and without any showing of ill motive on the part of the eyewitness testifying on the matter, would prevail over mere alibi and denial.[17] Such positive identification constituted direct evidence, and not merely circumstantial evidence.[18]

Moreover, the CA ruled that accused-appellant had been rightly found to be a co-conspirator in this case. At the time he received the ransom money, the crime of kidnapping was still continuing, since both victims were still illegally detained by the kidnappers. Accused-appellant's act of taking the ransom money was an overt act made in pursuance or furtherance of the complicity.[19]

Hence, the instant appeal.[20]

Issues

In seeking a reversal of the decisions of the CA and the RTC, accused-appellant Octa argues that:

- The trial court gravely erred in convicting him despite the prosecutions' failure to positively identify him as the ransom taker;[21]
- The trial court gravely erred in finding him to be a conspirator to the crime charged;[22] and

- The trial court gravely erred in convicting him of the crime charged based on circumstantial evidence.[23]

The Court's Ruling

We deny accused-appellant's appeal.

When the credibility of a witness is at issue, the findings of fact of the trial

court are accorded high respect if not

conclusive effect, more so if those

findings have been affirmed by the

appellate court.

In his Brief, accused-appellant contends that the prosecution failed to prove beyond reasonable doubt that he was the one who received the ransom money. He primarily argues that prosecution witness Ana Marie Corpuz could not have positively ascertained the identity of the ransom taker, because the area where the transaction took place was dark, and the man was wearing a cap. Neither did Corpuz declare in her Sinumpaang Salaysay that the person who received the ransom money was sporting a dimple, a fact that she mentioned on direct examination.[24]

Accused-appellant further insinuates that the police might have influenced his out-of-court identification in the line-up when they informed Corpuz that they had apprehended some people who were suspects in other kidnap for ransom cases, and that information might have conditioned her mind that the ransom taker had already been apprehended.[25]

We disagree.

In *People v. Basao*,[26] the Court held that:

[T]he matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various indicia available but not reflected on the record. The demeanor of the person on the stand can draw the line between fact and fancy. The forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch – these can reveal if the witness is telling the truth or lying through his teeth.[27]

x x x x x x x x

[Thus], when the credibility of a witness is in issue, the findings of fact of the trial court, its calibration of the testimonies of the 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. This is more true if such findings were affirmed by the appellate court, since it is settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court. Without any clear showing that the trial court and the appellate court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance, the rule should not be disturbed.”[28]

In this case, both the RTC and the CA found Corpuz to be a credible witness who had categorically testified that she saw the face of the ransom taker, and that he was actually the accused-appellant.

The fact that Corpuz failed to declare in her Sinumpaang Salaysay that the ransom taker was sporting a dimple was not fatal to her testimony because she was able to positively and categorically identify accused-appellant during the police line-up and in open court.

Even accused-appellant's insinuation that Corpuz could have been influenced by the police during the line-up cannot be given weight in the face of his positive identification as the ransom taker. On this point, we agree with the observation of the CA that "assuming arguendo that the accused-appellant's out of court identification was defective, her subsequent identification in court cured any flaw that may have initially attended it. We emphasize that the 'inadmissibility of a police line-up identification x x x should not necessarily foreclose the admissibility of an independent in-court identification.'"[29]

To hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity.

Accused-appellant also claims that he cannot be considered as a conspirator to the kidnapping in the absence of concrete proof that he actually participated in the execution of the essential elements of the crime by overt acts indispensable to its accomplishment. His receipt of the ransom money transpired only after the kidnapping had been consummated and was not an essential element of the crime.[30]

We disagree.

On point is our dissertation in *People v. Bautista*,[31] to wit:

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Where all the accused acted in concert at the time of the commission of the offense, and it is shown by such acts that they had the same purpose or common design and were united in its execution, conspiracy is sufficiently established. It must be shown that all participants performed specific acts with such closeness and coordination as to indicate a common purpose or design to commit the felony.

x x x x x x x x

Evidently, to hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity. There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose. x x x.

x x x x x x x x

Taking these facts in conjunction with the testimony of Dexter, who testified that accused-appellant was the one who received the ransom money x x x then the commonality of purpose of the acts of accused-appellant together with the other accused can no longer be denied. Such acts have the common design or purpose to commit the felony of kidnapping for ransom.

Thus, accused-appellants' argument that he is a mere accomplice must fail. He is liable as a principal for being a co-conspirator in the crime of Kidnapping for Ransom under Art. 267 of the RPC, as amended by R.A. 7659 x x x.[32] (Emphasis ours)

Moreover, the CA is correct in its observation that at the time accused-appellant received the ransom money, the crime of kidnapping was still continuing, since both victims were still being illegally detained by the kidnapers.[33] While his receipt of the ransom money was not a material element of the crime, it was nevertheless part of the grand plan and was in fact the main reason for kidnapping the victims.[34] Ransom is money, price or consideration paid or demanded for the redemption of a captured person or persons; or payment that releases from captivity.[35] Without ransom money, the freedom of the detained victims cannot be achieved.

The positive identification of
accused-appellant constitutes

direct, and not merely circumstantial,
evidence.

Accused-appellant's contention that he was convicted based only on circumstantial evidence deserves scant consideration. We agree with the conclusion of the CA that "[Corpuz] testified that she gave the ransom money to accused-appellant, and as the trial court declared, his act of receiving the ransom money is sufficient conspiratorial act in the commission of the kidnapping for ransom. The positive identification of the accused-appellant then constitutes direct evidence, and not merely circumstantial evidence." [36]

With respect to the penalty imposed, we agree with the imposition by the RTC and the CA on accused-appellant of the penalty of reclusion perpetua, considering the prohibition on the death penalty. [37] To conform to recent jurisprudence, [38] we hereby modify the exemplary damages awarded by increasing the amount from P50,000 to P100,000.

WHEREFORE, the appeal is hereby DISMISSED. The assailed Decision of the Court of Appeals in CA-G.R. CR.-HC No. 03490 is AFFIRMED WITH MODIFICATION. Accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua and ordered to pay P538,000 as actual damages, P100,000 as moral damages, and P100,000 as exemplary damages.

SO ORDERED.

Leonardo-De Castro, Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

[1] CA rollo, pp. 170-171.

[2] Rollo, pp. 2-16; penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Stephen C. Cruz and Danton Q. Bueser.

[3] CA rollo, pp. 17-27; penned by Judge Silverio Q. Castillo.

[4] Supra note 2, at 4-5.

[5] Id. at 5-6.

[6] Id. at 3-4.

[7] Id. at 3.

[8] Id.

[9] Id. at 3-4.

[10] Supra note 3.

[11] Id. at 27.

[12] Id. at 25-26.

[13] Id. at 26.

[14] Id.

- [15] Supra note 2.
- [16] Id. at 13-14.
- [17] Id. at 8, 10.
- [18] Id. at 13.
- [19] Id. at 12-13.
- [20] Supra note 1.
- [21] CA rollo, pp. 43-44.
- [22] Id.
- [23] Id.
- [24] Id. at 58-60.
- [25] Id. at 60-62.
- [26] G.R. No. 189820, 10 October 2012, 683 SCRA 529, 542-543.
- [27] Id., citing *People v. Ramirez*, 409 Phil. 238, 245 (2001).
- [28] Id., citing *Decasa v. Court of Appeals*, G.R. No. 172184, 10 July 2007, 527 SCRA 267, 287; *Nueva España v. People*, 499 Phil. 547, 556 (2005).
- [29] Supra note 2, at 11.
- [30] CA rollo, pp. 62-67.
- [31] 636 Phil. 535 (2010).
- [32] Id., at 537-538, 553, 555-556, citing *People v. Bacungay*, 428Phil. 800, 815 (2002); *People v. Tejero*, 431 Phil. 91, 102 (2002); *People v. Dy*, 425 Phil. 610, 642 (2002).
- [33] Supra note 2, at 12.
- [34] Id.
- [35] Supra note 30, citing *Corpus Juris Secundum*, 458; *36 Words and Phrases*, 102.
- [36] Supra note 2, at 13.
- [37] See Republic Act No. 9346, otherwise known as the An Act Prohibiting the Imposition of Death Penalty in the Philippines.
- [38] *People v. Con-Ui*, G.R. No. 205442, 11 December 2013, citing *People v. Gambao*, G.R. No. 172707, 1 October 2013.

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