

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERMIAHE
ACHMAD A.K.A. IMRAN A.K.A. NAPEH A.K.A. TIRMIDHI ATALAD
AHMAD AND ELLEL A.K.A. VASSER MUKTARIN A.K.A. ILLIL
BAGARAK A....**

G.R. No. 238447. November 17, 2021

Ponente: ZALAMEDA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-238447/>

ZALAMEDA, J.:

In the appeal before this Court,[1] Ermiahe Achmad a.k.a. Imran a.k.a. Napeh a.k.a. Tirmidhi Atalad Ahmad (Imran) and Ellel a.k.a. Yasser Muktarin a.k.a. Illil Bagarak a.k.a. Ellel Bagarak (Ellel; collectively, accused-appellants) assail their conviction in the Decision 30 January 2018[2] promulgated by the Court of Appeals (CA) in CA-G.R. CR-HC No. 01522- MIN. The CA affirmed the Judgment dated 12 November 2015[3] rendered by Branch 12, Regional Trial Court (RTC) of Zamboanga City finding accused- appellants guilty of kidnapping and serious illegal detention under Art. 267 of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 7659.[4]

Antecedents

In an Information[5] dated 18 June 2013, Imran and Ellel, as well as the other accused namely Ashra M. Jawari, Khair Mundos a.k.a. Mike, and Bensar Indama a.k.a. Ajid H. Jalil were charged with kidnapping and serious illegal detention for the purpose of ransom, to wit:

That on or about July 7, 2008, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above- named accused, including Amira Hakim y Aidai, a minor below 18 years old and acting with discernment all members of the ABU SAYYAF Group, together, mutually aiding and assisting with one another, willfully, unlawfully and feloniously, kidnap one PRECIOSA FELICIANO y CABATO a.k.a. "CHUCHAY", a nurse, 23 years old, in the following manner, to wit: by then and there inviting her from her place of residence located at Feliciano Social Hall, Tetuan Highway, this City, with the pretense that they are going to meet other former classmates in preparation for their reunion to be held on July 12, 2008, but, instead, they brought Preciosa Feliciano y Cabato a.k.a. "Chuchay" towards Guiwan, Suterville, then to Aplaya, Manicahan, this City, where they boarded a waiting pumpboat owned by accused Kadil Asalin a.k.a. "Tatay" and thereafter sped away and brought her to the direction of Sacol, Island, this City, then transferred to Tipo-Tipo, Basilan, where she has been illegally detained, underguard, since the aforesaid date up to November 7, 2008, or a period of more than three (3) months, thus, depriving her not only of her liberty against her will but the same was designed by the accused for the purpose of extorting ransom from her family in the amount of THREE MILLION PESOS (P3,000,000.00), as in fact, the victim Preciosa Feliciano y Cabato a.k.a. "Chuchay" was released from captivity only on November 7, 2008, or a period of One Hundred Twenty Three (123) days, which release was effected when the victim's parents, Edelmira Feliciano y Cabato paid to the accused the demanded ransom;

That the commission of the above-stated offense has been attended by the following aggravating

circumstances, to wit:

- (1) The kidnapping or detention lasted for more than three (3) months,
- (2) The kidnapping or detention was committed for the purpose of extorting ransom from the victim.

CONTRARY TO LAW.[6]

The CA cited the gist of the testimonies of the victim, Preciosa Feliciano (Preciosa) and her father, Fernando B. Feliciano (Fernando), in the following manner:

On September 22, 2009, the victim Preciosa Feliciano y Cabato was presented in court. The victim testified that on July 7, 2008, at around 8:00 in the evening, while she was already sleeping inside her room at their residence in Feliciano Compound, Tetuan Highway, Zambonga City, she was awoken by her mother who informed her that her former high school classmates Ashra Jawari (accused) and Jehan Julkipli were looking for her. (When asked if the person of accused Ashra is present inside the courtroom, the victim pointed to a woman seated in the front row of the benches inside the courtroom who when asked, identified herself to be Ashra Jawari.

The former high school classmates were planning a reunion, thus they invited the victim to visit their other classmates. At around 8:30 in the evening, they left for Tetuan Highway on board a tricycle and went to the house of one classmate named Genevieve Gabadan; however, the latter was in Manila. Thus, they boarded their waiting tricycle to go to the house of another classmate Ailene Oblina who resides at Star Apple Drive, Baliwasan, but she was likewise in Manila. As it was already late in the evening, the victim told accused Ashra that she wants to go home already. Ashra told the victim to wait for her driver. They waited for Ashra's driver at the side of Star Apple Drive.

At around 9:00 in the evening, a green van with a male driver arrived. Ashra, Jehan and the victim rode the van. Ashra seated in front at the side of the driver, while Jehan and the victim seated at the passenger's seat. They visited another classmate at Suterville; however, the classmate was not also around. As such, they left and dropped Jehan at Navarro St.

Thereafter, the victim asked Ashra to accompany her to John's Grille located at Sta. Maria since her friend Chester Julian texted her to have dinner thereat. They passed through the Boulevard and turned to Western Mindanao State University (WMSU), Trade, Camins, and then the van turned towards Edwin Andrews Air Base (EAAB).

At that point, the van suddenly stopped at a post about 100 meters before the main gate of EAAB and in front of a park near the intersection. The door of the van opened and two male persons came in and one of them, the first person to board the van, pointed a gun at the victim and sat beside her on the window side of the van. Said person embraced the victim with his right hand and rested his head on her shoulder while still pointing the gun at her. Both male persons were wearing maong pants, black t-shirts and donning knitted bonnets on their heads but their faces were not covered.

The victim noticed that Ashra was already crying while the other male person was holding the shoulder of Ashra with his left arm. The two male persons then started talking to each other in what the victim believed was the "yakan" dialect. The victim was able to personally see the faces of the two male persons who entered the van, as well as the driver of the van. Hence, if she sees them again, she will definitely be able to identify them.

Meanwhile, the van turned around towards Sta. Cruz and went towards the East Coast. They stopped along the highway of Mercedes where two other male persons on board a motorcycle met with them and one of them came towards the van and sat beside the driver. Thereafter, they proceeded to Manichan where they went towards the shoreline. They were told to go down the van by the person seated beside the driver. It was already around 10:00 in the evening when the six of them were walking at the shoreline that the victim realized she

was kidnapped and she became scared.

Upon reaching a house on stilts, they passed through a foot bridge made of bamboo and under it was a pumpboat. Accused Ashra and the male person holding her boarded the pumpboat. The victim was also told by the person who held her, whom she named as Imran (one of the appellants herein), to also board the same pumpboat. Appellant Imran was the very person who boarded the van at the vicinity of EAAB and who held the victim with a gun pointed at her. The victim later on came to know the name of the driver as "Big Boy," while the companion of Imran as a certain "Tabong." She also came to know the other person who boarded the van as Sir Mike.

Aside from the victim and appellant Imran, Ashra and the person who held her, Sir Mike and two others boarded the pumpboat who the victim later on identified as a certain "Kompol" and a certain "Tatay" who was the driver of the pumpboat. After about one and a half hour of travel, they stopped at an uninhabited island full of mangroves. The victim estimated the time to be around past midnight. They alighted from the pumpboat and started walking. They reached a house where they stopped for the purpose of washing their feet.

Thereafter, they again started walking until they reach [sic] another house on stilts where a young woman appears to have been waiting for them. The woman ushered both the victim and Ashra to a room. They were given coffee, bread and some clothes and were told to take a bath. After doing so, the victim wore the clothes given to her while her used clothes were taken from her by appellant Imran who offered to wash the same. The victim had a conversation with Ashra until they slept.

The following morning, Sir Mike came and brought the victim's wallet. The victim's bag was with appellant Imran at that time. Sir Mike also brought along with him two sets of black muslim clothes and the victim was told to wear it if she wants to talk to him in order to avoid temptation. After that, Sir Mike showed the victim her cards found inside her wallet consisting of four ATM cards and her PRC license together with cash amounting to Php4,700.00. Sir Mike asked for the PIN of the said cards which she gave him and he left bringing with him the cards as well as the cash. The same were never returned to the victim.

The victim had a talk with Sir Mike at the sala of the house and she was told that they are going to ask for a ransom for both her and Ashra. The victim was instructed to write down the names of her parents, brothers, and their occupation as well as their income and resources. The victim wrote the names asked and indicated their income. Sir Mike told her that they will be asking Php30,000,000.00 for her ransom. Thereafter, the victim was told by Ashra that her ransom was Php15,000,000.00.

The next day morning, and after her abductors finished praying, the victim, Sir Mike, appellant Imran, "Tabong," "Big Boy," "Tatay," "Kompol," the woman who served them, and accused Ashra boarded the same pumpboat. After about an hour, they reached a small wharf. They docked thereat and the victim noticed several other pumpboats and some concrete houses with electricity. The victim was instructed by Sir Mike to just look down and not to answer if someone tries to talk to her and to act like Imran is her husband.

When they disembarked from the pumpboat, the victim noticed around twenty people waiting for them and she was told by Imran that they are members of the Abu Sayyaf. The Abbu Sayyaf members were wearing fatigue jackets, combat boots and carrying rifles. They then proceeded towards the mountains and walked for about eight hours until they reached a place which appellant Imran claimed to be their camp. It was already around 3:00 in the morning.

Thereat, the victim saw about eight houses but they did not have electricity. The victim slept at an uninhabited house, while appellant Imran and his companions stayed at the porch. At that time, accused Ashra was with Sir Mike. When the victim woke up, Ashra was already beside her and then they ate their breakfast. Sir Mike told the victim that he will buy SIM cards so that she will be able to communicate with her family. Later, the victim came to know that they were actually in Barangay Silangkum, Tipo-Tipo, Basilan.

Sir Mike arrived that evening with SIM cards and the following day they were able to contact the victim's boyfriend who was in the US. They also contacted the victim's brother, Ben Fernando. The victim overheard Sir Mike demanding the amount of Php15,000,000.00 and that they should not talk to the police that she was kidnapped.

They stayed in that place for about two weeks. Ashra however stayed there only for five days and then left with Sir Mike. During the said five days, Ashra and the victim slept together for only two nights. The victim noted that Sir Mike and Ashra were sleeping together at the kitchen, while appellant Imran stayed outside the room. The victim and Ashra sometimes do the cooking upon the instructions of Sir Mike.

After Ashra left with Sir Mike, the victim did not see her again until the first week of August when they were fired upon with canons by the military. Thus, they left their place and went to Magindan, Tipo-Tipo, which they reached after one and a half hours of walking. In that place, the victim stayed in a house with a certain "Tabong," "Bogs" and "Big Boy," whereas Ashra and Sir Mike stayed at another house. After about two weeks, the victim was transferred to the house where Ashra and Sir Mike were staying. It was sometime in October that the victim was finally able to talk to her boyfriend and to her parents where she learned about the ultimatum given for her ransom. Her mother told her that they were still looking for money and trying to bargain with her kidnappers to further lower the ransom from Php5,000,000.00 to Php1,000,000.00 Sir Mike then warned the victim that it will be the last time she will be given a chance to talk to her parents for the ransom, otherwise, they will already behead her.

The victim recalled having been transferred to another house owned by a certain "Furudji Indama" where she stayed until she was finally released on November 7, 2008. Around twenty (20) of Indama's followers with long firearms were guarding her during that time. After giving some of her things to the wife of Indama, she was escorted to the place where she was to be fetched by a certain "Moton" and "Tabong." Then they were met by the negotiator where she was to go with. She came to know later that the negotiator was the Vice-Governor of Basilan. After a picture of her was shown and compared to her and was asked if her nickname was "Chuchay," she boarded the motorcycle of the Vice- Governor. Thereafter, she saw the Vice-Governor with her parents on board a pick-up truck and they proceeded to the farm of said Vice- Governor in Lamitan, Basilan.

The victim blamed accused Ashra for the reason why she was kidnapped because she came to know later on that Ashra is the wife of Sir Mike. When they were in Magindan, Ashra was free to move around and was in fact the one doing the groceries for them.

On March 4, 2015, the victim was again presented to testify against the appellants and their coaccused Bensar Indama a.k.a. Ajid H. Jalil and Khair Mundos a.k.a. Mike.

The victim testified that she was forcibly held hostage inside a van somewhere at EAAB in Zamboanga City on July 7, 2008. The male person who boarded the van was a person she called Sir Mike. She believes he was the leader of the group and it was after he boarded the van that they proceeded to Manicahan where she was made to board a pumpboat. After passing through an island, they came to wharf of another island and they walked through a trail for about eight hours and reached a mountain. All this time Sir Mike was with them. From the time she was abducted on July 7, 2008 until she was finally released on November 7, 2008 she insists that Sir Mike was with them during her entire captivity.

When asked if the person she claimed to be Sir Mike is inside the courtroom, the victim stood up and pointed to a man wearing a gray jacket with white t-shirt who was sitting on the bench inside the courtroom and when asked, gave his name as Khair Mundos, another accused in this case. She claimed that there is not much difference in the appearance of the accused except that he appears to be bald now.

During her captivity, the victim claimed that it was accused Sir Mike or Khair Mundos who called her parents and demanded the ransom for her release. He was also the one who asked her to write down on a piece of

paper the names of his family and their respective incomes for one month. That the initial ransom asked for her release was Php30,000,000.00 which was later on reduced to Php15,000,000.00. The negotiations were made through cellular phone.

Before her release on November 7, 2008, the Victim had a conversation with said accused Sir Mike or Khair Mundos and a certain "Furudji" at the latter's house where she was told that if her ransom will not be paid or if the kidnapping will be reported to the police, she will no longer be released and will just work for them as a nurse. Hence, she already felt hopeless at that time. That it was the same accused that actually effected her release on November 7, 2008.

The victim further testified that at the time of her abduction, when the van they were on board stopped near the vicinity of the EAAB, one of the two male persons who boarded the van was appellant Imran who was armed with a .45 caliber pistol which he used to point at her. He was the one who also took her bag and placed his hand on her shoulder. When asked if she is given the chance to see him again, will she be able to identify him, the victim answered "yes". When asked if the said person is inside the courtroom, the victim stood up and pointed to a person sitting inside the courtroom who when asked gave his name as Ermiahe Achmad a.k.a. Imran.

That it was appellant Imran who actually divulged to her that his name is Imran when they had the chance to talk in Tagalog. Imran was with them when they passed through an island on the way to another island where there was a wharf and up to the time they walked for eight hours towards the mountain. She was placed on a house thereat where they stayed for almost 3 weeks and all this time said appellant was with them. He was even the one who washes her clothes. She was always guarded by him, together with a certain "Kah Boy" who was also armed. Even after she was made to stay with the accused Sir Mike, said appellant was still around them. However, she did not see him anymore during the day she was released.

The victim also recalled one of the about 20 armed followers who met them at the wharf was a certain "Bensar" who was armed with an M16 rifle. When asked if she can see the said person inside the court room, the victim stood up and pointed to a detainee sitting in the front row who when asked gave his name as Bensar Indama, another accused herein.

The victim added that although the leader of the group who abducted her was Sir Mike, whose real name is Khair Mundos, it was however a certain Furudji Indama that she believes is the leader of the entire group in the mountains. During her captivity, she learned from appellant Imran that the accused Bensar Indama is the younger brother of Furudji Indama. All the time she was held captive, Bensar Indama was around and at times also guarded her. At the time they were moving from one place to another by reason of the military operations, appellant Imran, Furudji Indama and Khair Mundos were always with them and were carrying weapons. However, she no longer saw Bensar Indama the day she was released.

With regards to the other appellant, whose name is Vasser Muktarin alias Ellel Bagarak, the first time that the victim met him was when she was already at the mountains together with the 20 other armed men who accompanied them there. Her help was sought when appellant Ellel got sick and she was brought to a house where said Ellel was throwing up and had high fever. She tried to administer the I.V. and dextrose on him but she did not push through as they were all expired. When asked if the said person is inside the courtroom, she stood up and pointed to another detainee sitting on the front seat who when asked gave his name as Vasser Muktarin. She noticed him to be one of the members of the Abu Sayyaf group who was guarding [her].

The victim also recalled that on September 2, 2008, during her captivity, a letter and a video were made addressed to her parents as instructed by the accused Sir Mike. It was actually accused Ashra Jawari who wrote the letter demanding a ransom of Php15,000,000.00 in exchange for her release. When shown a letter by the trial prosecutor with the heading "AI Harakatur Islamiya" dated September 2, 2008, the victim identified it to be the very one.

The victim remembers having been investigated relative to the herein case and by reason thereof, she executed her sworn statement which she identified through her signatures appearing thereat. She also remembers having been shown some pictures by the police, some of which she identified to be that of her captors. She identified them to be that of Sir Mike, Amurasil Mujahireen a.k.a. Idol, Atti Indama, Pae Baloloy, appellant Imran, Tabong a.k.a. Kabong Kasanani and Furudji Indama.

The victim testified that all throughout the period of her captivity she felt scared and hopeless since she believed that her family cannot afford the ransom demanded for her release. She still experiences nightmares up to the present time and had to undergo psychological counselling in Manila. The incident also traumatized her family and all of them got scared. Her mother was diagnosed of cancer immediately after the kidnapping incident and passed away barely six months thereafter due to what she believed was stress and trauma by reason thereof.

The victim stresses that it was accused Sir Mike or Khair Mundos that communicated with her family and told them that if they will not pay her ransom, she will be beheaded. That her ransom was thereafter reduced from Php15,000,000.00 to Php5,000,000.00 but her family still had difficulty raising the money.

The father of the victim, Fernando B. Feliciano, was also presented in court. He corroborated the testimony of his daughter Preciosa that at around 8:00 in the evening of July 7, 2008, her daughter had visitors, namely: accused Ashra Jawari and Jehan Julkipli who came to invite her daughter to their class reunion. He already knew Ashra as the latter was also at their house the day before for the same purpose but his daughter was out working. When asked if the person of Ashra is inside the courtroom, witness pointed to a female detainee beside a lady jail guard who answered to the name Ashra Jawari.

On July 9, 2008, they received a phone call from a certain Commander Meskin which was answered by his wife with him just beside her. They were told by the said person that they were holding their daughter, kidnapping her, and demanding a ransom of Php15,000,000.00. They then cried and felt shocked, they also tried to lower the ransom demand. Thereafter, they looked for somebody who can negotiate for them and found someone based in Sacol Island who he named as Ibrahim. They asked Ibrahim to go to Basilan and negotiate for them. The ransom demand was eventually lowered to Php1,450,000.00 and he was able to [raise] the same through his siblings and friends. That the negotiator brought the money to Basilan and thereafter told them that it was already delivered and that their daughter will be released the following day at Mampang. However, his daughter was not released and another phone call came informing them that the money was lacking.

They again looked for another negotiator in the person of Vice-Governor Sakalahul of Basilan. Commander Meskin demanded another Php 1,000,000.00 for the release of his daughter. After raising the said amount, he brought it to the Crisis Management Committee of Basilan who after counting the money brought them to the farm of Vice-Governor Sakalahul. The cellular phone of the Vice-Governor rang and his personnel were tasked to deliver the money. Thereafter, another call came and this time they were told that their daughter will be released somewhere in Albarka.

Using the service vehicle of the Vice-Governor, they proceeded to the place. Arriving thereat and after calling the name of her daughter, she appeared together with the brother of the Vice-Governor. They then proceeded to the farm of the Vice-Governor. It was already November 7, 2008 when her daughter was released. After staying at the farm for one day, they went to the camp of the Philippine Marines and were transported by speedboat to the Southern Command in Zamboanga City.

They [spent] about Php2,450,000.00 for the ransom which he borrowed on interest. This does not include the other incidental and necessary expenses for the negotiations which to him may total Php5,000,000.00. That he was able to pay all his debts by reason thereof by selling his property.

Finally, when shown a photocopy of the purported ransom demand marked as Exhibit "Q" for the prosecution, witness identified it as the same document he received through Mayor Furigay of Lamitan, Basilan sometime

in September. However, he can no longer locate the original thereof. He recalls having given the original copy thereof to a certain Major Alvarez when he went to their house to investigate the case.

He concluded his testimony by saying that from the time her daughter was kidnapped, they spent sleepless nights, shock and feeling of hopelessness as they may not be able to raise the ransom and his daughter may eventually be beheaded. His wife got sick of cancer and died on December 5, 2010. At present, his daughter, victim Preciosa, already works in America.[7] (Emphasis supplied)

Meanwhile, the testimonies of accused-appellants was quoted by the CA, in this wise:

Accused-appellant Erniahe Achmad (Achmad) testified that his real name is Tirmidhi Atalad Ahmad. He stated that in the year 2004, he and his family went to Sandakan, Malaysia and resided there. He returned to the Philippines in the year 2009 and stayed at Pilas Island.

He further testified that he was arrested sometime in April or May 2014 when he was at Marawi, Lanao del Sur. He denied that he was responsible in the kidnapping of Preciosa Feliciano. He further manifested in open court that he was accused of something of which he does not know.

Accused-appellant Yassir M. Muktarin took the witness stand on May 19, 2015. He testified that he is 21 years of age, having been born on February 8, 1994 at Pedring Pamaran, Lamitan City, Basilan. He testified that he was arrested on November 18, 2009 in Zamboanga City. Muktarin averred that the persons who arrested him said that he is a member of the Abu Sayyaf Group. Muktarin however, denied that allegation.[8]

Ruling of the RTC

On 12 November 2015, the RTC rendered a Decision convicting accused-appellants and their co-accused of the crime charged, hence:

WHEREFORE, all the foregoing considered, judgment is hereby rendered finding the accused herein, ASHRA M. JAWARI; KHAIR MUNDOS a.k.a. MIKE; ELLEL a.k.a. YASSER MUKTARIN a.k.a. ILIL BAGARAK a.k.a. ELLEL BAGARAK who claims his name is YASSIR M. MUKTARIN; BENSAR INDAMA a.k.a. AJID H. JALIL who claims to be AJID AIDARUS JAINUL and ERMIAHE ACHMAD a.k.a. IMRAN a.k.a. NAPEH who claimed to be TIRMIDHI ATALAD AHMAD, guilty beyond reasonable doubt for KIDNAPPING AND SERIOUS ILLEGAL DETENTION for the purpose of extorting ransom under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659 and with no additional aggravating or mitigating circumstances to consider, and taking into consideration the pertinent provisions of Republic Act No. 9346, hereby sentences each of them to suffer the penalty of RECLUSION PERPETUA, without the possibility of parole.

Accused are further directed to jointly and severally pay the victim herein, her heirs and assigns, the following sum:

1. P1,500,000.00 representing actual damages plus legal interest from the filing of the Information herein until fully paid;
2. P1,000,000.00 representing moral damages;
3. P500,000.00 representing exemplary damages; and
4. to pay the costs of this suit.

SO ORDERED.[9] (Emphasis in the original)

The RTC did not doubt the veracity of the statements made by the victim, Preciosa, that she was abducted on 07 July 2008, taken against her will to a mountainous area, and was released only on 07 November 2008 after ransom has been paid by her relatives to her abductors. She was able to name and identify the perpetrators,

including accused-appellants Imran, who was one of her original abductors, and Ellel, who acted as a guard during her captivity in the mountains. Preciosa was also able to accurately recount the identity of the other accused as participants in the crime and explain each one's designated part in the abduction and illegal detention. Further, Ashra Jawari gave a corroborating testimony as to the identity and participation of her co-accused, but the RTC was not convinced she was also a victim in the abduction and was in fact, a co-conspirator who lured Preciosa to be abducted. Ultimately, all the accused conspired to abduct Preciosa for the purpose of extorting ransom from her family members. [10]

Ruling of the CA

Accused-appellants filed an appeal before the CA, which denied the same through the assailed Decision dated 30 January 2018:

ACCORDINGLY, the Judgment dated 12 November 2015 of the Regional Trial Court (RTC), 9th Judicial Region, Branch 12, Zamboanga City, in Criminal Case No. 24108, finding accused-appellants Ermiahe Achmad a.k.a. Imran a.k.a. Napeh a.k.a. Tirmidhi Atalad Ahmad and Ellel a.k.a. Yasser Muktarin a.k.a. Illil Bagarak a.k.a. Ellel Bagarak, guilty beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention for the purpose of extorting Ransom under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659, IS AFFIRMED with MODIFICATIONS.

Accused-appellants Ermiahe Achmad a.k.a. Imran a.k.a. Napeh a.k.a. Tirmidhi Atalad Ahmad and Ellel a.k.a. Yasser Muktarin a.k.a. Illil Bagarak a.k.a. Ellel Bagarak are sentenced to suffer the penalty of reclusion perpetua, without eligibility of parole. They are also ordered to jointly and severally pay the victim the following amounts: (1) actual damages of Php1,500,000.00 plus legal rate of interest from the filing of Information until full payment; (2) moral damages of Php100,000.00; and (3) exemplary damages of Php1000,000.00.

SO ORDERED.[11]

The CA agreed with the trial court that all the elements of the crime charged have been established by the prosecution. Preciosa was also able to positively identify the people who kidnapped her, including accused-appellants. Her testimony was clear, candid, and straightforward, thereby deserving of great weight and credence. However, the appellate court reduced the amount of damages in accordance with recent jurisprudence.[12]

Issues

The primordial issue for resolution of the Court is whether accused-appellants were correctly convicted of kidnapping for ransom under Art. 267 of the RPC, as amended by RA 7659.

Ruling of the Court

The Petition lacks merit.

The crime of kidnapping and serious illegal detention is provided in Art. 267 of the RPC, as amended by RA 7659:

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 penalty 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. (Emphasis supplied)

In the present case, the prosecution was able to establish all the elements of the above crime, namely: (1) the offender is private individual; not either of the parents of the victim or a public officer who has a duty under the law to detain a person; (2) they kidnap or detain another, or in any manner deprive the latter of their 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 three days, (b) it is committed by simulating public authority, (c) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill are made, or (d) the person kidnapped or detained is a minor, female, or a public official.[13]

The essence of the above crime centers on the actual deprivation of the victim's liberty, coupled with indubitable proof of the intent of the accused to effect the same. Moreover, if the victim is a minor, or the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his or her detention becomes inconsequential. Ransom here means money, price or consideration paid or demanded for the redemption of a captured person that will release them from captivity.[14]

Here, the testimony of Preciosa clearly shows she was abducted and deprived of her liberty for four months from 07 July 2008 to 07 November 2008. Further, the deprivation of her liberty was for the purpose of extorting ransom from her relatives. This was confirmed by Preciosa's father, Fernando, who claimed to have given a total of P2,450,000.00 as ransom for the release of his daughter. The demand for ransom money was also shown through a copy of the handwritten letter for ransom received by the parents of Preciosa and identified by Ferdinand in court.[15] Said letter, which was received by Ferdinand and his wife, was affirmed by Preciosa to be the same letter written by Ashra Jawari as per instructions of "Sir Mike" demanding a ransom of P15,000,000.00 in exchange for her release.

The Court, therefore, finds no cogent reason to deviate from the common findings of the RTC and the CA, and their respective appreciation of the credibility of the witnesses since both were in the best position to assess them.[16] Indeed, Preciosa spent four months with her abductors, and can no doubt easily establish their identity and individual participation since she was able to observe them for a considerable length of time. Her reluctance to file the complaint, as pointed out by accused-appellants in attacking her credibility, cannot be taken against her given the inherent fear of her safety after the months-long ordeal.

There is also no basis for treating the photographic identification made by Preciosa of the accused as an impermissible suggestion. "In resolving the admissibility of out-of-court identification of suspects, courts have adopted the totality of circumstances test where they consider the following factors: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty shown by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure." [17] Hence, in *People v. Pineda*, [18] the case cited by accused-appellants, the Court held that there is an impermissible suggestion since the photographs shown to the complainant are only that of the accused. Contrarily in this case, Preciosa was shown approximately 17 or 18 photographs of kidnap for ransom personalities wherein

she identified seven pictures.[19]

Moreover, the finding of conspiracy among the accused is affirmed since they showed collective, concerted, and synchronized acts before, during and after the kidnapping of the victim[20] Imran's role as one of the initial abductors and Elle's participation as one of those guarding her were indispensable in the commission of the crime. The factual circumstances in the case clearly show how accused-appellants and their co-accused acted in concert and how their acts emanated from the common design to abduct Preciosa and extort ransom from her family.

Anent the penalty imposed, the crime of kidnapping and serious illegal detention mandates the penalty of death if the crime was committed for the purpose extorting ransom from the victim or any other person. In view of the enactment of RA 9346,[21] the penalty of reclusion perpetua without eligibility for parole is proper.[22]

However, the Court finds reason to modify the amount of actual damages awarded by the RTC and affirmed by the CA in the amount of P1,500,000.00. No explanation nor discussion was made by both courts as to the said amount despite the consistent testimony of the prosecution witnesses stating that the total amount of ransom paid is P2,450,000.00. Indeed, actual damages may be awarded representing the amount of ransom paid.[23]

In accordance with recent jurisprudence, the Court also awards civil indemnity in the amount of P100,000.00 in addition to the award of moral damages and exemplary damages decreed by the CA.[24]

WHEREFORE, the appeal is DENIED. The Decision 30 January 2018 promulgated by the Court of Appeals in CA-G.R. CR-HC No. 01522-MIN is hereby AFFIRMED with MODIFICATIONS. Accused-appellants are hereby found guilty of kidnapping for ransom defined and penalized under Article 267 of the Revised Penal Code as amended, and sentenced to reclusion perpetua without eligibility for parole. They are further ordered to pay the following amounts: (1) P2,450,000.00 as actual damages; (2) P100,000.00 as civil indemnity; (3) P100,000.00 as moral damages; and (4) P100,000.00 as exemplary damages. These amounts shall earn interest at the rate of six percent (6%) per annum from the date of the finality of the Decision until fully paid.

SO ORDERED.

Leonen, (Chairperson), Carandang, Rosario, and Dimaampao, JJ., concur

[1] Rollo, pp. 27-28; Notice of Appeal dated 13 February 2018.

[2] Id. at 3-26; penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Romulo V. Borja and Oscar V. Badelles

[3] CA rollo, pp. 53-83; penned by Presiding Judge Gregorio V. Dela Pena. III.

[4] Entitled "AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES," approved on 13 December 1993.

[5] CA rollo, pp. 38-39.

[6] Rollo, pp. 4-5.

[7] Id. at 5-15.

[8] Id. at 15-16.

[9] CA rollo, p. 83.

[10] Id. at pp. 80-82.

[11] Rollo. p. 25-26.

[12] Id. at 17-25.

[13] See *People v. Mendiola*, G.R. No. 229086, 15 January 2020.

[14] Id.

[15] CA rollo, p. 74.

[16] *People v. Mendoza*, G.R. No. 247712, 10 June 2020.

[17] *People v. Teehankee, Jr.*, 319 Phil. 128, 180 (1995).

[18] 586 Phil.515 (2018).

[19] Rollo, p. 24.

[20] See *People v. Castro*, 434 Phil. 206, 221 (2002).

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

[22] See Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties, A.M. No. 15-08-02-SC, 04 August 2015.

[23] *People v. Cornista*, G .R. No. 218915, 19 February 2020.

[24] See *People v. Santos*, G.R. No. 229658, 28 August 2019; see also *People v. Mendoza*, G.R. No. 247712, 10 June 2020.

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.