

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
IRENEO BAYRANTE, IRENEO “NONITO” BAYRANTE, JR.,
LEOPOLDO BAYRANTE ALIAS “POLDO,” GERONIMO
BAYRANTE ALIAS “EMONG,” AND ROSE...**

G.R. No. 92508. August 04, 1994

Ponente: PUNO, J.

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PUNO, J.:

Ireneo Bayrante, Sr., his children, viz: Ireneo, Jr., Leopoldo, Geronimo, Rosemarie, and a certain Nongnong Bayrante,[1] together with five (5) John Does, were charged with KIDNAPPING and SERIOUS ILLEGAL DETENTION in an Information,[2] dated April 7, 1986, which reads:

"That in the evening of March 14, 1986, in Barangay San Francisco, Baao, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, unlawfully, wilfully and feloniously, kidnap and detain, father and son, Domingo and Roberto all surnamed Lomeda, thereby depriving the victims of their liberty.

"ACTS CONTRARY TO LAW."

Nongnong Bayrante and the five (5) John Does remained at large and unidentified. The Bayrantes were arraigned on October 8, 1986.[3] They pleaded not guilty and underwent trial.

The evidence for the prosecution came mainly from the testimony of DOMINGO LOMEDA. He averred that on March 14, 1986, at around 7:00 P.M., he was in his nipa hut in Barangay San Francisco, Baao, Camarines Sur. He and his family, viz: his wife, Catalina, his son, Roberto, and Roberto's wife, Leonor, had just eaten supper when a passenger jeepney passed by and stopped across the bridge, some eight (8) meters away from their hut. Suddenly, two (2) men appeared and asked if the hut was the residence of Domingo Lomeda. When Domingo confirmed that the hut was his, the strangers entered the hut and invited Domingo to step out and talk to them. When he refused, one of the two (2) men grabbed his right wrist and poked a gun at him. Two (2) more men entered the hut and led Domingo's son, Roberto, outside the hut. Domingo and Roberto were then taken to a waiting jeepney.[4]

Domingo claimed he saw accused Geronimo, Ireneo, Jr., Leopoldo, Rosemarie, and a certain Nongnong, on board the jeepney. Domingo and Roberto were made to lie, face down, on the jeepney's flooring. Thereafter, one of the four (4) men gave instruction to tie up Domingo and Roberto. A rope was handed to Rosemarie who tied them up. After their mouths were covered with cloth, the jeepney sped away to an undisclosed place.[5]

After sometime, the jeepney stopped. The four (4) kidnappers alighted from the jeepney but took with them Domingo and Roberto. The jeepney then left with the Bayrantes still on board while the four (4) kidnappers, Domingo and Roberto started walking. One of the kidnappers inquired if they knew Ireneo Bayrante and a certain "Emong, Jr." Domingo replied that he knew Ireneo as the latter resided in his (Domingo's) nipa hut in his farm for two years. Ireneo, Sr. was his farmer, whereas "Emong, Jr." (a.k.a. David Lomeda, Jr.) is his (Domingo's)

nephew.[6]

It appears that on June 1, 1985, a Honda thresher machine, owned by accused Ireneo Bayrante, Sr., was stolen. Before the said incident, the thresher machine was kept at the nipa hut owned by Domingo Lomeda. The farmers, including accused Ireneo, Sr., used the machine in threshing their harvest. Ireneo's effort to look for it had proved futile. The kidnappers were also looking for said thresher machine and wanted it back as it was being used by the farmers. Domingo denied any knowledge on who stole the thresher machine.

After walking for two (2) hours, Domingo was released by the kidnappers. He was instructed to follow the route leading to Pili, Camarines Sur. He was also ordered to meet the kidnappers at the house of Ireneo Bayrante, Sr., the following day. Roberto, however, was left behind with the kidnappers to insure the return of the thresher machine.

On March 15, 1986, at around 4:00 A.M., Domingo reached Pili. He immediately proceeded to his residence in Baao where he found his nephew, David Lomeda, Jr., waiting for him. Domingo confronted his nephew about the stolen thresher machine. Lomeda, Jr. admitted stealing the machine.

Losing no time, at around 4:00 P.M. of the same day, Domingo went to Ireneo's house in Pili, and brought with him Lomeda, Jr. Again, Lomeda, Jr. confessed his guilt before Ireneo, Sr. The latter told Domingo they would discuss the "damages" for the theft of the thresher machine after its recovery. They waited for the four (4) kidnappers to come, but they never showed up.

The thresher machine was given back to the Bayrantes on March 17, 1986. Nonetheless, Roberto was not released by the kidnappers. Apprehensive, Domingo confronted Ireneo, Sr., for his son's failure to return as previously agreed upon. Ireneo replied: "there is no danger 'pade' (kumpadre)."[7] Despite the assurance given, Roberto was never seen nor heard from by his family.

RODRIGO BRUCA, son-in-law of Domingo Lomeda, testified that on March 29, 1986, his father-in-law asked him to talk to Ireneo Bayrante, Sr., to facilitate the release of Roberto. He informed Ireneo, Sr., they would indemnify the Bayrantes P1,000.00, as damages for the stolen thresher machine. Ireneo, Sr., however, claimed he had to confer with other persons before he could decide on the matter. The following day, Rodrigo returned to Ireneo's house and tendered the sum of P1,000.00. Ireneo declined the offer, saying that he could not accept it at the moment. After talking to his wife, Ireneo, Sr. told Rodrigo that he would accompany Rodrigo and his (Rodrigo's) wife to Balatan to confer with "other persons" responsible for kidnapping Roberto. For safety reasons, however, Domingo dissuaded them from pursuing the plan.[8]

CATALINA LOMEDA, mother of Roberto Lomeda, corroborated the testimony of Domingo on how her husband and son were taken at gun point by four (4) men whom she failed to recognize. She followed them and asked forgiveness for both her husband and son. The kidnappers, however, pushed her aside. Domingo and Roberto were then taken to a waiting jeepney.[9]

CAPTAIN JULIAN PRIMA, member of the Regional Special Action Force, RECOM 5, Legazpi City, investigated the case. Among those he investigated was Ireneo Bayrante, Sr. The latter allegedly vowed he would produce Roberto who, by then, had been taken to Balatan by the kidnappers.

The defense was anchored on denial and alibi.

The testimonies of the defense witnesses tried to establish that, on the material date and time, all the accused were in the house of Ireneo Bayrante, Sr., in Sagorong, Pili. Leopoldo's wife, Estelita, was about to deliver a baby on that date. At around 5:00 P.M. of March 14, 1986, Leopoldo fetched the midwife, Benita Belarmino, from

Hacienda Casa. They returned at 7:00 P.M. Earlier, Elias Dineros, a manghihilot, was fetched by Ireneo, Sr., also to attend to Estelita. On said occasion, Rosemarie Bayrante took care of the one year old daughter of Leopoldo and Estelita, while Ireneo, Jr., cooked their dinner. At 11:30 P.M., Estelita gave birth to a baby girl. She was named Aileen.[10]

ELIAS DINEROS testified that on March 14, 1986, he was with the accused-appellants from 6:00 P.M. until 5:00 A.M. the following day. Earlier on, he was requested by Ireneo Bayrante, Sr., to attend to Estelita, as the midwife, Benita Belarmino, had yet to arrive. The midwife came at 7:00 P.M. Elias and Benita assisted each other in delivering the baby. Elias stayed with the Bayrantes until 5:00 A.M. the following day. During all those times, accused-appellants stayed in their house.

BENITA BELARMINO, the midwife, corroborated the story of the Bayrantes and Elias Dineros in all material aspects.

After trial, Ireneo Bayrante, Sr., and his four (4) children: Ireneo Bayrante, Jr., alias "Nonito," Leopoldo Bayrante alias "Poldo," Geronimo Bayrante alias "Emong," and Rosemarie Bayrante, were found guilty as charged. They were sentenced to suffer the penalty of life imprisonment, and to pay the costs.[11]

In convicting the accused-appellants, the trial court relied, mainly, on their positive identification by Domingo. It rejected their defense of alibi on the ground that there was no physical impossibility for the accused-appellants to proceed to Baao, from Pili, Camarines Sur, noting that Domingo Lomeda himself reached Pili on foot after walking for several hours. The trial court held that Ireneo Bayrante, Sr., has a motive to kidnap the victims as he suspected that they had a hand in stealing his thresher machine.

Accused-appellants thus appealed to this Court, raising these errors:

THE COURT ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF SELF-SERVING, BIASED, AND UNCORROBORATED TESTIMONY OF PRIVATE COMPLAINING WITNESS DOMINGO LOMEDA;

THAT THE PROSECUTION FAILED TO IDENTIFY POSITIVELY THE FOUR (4) PERSONS WHO TOOK DOMINGO LOMEDA AND ROBERTO LOMEDA;

THAT THE COURT BELOW FAILED TO SEPARATE THE CHAFFS FROM THE GRAINS OF CREDIBLE EVIDENCES (sic) ADDUCED IN THE CASE, HENCE, RESULTING AGAINST AND UNJUSTLY SACRIFICING THE RIGHTS OF HEREIN ACCUSED-APPELLANTS; AND

THE STATE FAILED TO PROVE POSITIVELY THE GUILT OF THE ACCUSED BAYRANTE FAMILY BEYOND THE PENUMBRA OF REASONABLE DOUBT.

We hold that the Bayrante children, namely: Ireneo, Jr. alias "Nonito", Geronimo alias "Emong," Leopoldo alias "Poldo," and Rosemarie, should be acquitted on the ground of reasonable doubt.

An examination of the evidence will compel this conclusion. The prosecution proved that Domingo and Roberto were forcibly taken from their nipa hut by four (4) unidentified men. Domingo then claimed that he saw the Bayrante children on board the passenger jeepney when he and his son were ordered to board said jeepney. Domingo testified:

FISCAL:

"Q: And where did those four men take you and Roberto after you went outside of your nipa hut?

"A: Me and Roberto were brought to the jeep - I was ahead and Roberto was following.

"Q: What happened after you reached the jeep?

"A: When we reached the jeep, I was made to board and so they first boarded the jeep and while I was seated in the jeep, I looked around and I was able to recognize the family of Ireneo Bayrante and afterwards Roberto was also made to board the jeep and after that we were both asked to lie flat face down.

"Q: Now, you said you saw the family of Ireneo Bayrante inside the jeep where you board. Who are these persons whom you recognized to be the members of the family of Ireneo Bayrante?

"A: I recognized this Emong, Nonito, Poldo, Nongnong, and Rosemarie.

"Q: What were these persons doing inside the jeep?

"A: When I reached the jeep they were seated.

"x x x x x x x x.

"Q: You said Roberto was made to lie face down inside the jeep. What else happened after Roberto was already lying face down inside the jeep?

"A: After Roberto was made to lie face down, one of the four men said "You better tie them." A rope was handed to Rosemarie and I was able to see that because I looked up.

"Q: When one of those men ordered that you be tied, what was your position?

"A: We were already lying face down.

"Q: Were you in fact tied with that rope handed to Rosemarie Bayrante?

"A: Yes, sir.

"Q: Who tied you?

"A: This Rosemarie.

"Q: Then after that what happened?

"A: After that, our mouths were covered with cloth.

"Q: Do you know who covered your mouth with cloth?

"A: I was not able to see anymore, Sir, because our heads were already pinned to the floor.

(TSN, November 25, 1986, pp. 8-10).

On cross-examination, he testified further:

"ATTY ATIENZA:

"Q: All the while that the accused were there, they did not have occasion to talk with you, those accused whom you identified to be in the jeep?

"A: No, sir.

"x x x x x x x x.

"ATTY. ATIENZA:

"Q: x x x Now, these four accused, Nongnong, Poldo, Nonito, and Emong, did not move out from their seats during that evening when you saw them seated inside the jeep?

"A: They did not move.

"x x x x x x x x

"Q: You said that it was Rosemarie who allegedly tied you and Roberto. How can you tell that when you said you were told to lie face down?

"A: Because when I looked up and I saw that she was the person who got the rope.

(TSN, November 25, 1986, pp. 22-23).

Except for the foregoing uncorroborated testimony of Domingo, there was no other evidence presented to substantiate the alleged participation of Geronimo, Ireneo Jr., Leopoldo and Rosemarie in the kidnapping. The prosecution witnesses, Catalina Lomeda and Rodrigo Bruca, never mentioned any involvement of the Bayrante children in the kidnapping.

Domingo's inculcation of the Bayrante children is not only uncorroborated but also of doubtful veracity. We find it strange that, as claimed by Domingo, all the Bayrante children accompanied the four (4) armed men during the kidnapping. These children are known to Domingo. Yet, as narrated by him, the Bayrantes did not even attempt to conceal their true identity from Domingo and his son. More difficult to believe is Domingo's testimony that, in spite of the presence of nine (9) men, including the four armed men and the still unidentified driver of the jeepney, Rosemarie was the one tasked by one of the kidnappers to tie up the Lomedas.

Domingo's testimony is also highly suspect as he has an improper motive to implicate the entire Bayrante family. Unquestionably, bad blood exists between the Lomedas and the Bayrantes. On the one hand, the Bayrantes were wronged when their thresher machine was stolen. On the other hand, Domingo Lomeda had every reason to bear a grudge against Ireneo Bayrante, Sr., as the latter had failed to secure the safe return of his son Roberto, in spite of the fact that, more or less three (3) days after the kidnapping, the subject thresher machine had been recovered.

In contrast to the untrustworthy testimony of Domingo, at least two (2) unbiased witnesses, namely, Elias Dineros and Benita Belarmino, vouched that, from 7:00 P.M. on March 14, 1986, until 5:00 A.M. the following day, all of the accused-appellants were in Sagorong, Pili. It was also established that the wife of Leopoldo Bayrante gave birth at around 11:30 P.M., that same day (March 14, 1986). On such an occasion, it is not unusual for all the members of the family to gather together to give comfort to the mother undergoing labor pains and to welcome the latest addition to their family. The tradition is more sharply observed in the provinces where family ties continue to be the ties that bind together.

In view of the foregoing, we cannot hold with moral certainty that the guilt of accused-appellants, Geronimo, Leopoldo, Ireneo, Jr., and Rosemarie, had been established beyond reasonable doubt.

We now come to the evidence against Ireneo Bayrante, Sr. The records show that Bayrante, Sr., was not present during the kidnapping on March 14, 1986. Nonetheless, the trial court convicted Bayrante, Sr., as it ruled, viz:[12]

"xxx. First, when Domingo Lomeda presented Emong Lomeda, Jr., to him (Ireneo Bayrante, Sr.) as the person who stole the machine, said accused replied that as long as the machine will be returned, they will talk about damages; and second, when he (Ireneo Bayrante, Sr.) told Rodrigo Bruca (son-in-law of Domingo Lomeda), that if he, the latter, is interested, he should go with him and his wife to Balatan to confer with the persons responsible for the kidnapping of his father-in-law and brother-in-law. xxx."

The circumstance that Bayrante, Sr., knew where Roberto was subsequently taken by the kidnappers, not to mention his refusal to discuss the indemnity for the stolen machine until the same had been returned, gives certainty to the conclusion that he had knowledge of the kidnapping. It is true that Bayrante, Sr., did not directly

participate in its commission but conspiracy can be inferred and proven by the totality of the acts of the accused, when said acts point to a joint purpose and design. In this case, it appears that the common purpose of the kidnappers and Bayrante, Sr. was to recover the said stolen thresher machine. As the machine was used not only by the Bayrante family but also by the other farmers, its loss was of great prejudice to their livelihood. It was not surprising that, with the help of unidentified men, Bayrante Sr., resorted to kidnapping. Further, Ireneo Bayrante, Sr.'s refusal to negotiate with the Lomedas without first conferring with the kidnappers is strong evidence that he conspired with the four (4) armed men to kidnap the Lomedas. The trial court, therefore, was correct in holding Ireneo Bayrante, Sr., guilty as a co-conspirator in the kidnapping.

We note that the trial court erroneously imposed the penalty of life imprisonment. The penalty of reclusion perpetua and life imprisonment are not synonymous. There is no penalty of life imprisonment in the Revised Penal Code. Reclusion Perpetua involves imprisonment for at least thirty (30) years and carries with it accessory penalties, whereas the penalty of life imprisonment has no definite duration and does not entail any accessory penalties.[13]

WHEREFORE, premises considered, accused-appellants GERONIMO BAYRANTE, IRENEO BAYRANTE, JR., LEOPOLDO BAYRANTE, AND ROSEMARIE BAYRANTE are hereby ACQUITTED of the crime charged.

The judgment of conviction against IRENEO BAYRANTE, SR., is AFFIRMED with modification. Thus, the penalty of life imprisonment imposed by the trial court upon IRENEO BAYRANTE, SR., is changed to RECLUSION PERPETUA. Costs against Ireneo Bayrante, Sr.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Mendoza, JJ., concur.

[1] Ireneo Bayrante, Sr., denied having a son by the name of Nongnong Bayrante.

[2] See Amended Information, dated January 15, 1988, Original records, p. 130.

[3] Original Records, p. 55.

[4] TSN, November 25, 1986, pp. 5-8.

[5] TSN, November 25, 1986, pp. 9-10.

[6] Ibid, p. 12.

[7] TSN, November 25, 1986, p. 17.

[8] TSN, March 5, 1987, pp. 9-10.

[9] TSN, May 25, 1987, p. 4.

[10] See Exhibit "5"; Original Records, p. 205. TSN, August 30, 1989, p. 10.

[11] Decision, dated October 30, 1989, penned by Presiding Judge Ulysses V. Salvador.

[12] Decision, October 30, 1989, pp. 11-12.

[13] People vs. Estrella, G.R. Nos. 92506-07, April 28, 1993, 221 SCRA 543, 548.

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