

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO TAZO Y YABUT AND POMPEYO VARGAS Y DIALOGO, ACCUSED-APPELLANTS.

G.R. Nos. 118099-100, August 22, 1996

Ponente: MELO, J.

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MELO, J.:

This has reference to an appeal from the Joint Decision dated June 22, 1994 of the Regional Trial Court of the National Capital Judicial Region (Branch 9, Manila), the Honorable Edilberto G. Sandoval presiding, in its Criminal Cases No. 93-114588 and 93-114589, convicting the two herein accused of kidnapping and serious illegal detention, and imposing on each of them the penalty of reclusion perpetua, aside from ordering them to indemnify the offended parties the sum of P5,000 as actual damages and P30,000 as moral damages (p. 32, Rollo).

Dissatisfied therewith, accused-appellants are now before us pleading for acquittal on the ground of reasonable doubt.

An evaluation and review of the evidence show that the following findings of fact of the trial court, as quoted with page references to the transcript of stenographic notes supplied, in the brief submitted by the Office of Solicitor General, are supported by the evidence:

x x x private complainant Marilyn Bobo y Angeles, a thirty-year old housewife, was, at about 6:30 a.m. on January 5, 1994, with her seven-year old daughter Reynalyn Boco accompanying the latter to her school (TSN, July 30, 1993, pp. 3, 7-8). They were walking along Aragon St., Sampaloc, Manila on the way to Juan Sumulong Elementary School when a black car so heavily tinted stopped near them, and two men with cover on their faces alighted, poked their guns on them and forced them to board the car (Ibid.). Inside the car she saw two more men, and daughter and mother were thereafter blindfolded (Ibid., p. 10). She identified the two other men as accused Ricardo Tazo and Pompeyo Vargas (Ibid.). After travelling for thirty (30) minutes, one of the four (4) men asked Marilyn if she knew the place and when she answered she did not because her eyes were covered, she was informed that they were at Lagro and was ordered to make a telephone call to her husband, instructing her to tell her husband that the latter should come across with P10,000.00 for her and her daughter's release (Ibid., pp. 10-11). She alighted from the car and after the telephone talk with her husband, with the instruction to deliver the money to Isetann, Claro M. Recto, Manila, the car continued, this time without the cover on their eyes (Ibid., pp. 12-13). She realized they were in Caloocan City where they were brought inside a house which looked like a printing press (Ibid., pp. 13-14). Inside the same she saw three (3) more children one wearing a school uniform with stuffs in their mouths x x x and all tied with hands back x x x (Ibid.). Marilyn was separated from the children and was brought outside the house and instructed to make another telephone call to her husband (Ibid., p. 15). She got to know the place was 4th Avenue, Grace park, Caloocan City (Ibid.). Upon her return to the house, her hands were again tied by the companion of the accused, while the two accused acted as look-outs watching the detained persons (Ibid., p. 16).

Thereafter, one of the accused started interviewing her daughter and when she refused to answer, accused

Ricardo Tazo slapped her (Ibid.). They then turned on her (Marilyn) instructing her to undress claiming she might have money hidden in her body (Ibid., p. 17). Then she and her daughter began crying, and the accused tried to pacify them offering them food but they refused to eat (Ibid.). She sensed that they were drinking inside the printing press, and later on they began maltreating her daughter and out of pity she revealed the information that she was carrying P5,000.00 at that time (Ibid., p. 18). To put an end to the perilous situation, she gave the money to accused Pompeyo Vargas (Ibid.). They were then told to prepare themselves as they would be brought to Sta. Cruz, Manila near Isetann Department Store (Ibid., p. 19). The two (2) accused with Pompeyo Vargas on the wheel using an owner-type jeep brought daughter and mother [to] Sta. Cruz and released them (Ibid., pp. 19-20). That was about 3 p.m. [when] they went home and [then] reported the matter to the police (Ibid., p. 20). The place was thereafter raided during which the watch of Reynalyn was recovered. The three (3) children left when they boarded the owner-type jeep were no longer there.

(pp. 2-4, Appellee's Brief, ff. p. 108, Rollo.)

Accused-appellants press the bizarre and purely self-serving argument that their innocence is proved by their having pleaded "not guilty" to the charges filed against them and, after conviction, their having interposed an appeal. This argument deserves nothing less than peremptory rejection for according it validity would result in the acquittal of all accused who simply enter a not guilty plea, and following conviction, appeal to a higher court.

Neither does the other defense of alibi put forth by accused-appellants serve their cause. Accused-appellant Ricardo Tazo insists that he had just returned from his "pamamasada" (trips) and had breakfast with his neighbor Santiago Lim at 4th Avenue, Grace Park, Caloocan City, at about the time the kidnapping took place. For his part, accused-appellant Pompeyo Vargas, a truck helper at the Philippine Tiles Corporation in Caloocan City, asserts that he reported for work on the day of the kidnapping.

Alibi is one of the weakest defenses that can be resorted to by an accused not only because it is inherently weak and unreliable but also because it is easy of fabrication (People vs. Calope, 229 SCRA 413 [1994]) without much opportunity at checking or rebutting it (People vs. Matildo, 230 SCRA 635 [1994]). It cannot prevail over the positive identification of the accused by an eyewitness who had no improper motive to falsely testify (People vs. Javier, 229 SCRA 638 [1994]). Accused were positively identified by Marilyn Boco as among the persons who kidnapped her and her daughter. Her testimony was positive and unequivocal, and was corroborated by Reynalyn Boco, the other victim. Marilyn could not have been mistaken in her identification of the accused for she was the victim and was with the kidnappers for several hours. The identity of her kidnappers must have been deeply and indelibly etched in her memory by her proximity to them and the length of time she was detained. Moreover, the record is devoid of any showing that she was impelled by any evil motive to make any false accusation. Accused-appellants were total strangers to her and she came to know them only during her illegal detention. There was, therefore, no possibility of any prior animosity between her and accused-appellants.

Furthermore, for an alibi to prosper, the requirements of time and place must be strictly met (People vs. Dela Cruz, 229 SCRA 754 [1994]), meaning that the accused must show that it was physically impossible for him to have been at the scene of the crime at the time of the commission (People vs. Barte, 230 SCRA 401 [1994]).

In the case at bar, there is no showing that it was physically impossible for accused-appellants to have been present at the scene of the crime at the time of commission thereof. The victims were detained at a printing press in Caloocan City. By their own testimony, accused-appellants were in Caloocan City at the time of the commission of the crime. Withal, their having been present at the scene of the crime at the time of the commission thereof is not physically foreclosed.

WHEREFORE, the decision appealed from is hereby **AFFIRMED**, with the clarification that the actual and moral damages assessed against accused-appellants shall be solidary in nature. Costs against accused-appellants.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

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