

THE PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, V. BRAHIM LIDASAN, NHOKIE MOHAMAD, ROCKY MOCALAM, TENG USMAN, ALI MATOC, MUSLIMEN WAHAB, JIMMY ALUNAN, ROWENA AMAL RAJID, ACCUS...

G.R. No. 227425. September 04, 2017

Ponente: PERLAS-BERNABE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-227425/>

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal[1] is the Decision[2] dated September 24, 2008 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01937, which affirmed the Decision[3] dated August 15, 2005 of the Regional Trial Court of Las Piñas City, Branch 275 (RTC) in Crim. Case No. 98-1379, and accordingly, upheld the conviction of, inter alia, accused-appellants Omar Kamir (Kamir), Alex Daliano, and Bayan Abbas Adil alias "Jordan" (Adil; collectively, accused-appellants) for Kidnapping for Ransom as defined and penalized under Article 267 of the Revised Penal Code (RPC), as amended.

The Facts

The instant case stemmed from an Information[4] filed before the RTC charging accused-appellants, along with co-accused Brahim Lidasan (Lidasan), Nhokie Mohamad (Mohamad), Rocky Mocalam (Mocalam), Teng Usman (Usman), Ali Matoc (Matoc), Muslimen Wahab (Wahab), Jimmy Alunan (Alunan), Rowena Amal Rajid (Rajid), Sofia Hassan (Hassan), Saimona Camsa (Camsa), Sumulong Lawan (Lawan), Tadioden Bauting (Bauting), Roy Bansuan (Bansuan), and Alvin Diang (Diang) of the crime of Kidnapping for Ransom, the accusatory portion of which reads:

That on or about October 30, 1998 at around 10:00 o'clock in the evening and sometime subsequent thereto, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, above-named accused conspiring, confederating and helping one another, did then and there willfully, unlawfully and feloniously with the use of force and intimidation kidnap MICHELLE RAGOS for the purpose of extorting P30 million ransom, and where she was brought to two (2) safe-houses both situated at Las Piñas City, where she was detained and deprived of her liberty until she was finally rescued by the operatives of the Presidential Anti-Organized Crime Task Force on November 7, 1998 after the payment of P4.83 million.[5]

Of the named-accused: (a) Diang was tried separately for having been arrested only on July 20, 2004; (b) Bansuan remained at large; (c) Bauting was discharged as a state witness; and (d) the rest pleaded not guilty to the charge.[6]

The prosecution alleged that at around ten (10) o'clock in the evening of October 30, 1998, private complainant Michelle Ragos (Ragos) was in her family's office/residential compound at No. 5063 Modesto St., Mapulang Lupa, Valenzuela City which was being guarded by security guards Bauting and Daliano, when suddenly, Bansuan and two (2) companions entered her bedroom and declared "kidnapping ito." Adil served as lookout, while the other men tied Ragos's hands, sealed her mouth with packaging tape, ransacked all the cabinets and

drawers, and took with them cash and personal items amounting to P200,000.00. Ragos was first brought to Novaliches, Quezon City and, eventually, to a bungalow house located at No. 3 St. Joseph Street, St. Joseph Subdivision, Pulang Lupa, Las Piñas City where she spent the night. Thereat, around six (6) persons took turns guarding her, four (4) of whom she later identified as Adil, Kamir, Camsa, and Rajid. Between ten (10) and eleven (11) o'clock in the evening of the following day, October 31, 1998, she was transferred to a house located in Samantha Village, Las Piñas City, and kept in a room on the second floor alternately guarded by around ten (10) to 20 persons, some of whom were identified to be Matoc, Kamir, Camsa, Rajid, Wahab, Hassan, Usman, Lawan, Mocalam, Mohamad, and Lidasan. The kidnappers initially demanded ransom money in the amount of P30 million, but they eventually settled to a reduced amount of P4.83 million. As security guards Daliano and Bauting no longer reported for work following the kidnapping, the Presidential Anti-Organized Crime Task Force (PAOCTF) formed a team headed by P/Supt. Vicente Arnado (P/Supt. Arnado) who monitored the activities of the kidnappers until the agreed pay-off date.[7]

At one (1) o'clock in the early morning of November 7, 1998, the PAOCTF team proceeded to Kitanlad Street, Quezon City to witness the pay-off. P/Supt. Arnado saw Alunan and Adil arrive on board a motorcycle and take the bag containing the ransom money from someone inside a "Nissan Blue Bird" car. Immediately thereafter, the PAOCTF team chased the kidnappers, resulting in a shoot-out and the eventual arrest of the kidnappers, except for Bansuan who remained at large, while the rest were brought to Camp Crame for investigation. On the same day, PAOCTF operatives swooped in the kidnappers' safe-house, resulting in Ragos's rescue, as well as the arrest of other suspects.[8]

In their defense, all the accused denied the charges against them. They likewise offered separate, albeit similar narrations that they were based in Mindanao and just went to Metro Manila to attend to certain matters when they were arrested by the authorities and were made to answer for the aforesaid crime.[9]

The RTC Ruling

In a Decision[10] dated August 15, 2005, the RTC ruled as follows: (a) Alunan and accused-appellants were found guilty beyond reasonable doubt of the crime charged as principals, and were sentenced to suffer the capital punishment of death; (b) Lidasan, Mohamad, Mocalam, Usman, Matoc, Wahab, and Rajid were found guilty of the crime charged as accomplices, and were sentenced to suffer the penalty of reclusion perpetua; and (c) Camsa, Hassan, and Lawan were acquitted on the ground of reasonable doubt.[11]

The RTC found that the elements of the crime of Kidnapping for Ransom were established in this case as it was undisputed that Ragos was deprived of her liberty and that ransom money was demanded by and delivered to the perpetrators in exchange for her freedom. In this regard, the RTC tagged Alunan and accused-appellants as principals, considering that: (a) the actual taking of Ragos was done by Bansuan and two unidentified men, with Adil acting as look-out; (b) Daliano knew about the criminal plot way in advance, and aside from no longer reporting for work after the incident, he was seen going to the kidnappers' safe-house in Las Piñas; (c) during Ragos's first day of captivity, Adil and Kamir were among those who questioned Ragos as to whom to contact for ransom; and (d) Alunan and Adil were the ones who collected the P4.83 million ransom money in Quezon City.[12]

As to Lidasan, Mohamad, Mocalam, Usman, Matoc, Wahab, and Rajid, the RTC found them guilty as accomplices to the crime as they were positively identified by Ragos as those who guarded her during her captivity until she was rescued by PAOCTF operatives.[13]

Finally, Camsa, Hassan, and Lawan were acquitted on the ground of reasonable doubt due to the insufficiency of evidence presented by the prosecution to establish their participation to the criminal design of the other

accused.[14]

Aggrieved, Wahab, Rajid, Mohamad, Lidasan, Usman, Matoc, Mocalam, Alunan, and accused-appellants appealed[15] to the CA.[16] Later on, Rajid withdrew her appeal,[17] thus, making her conviction final.

The CA Proceedings

In a Decision[18] dated September 24, 2008 (September 24, 2008 Decision), the CA affirmed the respective convictions of Adil, Alunan, Daliano, and Kamir as principals, and Wahab and Matoc as accomplices, with modification lowering the sentence of the principals to reclusion perpetua and that of the accomplices to reclusion temporal.[19]

In upholding the convictions, the CA gave more credence to the testimonies of victim Ragos and state witness Bauting - which positively identified the perpetrators to the crime and narrated in detail the events constituting the same - over the self-serving and unsubstantiated defense of denial and alibi by the accused. However, in light of the passage of Republic Act No. (RA) 9346,[20] the death penalty originally meted to the principals was lowered to reclusion perpetua. In this light, the penalty meted to the accomplices was likewise downgraded to reclusion temporal.[21]

After the CA's promulgation of the September 24, 2008 Decision, it received an Urgent Motion for Reconsideration and Notice to File Appeal with Leave of Court[22] dated November 26, 2008 filed by Usman, Mocalam, Mohamad, and Lidasan. In said Motion, Usman, Mocalam, Mohamad, and Lidasan explained that at the trial court level, they, along with Alunan, Wahab, and Matoc, were represented by one Atty. Rogelio Linzag (Atty. Linzag). As such, they were of the understanding that Atty. Linzag will also represent them before the CA, especially after his secretary assured them of the same. However, Atty. Linzag inexplicably omitted their names in the appeal documents, and effectively represented only Alunan, Wahab, and Matoc. In this light, Usman, Mocalam, Mohamad, and Lidasan prayed that they be allowed to appeal the RTC's judgment of conviction against them.[23] As such motion was unopposed by either the Public Attorney's Office[24] and the Office of the Solicitor General,[25] the CA granted such motion in a Resolution[26] dated November 20, 2009 on the ground that Atty. Linzag's omission of their names can be deemed as gross negligence of counsel which cannot bind the client.[27]

In a Decision[28] dated March 5, 2014, the CA affirmed Usman, Mocalam, Mohamad, and Lidasan's convictions as accomplices. Similar to its findings in the September 24, 2008 Decision, the CA held that Usman, Mocalam, Mohamad, and Lidasan's bare denials and alibis cannot prevail over Ragos's positive identification of them as among those who guarded her during her captivity.[29]

Hence, the instant appeal by accused-appellants. As it appears that Alunan, Matoc, Wahab, Usman, Mocalam, Mohamad, and Lidasan no longer appealed, their respective convictions became final as well.[30]

The Issue Before the Court

The issue for the Court's resolution is whether or not the convictions of accused-appellants for Kidnapping for Ransom should be upheld.

The Court's Ruling

The appeal is without merit.

Article 267 of the RPC, as amended, defines and penalizes the crime of Kidnapping and Serious Illegal Detention, the entirety of which reads:

Article 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 above-mentioned were present 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.

The elements of the crime are as follows: (a) the offender is a private individual; (b) he kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping must be illegal; and (d) in the commission of the offense any of the following circumstances is present: i) the kidnapping or detention lasts for more than three days; ii) it is committed by simulating public authority; iii) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or iv) the person kidnapped or detained is a minor, female, or a public officer. Notably, the duration of detention is immaterial if the victim is a minor, or if the purpose of the kidnapping is to extort ransom.[31]

Otherwise stated, the prosecution must establish the deprivation of liberty of the victim under any of the above-mentioned circumstances coupled with indubitable proof of intent of the accused to effect the same. There must be a purposeful or knowing action by the accused to forcibly restrain the victim coupled with intent.[32]

In this case, the prosecution had proven beyond reasonable doubt the existence of the aforesaid elements as it is undisputed that accused-appellants, among others, illegally detained the victim Ragos against her will for the purpose of extorting ransom from her family. Moreover, the collective testimonies of prosecution witnesses, such as victim Ragos and state witness Bauting, positively identified the perpetrators to the kidnapping - including accused-appellants Adil, Daliano, and Kamir - as well as narrated in detail the events that transpired from Ragos's abduction up to her rescue. These easily trump accused-appellants' denial and alibi which are inherently weak defenses that cannot be accorded greater evidentiary weight than the positive declaration by credible witnesses.[33] Perforce, the Court finds no reason to deviate from the factual findings of the courts a quo as there is no indication that the trial court, whose findings the CA affirmed, overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. As such, the Court defers to the factual findings of the trial court, especially considering that it was in the best position to assess and determine the credibility of the witnesses presented by both parties.[34]

As to the proper penalties to be imposed on accused-appellants, Article 267 of the RPC originally prescribes the death penalty for the commission of said crime made for the purpose of extorting ransom. Hence, the RTC meted such penalty on the principals, and the penalty one (1) degree lower — i.e., reclusion perpetua — on the accomplices pursuant to Article 52[35] of the RPC. However, and as the CA correctly pointed out in its September 24, 2008 Decision, the passage of RA 9346 effectively lowered the imposable penalty to the

principals, e.g., accused-appellants, to reclusion perpetua,[36] without eligibility for parole.[37] Resultantly, the impossible penalty to the accomplices must likewise be lowered to reclusion temporal, thereby entitling them to the benefit of the Indeterminate Sentence Law.[38] Thus, the accomplices must be sentenced to suffer the penalty of imprisonment for an indeterminate period of ten (10) years of prison mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

At this point, it is worthy to note that none of the accomplices made any appeal to the Court. This notwithstanding, the Court deems it proper to adjust their sentence as it is favorable and beneficial to them,[39] in accordance with Section 11, Rule 122 of the Revised Rules on Criminal Procedure, the pertinent part of which reads:

Section 11. Effect of appeal by any of several accused. -

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

x x x x

Finally, the Court deems it proper to impose civil liability ex delicto against accused-appellants in the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, with legal interest of six percent (6%) per annum from finality of judgment until fully paid, in accordance with prevailing jurisprudence.[40] To clarify, however, only accused-appellants Adil, Daliano, and Kamir, or those who pursued the present appeal, are held jointly and solidarity liable for such amounts, since such imposition is clearly not favorable to their co-accused who no longer appealed their conviction before the Court.[41]

WHEREFORE, the appeal is DENIED. The Decisions dated September 24, 2008 and March 5, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 01937, which upheld the Decision dated August 15, 2005 of the Regional Trial Court of Las Piñas City, Branch 275 in Crim. Case No. 98-1379, are hereby AFFIRMED with MODIFICATION as follows:

(a)

Accused Jimmy Alunan and accused-appellants Omar Kamir, Alex Daliano, and Bayan Abbas Adil are found GUILTY beyond reasonable doubt as principals of the crime of Kidnapping for Ransom defined and penalized under Article 267 of the Revised Penal Code, as amended. They are sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole;

(b)

Accused Brahim Lidasan, Nhokie Mohamad, Rocky Mocalam, Teng Usman, Ali Matoc, Muslimen Wahab, and Rowena Amal Rajid are found GUILTY beyond reasonable doubt as accomplices of the crime of Kidnapping for Ransom defined and penalized under Article 267 of the Revised Penal Code, as amended. They are sentenced to suffer the penalty of imprisonment for an indeterminate period often (10) years of prison mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum;

(c)

Accused-appellants Omar Kamir, Alex Daliano, and Bayan Abbas Adil are ordered to solidarity pay the victim Michelle Ragos civil liability ex delicto in the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, all with legal interest at the rate of six percent (6%) per annum from finality of judgment until fully paid.

SO ORDERED.

Carpio,[*] (Chairperson), Peralta, Caguioa, and Reyes, Jr., JJ., concur.

[*] Acting Chief Justice per Special Order No. 2479 dated August 31, 2017.

[1] See Notice of Appeal dated October 17, 2008; rollo, p. 18-19.

[2] CA rollo, pp. 251-274. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia concurring.

[3] Id. at 22-31. Penned by Judge Bonifacio Sanz Maceda.

[4] Not attached to the rollo.

[5] See rollo, p. 4. See also CA rollo, pp. 22 and 252.

[6] See CA rollo, pp. 252-253.

[7] See rollo, pp. 4-5. See also CA Rollo, pp. 253-255.

[8] See rollo, pp. 6-7. See also CA Rollo, pp. 255-256 and 259.

[9] See rollo, pp. 7-10. See also CA rollo, pp. 256-258.

[10] CA Rollo, pp. 22-31.

[11] Id. at 31.

[12] See id. at 24-25.

[13] See id. at 25-31.

[14] See id. at 28-31.

[15] See Notice of Appeal dated September 7, 2005; id. at 35.

[16] Records show that only Alunan, Wahab, Matoc, Adil, Daliano, and Kamir filed their respective briefs. See id. at 259-263.

[17] See Motion to Withdraw Appeal (of Rowena Amal Rajid) dated May 19, 2006; id. at 43.

[18] Id. at 251-274.

[19] See id. at 273-274.

[20] Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES," approved on June 24, 2006.

[21] See CA rollo, pp. 267-273.

[22] Id. at 285-288.

[23] See id.

[24] See Comment dated March 31, 2009; id. at 310-313.

[25] See Comment dated April 3, 2009; id. at 315-321.

[26] Id. at 325-329.

[27] See *id.* at 326-328.

[28] Rollo, pp. 2-17. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Stephen C. Cruz and Eduardo B. Peralta, Jr. concurring.

[29] See *id.* at 12-17.

[30] See Partial Entry of Judgment dated October 21, 2008 and March 28, 2014; CA rollo, pp. 403 and 395, respectively.

[31] *People v. Niegas*, 722 Phil. 301, 309-310 (2013), citing *People v. Pagalasan*, 452 Phil. 341, 361-362 (2003).

[32] See *id.* at 310-311.

[33] See *Imbo v. People*, 758 Phil. 430, 437 (2015).

[34] See *People v. Matibag*, 757 Phil. 286, 293 (2015).

[35] Article 52 of the RPC reads:

Article 52. Penalty to be imposed upon accomplices in a consummated crime. -The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the accomplices in the commission of a consummated felony.

[36] See Section 2 (a) of RA 9346, which reads:

Section 2. In lieu of the death penalty, the following shall be imposed:

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code;

x x x x

[37] Item II (2) of A.M. No. 15-08-02-SC, entitled "GUIDELINES FOR THE PROPER USE OF THE PHRASE 'WITHOUT ELIGIBILITY FOR PAROLE' IN INDIVISIBLE PENALTIES" dated August 4, 2015, provides:

II.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "without eligibility for parole": x x x x

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "without eligibility for parole" shall be used to qualify reclusion perpetua in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

[38] Act No. 4103, entitled "AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES" (December 5, 1933).

[39] See *People v. Valdez*, 703 Phil. 519, 528-530 (2013). See also *People v. Arondain*, 418 Phil. 354, 373 (2001).

[40] See *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 365-388. See also *People v. Gambao*, 718 Phil. 507, 531 (2013).

[41] See Section 11, Rule 122 of the Revised Rules on Criminal Procedure. See also *People v. Arondain*, *supra* note 39, at 373-374.

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.