

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMONITO GELOTIN ALIAS KUMANDER PUTOL, GERRY ALIMAN, AND TWO JOHN DOES, ACCUSED-APPELLANTS.

G.R. No. 93409, May 08, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the decision dated September 8, 1989 of the Regional Trial Court of Masbate, Masbate, Fifth Judicial Region, Branch 44[1] in Criminal Case No. 5205 finding accused-appellant Ramonito Gelotin, alias "Kumander Putol", guilty of the crime of Kidnapping. The dispositive portion of the trial court's decision reads as follows:

"WHEREFORE, viewed from the foregoing and finding that there are no mitigating circumstances to reduce the penalty, Ramonito Gelotin is hereby found guilty beyond reasonable doubt of the crime of kidnapping and he is hereby sentenced to suffer the penalty of reclusion perpetua.

He is further ordered to pay the family or heirs of Romeo Marcos the amount of P30,000.00 as damages for his disappearance and to pay the cost of the suit. He is credited with 4/5 of his temporary imprisonment as a detention prisoner. As for the other accused, their case is hereby placed in archive. Let a warrant for their arrest be issued for their apprehension.

SO ORDERED."[2]

Earlier, on March 16, 1987, Ramonito Gelotin alias "Kumander Putol", Gerry Aliman, and two John Does were charged with kidnapping before the said trial court in an information that reads:

"That on or about August 16, 1985, in the afternoon thereof, at Barangay Mapuyo, Municipality of Mobo, Province of Masbate, Philippines, within the jurisdiction of this Court, the said accused who are private individuals confederating together and helping one another, being then transients of said place armed with guns did then and there willfully, unlawfully and feloniously kidnap one Romeo Marcos, permanently separating the latter from his dwelling, detained him from the date of the commission up to the present time depriving him of his personal liberty."[3]

It appears, however, that only Ramonito Gelotin was arraigned while the other three accused, namely: Gerry Aliman and the two John Does, were not. Gelotin entered a plea of "not guilty" upon his arraignment on June 16, 1987.[4]

The facts are well-stated in the People's Brief and they are as follows:

"On August 16, 1985, at around 5 o'clock in the afternoon, while Fe Monton Vda. de Marcos; her sons, Raquel and Ruel; and a certain David Marcos, were in their house in Mapuyo, Mobo, Masbate, five armed men suddenly arrived (TSN, July 28, 1988, p. 3; June 16, 1987, pp. 2-3). Of the five armed men, two were identified as herein accused Ramonito Gelotin alias "Kumander Putol", and a certain Jerry Aliman alias

Baludoy (TSN, June 16, 1987, p. 3; July 28, 1988, p. 3). Ramonito Gelotin had a very distinguishable mark: his left arm was amputated (TSN, June 16, 1987, p. 13).

"The armed men were looking for Romeo Marcos, husband of Fe Monton Vda. de Marcos (TSN, June 16, 1987, p. 3; July 28, 1988, p. 3). Romeo Marcos was in the fields plowing the land, so Fe Monton Vda. de Marcos ordered her son, Raquel, to go and fetch him (TSN, July 28, 1988, p. 3; June 16, 1987, p. 3). Raquel Marcos did as he was told (TSN, July 28, 1988, p. 3; June 16, 1987, p. 3).

"When Romeo Marcos reached their house, the herein accused Gelotin ordered him to go near the unidentified armed men (TSN, June 16, 1987, p. 3). One of the armed men, at gunpoint, ordered Romeo Marcos to lie, face down, on the ground (TSN, June 16, 1987, p. 4; July 28, 1988, p. 4). They then bound his hands at his back and hit him with the butt of their guns (TSN, June 16, 1987, p. 4; July 28, 1988, p. 4). Meanwhile, Ramonito Gelotin ordered another to search their house for firearms, but they found nothing (TSN, June 16, 1987, p. 4).

"Fe Monton Vda. de Marcos and her sons sat beside each other, around five meters away from where her husband was, helplessly watching. (TSN, June 16, 1987, p. 5). When asked as to why they were tying up Romeo Marcos, Ramonito Gelotin replied that it was because he was an informer of the military (TSN, June 16, 1987, p. 5).

"Raquel Marcos was also hogtied (Exhibits "A" and "B", pp. 3-6, Records).

"Thereafter, at around 6 o'clock in the evening, they made Romeo Marcos stand up, hit him in his back, and made him walk towards the mountains of Barag (TSN, July 28, 1988, pp. 4-5; June 16, 1987, pp. 5-6).

"That was the last time Fe Monton Vda. de Marcos saw her husband (TSN, June 16, 1987, p. 7).

"Two days after her husband was taken, Fe Monton Vda. de Marcos proceeded to the Detachment Command of the Philippine Constabulary in Mapuyo, Mobo, Masbate for assistance (TSN, June 16, 1987, p. 6; December 14, 1988, p. 2). She informed them that "Kumander Putol", Gerry Aliman, Baludoy, and two others, who she believed were members of the "Walang Patawad" group, kidnapped her husband (TSN, June 16, 1987, pp. 12-14; December 14, 1988, p. 2).

"A team of Philippine Constabulary soldiers was immediately dispatched to look for Romeo Marcos and his kidnappers (TSN, July 28, 1988, pp. 5-6; June 16, 1987, p. 7). The search, however, yielded negative results (TSN, July 28, 1988, p. 6; June 16, 1987, p. 7).

"On or about December 1986, Ramonito Gelotin surrendered to the authorities (TSN, June 16, 1987, p. 8). The surrender was broadcast over the local radios of Masbate (TSN, July 28, 1988, p. 10). When Fe Monton Vda. de Marcos and Raquel Marcos heard the radio broadcast, they immediately proceeded to the headquarters of the Philippine constabulary to ascertain whether the surrenderee was the same person who kidnapped Romeo Marcos (TSN, July 28, 1988, p. 10; June 16, 1987, p. 14).

"When the accused was presented to them, they immediately recognized him as one of the persons who kidnapped Romeo Marcos (TSN, July 28, 1988, p. 10; June 16, 1987, p. 15). He was immediately identified because of his distinct physical appearance, his amputated left arm (TSN, June 16, 1987, p. 13).

"A complaint for kidnapping was then filed."[5]

Accused-appellant is now before Us to seek, naturally, favorable appellate action. He raises the sole issue of whether or not the prosecution was able to establish positively and beyond doubt, his identity as one of the perpetrators of the kidnapping.

We find no merit in his appeal.

Indeed, there can be no doubt that the appellant was one of the kidnappers of the unfortunate victim, Romeo

Marcos. This fact is sufficiently established by the convincing testimonies of Fe Monton Vda. de Marcos and Raquel Marcos, wife and son, respectively of Romeo Marcos. Both of them positively identified, not only once but twice, Ramonito Gelotin as one of the kidnappers - first, when accused-appellant came down from the mountains to surrender at the PC Headquarters in Masbate, Masbate,[6] and second; in open court.[7] Both likewise testified to the fact that accused-appellant has a very peculiar physical characteristic, which is, his left arm was amputated,[8] hence the name by which he was notoriously known: "Kumander Putol".

Here, lumped together, are the following crucial testimonies of Fe Monton Vda. de Marcos and Raquel Marcos:

Fe Monton Vda. de Marcos -

"Q: Now do you know one Ramonito Gelotin?

A: I came to know him when he surrendered because I have known him already when he has taken husband because I was present when he has taken my husband from our house (sic).

Q: If that Ramonito Gelotin is in Court would you be able to point at (sic) him?

A: Yes sir.

Q: Please point to him.

A: (witness pointing to a man seated within the courtroom who when asked to identify himself, answered his name as Ramonito Gelotin.)

(TSN, June 16, 1987, p. 2)"[9]

x x x

"Q: Now you said the names of one of those five was certain Kummander (sic) Putol because you did not know yet the real name of this Kummander (sic) Putol, is that correct?

A: Yes sir.

Q: Before the incident of that (sic) August 16, 1985, have you seen Kummander (sic) Putol?

A: At (sic) first time was when he came down.

Q: You could recognize him to be Kummander (sic) Putol because of his left arm being amputated, is that correct?

A: Yes sir.

(TSN, June 16, 1987, p. 13)

Q: What did you notice from his hands?

A: His hands was amputated.

(TSN, July 28, 1988, p. 2)"[10]

Raquel Marcos –

"Q: Do you know the accused in this case, Ramonito Gelotin?

A: Yes, sir.

Q: If this Ramonito Gelotin is in Court, please point to him?

A: (witness pointing to a man seated within the courtroom who when asked to identify himself answered his name as Ramonito Gelotin.)

Q: For how long have you known the accused?

A: I have seen him for two times. The first time I saw him was when he passed by our house, and the second time when he took my father.

COURT

Q: Why do you know ...

Why do you remember him very well when he passed by your house?

A: Because of his hands, his moustache and his hair, and he was the one who took my father.

Q: What did you notice from his hands?

A: His hands (sic) was amputated.

(TSN, July 28, 1988, p. 2)"[11]

Fe Monton Vda. de Marcos –

"Q: And when they arrived in your house on that afternoon of August 16, 1985, what did they do in your house?

A: They looked for my husband.

Q: By the way, what time was that more or less?

A: 5:30 in the afternoon.

Q: You said when they arrived they looked for your husband, where was your husband at that time?

A: He was plowing the field.

Q: And what did you answer to them when they looked for your husband?

A: They told me to let my husband go home because they need my husband.

Q: And what did you do?

A: I let Raquel inform my husband from the field.

Q: And did you come to know why they were looking for your husband?

A: I do not know sir.

Q: Was your husband fetched by your son, Raquel?

A: Yes sir.

Q: And when your husband arrived at your house, what did the accused particularly Ramonito Gelotin tell, would you tell this Honorable Court if what did they tell to your husband (sic)?

A: They let my husband go to his companion whom I do not know (sic).

Q: And after that, what else happened?

A: Then they let my husband lie facing to the ground and poked the gun to my husband (sic).

Q: Do you know that person who asked your husband to lie facing the ground?

A: I do not know him sir, but he was the companion of the accused.

Q: That person who was holding the gun, do you know him?

A: I do not know him sir.

Q: And who told your husband to lie facing on the ground?

A: His other companion.

Q: At the time that your husband was being asked to lie facing the ground, what did the accused Ramon Gelotin do?

A: He let his companion go upstairs to our house and search if we have a gun inside our house.

Q: Was there a gun that was taken from your house?

A: None, sir.

Q: After your husband was told to lie facing the ground, what else did they do to your husband?

A: They tied the hands of my husband.

Q: Where did they tie the hands of your husband, on his lap or on his back?

A: At the back.

Q: And what did they use in tying the hands of your husband (sic)?

A: A rope.

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Q: And after your husband was tied on his hand and he was asked to stand up, what else did they do to your husband?

A: I asked them what wrong we have done, and why is it that they are doing that to my husband and they answered that because we informed the military (sic).

COURT

Q: Who told you?

A: Ramonito Gelotin alias "Kummander Putol" (sic)

FISCAL CASTILLO

Q: What did your husband tell them if anything?

A: I cannot tell sir because they are conversing while I was far from them and I saw that my husband was already crying.

Q: And how far were you from your husband at that time?

A: From the witness stand to the first bench within the courtroom which is about five meters.

Q: This place where your husband was tied, how far was that place to your house?

A: Just in our yard.

Q: And at that time that your husband was being tied, where were the other members of your family?

A: We were sitting side by side.

Q: Could you tell the Honorable Court that Raquel, David, and you were watching what was being done to your husband?

A: Yes sir.

x x x x x

Q: You said that Ramonito Gelotin told you that because they informed the military, after that what did they do to your husband (sic)?

A: They brought my husband.

Q: Do you know where was your husband brought?

A: They brought my husband and I saw that they were going to the mountain.

(TSN, June 16, 1987, pp. 3-6)"[12]

(pp. 16-19, Appellee's Brief)

Raquel Marcos

COURT

Q: Those five persons were armed?

A: Yes, Your Honor.

Q: What kind of firearm were they carrying?

A: Two carbine, two "pugakan" and one shotgun.

Q: Who were in possession of those carbines.

A: Baludoy and Ramon Gelotin.

Q: How about the shotgun?

A: I do not know the identity of the two persons.

Q: And when these persons hogtied your father, what happened next?

A: They kept on hitting my father with the bat of the gun (sic)?

Q: On what part of the body was your father hit?

A: At his back . . . and they were pushing my father while walking.

FISCAL BARSAGA

Q: You said that these persons took away your father, where are they bound for . . . bound if you know?

A: Going to the interior part of Barag.

Q: From the time that your father disappeared, did you see him again?

A: No more, sir.

(TSN, July 28, 1988, pp. 4-5)"[13]

(p. 20, Appellee's Brief)

Verily, the foregoing evidence for the prosecution clearly established, without question, the identity and guilt of herein accused-appellant for as the Solicitor General put it very well, "(e)vidently, the complainant witnesses had enough time to study the faces of their beloved Romeo Marcos' captors. The incident being a very harrowing and traumatic experience, it is beyond all question that the faces of the abductors left a very lasting imprimatur on the recesses of the complainants' memory,"[14] hence, "the complaining witnesses Fe Monton Vda. de Marcos and Raquel Marcos could not have erred in identifying the appellant as one of the kidnappers."[15]

Necessarily then, the trial court correctly arrived at a judgment of conviction when it brushed aside, as unworthy in evidence, appellant's alibi that he was in another island at the time of the kidnapping.[16] It need only be stressed that in this jurisdiction, the unbending rule to which our Courts have long and faithfully adhered to is that alibi cannot prevail in the light of the positive identification of the accused.

As to that part of the decision appealed from sentencing appellant to pay damages in the sum of P30,000.00 to the heirs of the late Romeo Marcos, the same should be understood as damages for the Kidnapping and not for the victim's death for it is to be noted that the crime with which appellant was charged, and later convicted of, at the trial court was Kidnapping only.[17]

ACCORDINGLY, the decision appealed from, as clarified above, is hereby **AFFIRMED**, with costs against accused-appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

[1] Hon. Manuel C. Genova, Presiding Judge.

[2] Rollo, p. 17.

[3] Rollo, p. 11.

[4] People's Brief, p. 2.

[5] Ibid., pp. 3-6.

[6] TSN, July 28, 1988; p. 10; June 16, 1987, p. 15.

[7] TSN, June 16, 1987, p. 2; tsn, July 28, 1988, p. 2.

[8] TSN, July 28, 1988, p. 2.

[9] People's Brief, p. 14.

[10] Ibid., p. 9.

[11] Ibid., p. 15.

[12] Ibid., pp. 16-19.

[13] Ibid., p. 20.

[14] Ibid., p. 21.

[15] Ibid.

[16] Rollo, p. 28.

[17] People vs. Bautista, 106 Phil. 39.

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