

SECOND DIVISION

[G.R. No. 229658, August 28, 2019]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ELMAR SANTOS Y DEL CARMEN, ACCUSED-APPELLANT.**

DECISION

LAZARO-JAVIER, J.:

The Case

This is an appeal from the Decision^[1] dated April 8, 2016 of the Court of Appeals in CA-G.R. CR HC No. 07263 entitled "*People of the Philippines v. Elmar Santos y Del Carmen*," affirming appellant's conviction for kidnapping for ransom.

The Charge

Appellant Elmar Santos y Del Carmen was charged with violation of Article 267 of the Revised Penal Code under the following Information:

That on or about August 18, 2009, in the province of Rosario, Cavite, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, did then and there willfully, unlawfully and feloniously, kidnap and deprive ROMAN PUGEDA y Huerta of his liberty against his will, by means of threat and intimidation, with the use of firearms, by blocking and taking at gunpoint the Mitsubishi Adventure van with Plate No. WNR-849 he was driving, then bring (sic) him to different places somewhere in Tagaytay City, San Pedro, Laguna, Sariaya, Quezon and then upon reaching Candelaria, Quezon, by commandeering two (2) more vehicles, a black Toyota Fortuner with Plate No. ZDK-117 and a Lucida Van with Plate No. XGB-228, the occupants of which were also taken. That the abduction of (of) the said victim was for the purpose of extorting ransom, as in fact the, accused and his cohorts demanded the amount of ONE MILLION PESOS and two (2) armalite rifles and took his personal belongings consisting of wristwatch, ring, cellular phone and wallet containing money in exchange for his liberty and that the reduced amount of ONE HUNDRED THOUSAND PESOS (Php100,000.00) was actually paid as ransom money all to the damage and prejudice of said victim.

CONTRARY TO LAW.^[2]

Proceedings Before The Regional Trial Court

The case was raffled to the Regional Trial Court (RTC), Branch 16, Cavite City.

On arraignment, appellant pleaded not guilty.^[3] Trial ensued.

Private complainant Engr. Roman Pugeda, Police Investigator PO2 Jessie Avila of the Imus Municipal Police Station, and PACER member SPO1 Franklin Dumalaog testified for the prosecution while appellant Elmar Santos testified alone for the defense.

The Prosecution's Version

On August 18, 2009, around 11 o'clock in the evening, Engr. Roman Pugeda was on his way home from a friend's wake in Tanza, Cavite. While driving, Pugeda noticed a group of four (4) armed men standing at the corner of Tejero and Cuevas Subdivision. The group blocked his way and at gunpoint, ordered him to open his car. When he opened the door, one of the men commanded him to move to the passenger seat, then, he was again made to move to the back seat. One of the armed men took over in driving Pugeda's car. At the back, he sat in between two (2) of the kidnappers. Another one sat at the front passenger seat.^[4]

They continued driving and when they reached Malabon, Rosario, Cavite, the man sitting on his left side blindfolded Pugeda and continued to drive off. After several hours, they stopped and the men told Pugeda he would be released only upon payment of a P1,000,000.00 ransom and if he could provide them with a gun.^[5] Pugeda told them he did not have that kind of money and offered to give P50,000.00 instead. The kidnappers got irritated and one hit Pugeda's head, exclaiming "*ganyan na lang ba ang halaga ng buhay mo?*"^[6] The kidnappers then inquired where Pugeda's parents, siblings, and wife worked. The men forcibly took his wristwatch, ring, and wallet containing his company ID, some money, and ATM card.^[7]

The group stopped in one place and the kidnappers asked Pugeda for the PIN of his ATM card. They called someone to verify his account. That other person found that Pugeda's account was empty.^[8] They drove for around two (2) hours more. When they stopped, he was instructed to remove his blindfold and bow his head. The sun was starting to rise by then.^[9]

Pugeda could hear the kidnappers talking about taking another vehicle. At that point, the kidnappers saw, and started to chase another car. As soon as they caught up with the other car, a black Toyota Fortuner, three (3) of the kidnappers alighted from the Mitsubishi Adventure – the driver and the man sitting on his left side and the one occupying the passenger seat. He was left in his car with the man seated on his right side. They ordered the driver of the Toyota Fortuner to go down, after which, one of the kidnappers took the driver seat. Pugeda was then transferred to the Toyota Fortuner and they left his (Pugeda's) car behind. Onboard the Toyota Fortuner were a child, a woman, and a driver. The child and the woman were made

to sit in the passenger seat while Pugeda and the driver of the Fortuner were made to lie down at the back of the vehicle.^[10]

While in transit, the kidnappers informed Pugeda they had reduced their ransom demand to P100,000.00. The kidnappers then turned to the woman and asked what were the jobs of the child's parents. The woman answered that the family owned a water station and the child's father was a doctor from Bulacan. The kidnappers asked for the child's home number and immediately called the child's family to demand for ransom.^[11] As for Pugeda, he was left with no choice but to agree to the P100,000.00 ransom. Pugeda asked for a cellphone so he could call his wife. Over the phone, Pugeda instructed his wife to deposit P100,000.00 to his ATM account. Pugeda noticed they were traversing the road leading to Maragondon.^[12]

Upon reaching Quezon Province, one of the kidnappers informed him that his wife had deposited P30,000.00 to his ATM account. Pugeda heard the group talking about a woman who had his ATM in her possession. Apparently, this woman was the one monitoring the deposit. In the afternoon, Pugeda's wife called the group to inform them she had completed the P100,000.00 deposit. They had just stopped at a terminal in Lucena and had ordered food from Jollibee.^[13]

The woman in possession of Pugeda's ATM card withdrew only P20,000.00 from his account. The bank informed the woman that this was the maximum withdrawal amount. The kidnappers suspected that Pugeda's wife may have alerted the bank to enforce this limit. So the kidnappers threatened Pugeda that they would have to stay inside the car for five days until the whole amount was withdrawn.^[14]

They were still on the road when Pugeda heard that the child's parents agreed to pay ransom money so the kidnappers decided to go back to Cavite. They were far from Lucena by then and were probably traversing the zigzag "*bitukang manok*" road going to Bicol. On their way back to Cavite, the kidnappers took alternate routes to avoid the checkpoints. There was one (1) checkpoint, however, which the kidnappers could not avoid. So one of them just opened the car window and when the officer manning the checkpoint saw the woman and child, they let the Toyota Fortuner pass.^[15]

Suspicious that the police had already been alerted and taken notice of the Toyota Fortuner, the kidnappers decided to flag down yet another vehicle. This time, it was Toyota van driven by a woman. It was around noon time of August 19, 2009. Using the Toyota Fortuner, the kidnappers blocked the van, then transferred there with the child and the woman (yaya) and left Pugeda and the driver of the Fortuner at the back of the latter.^[16]

Pugeda and the driver immediately drove back to Noveleta onboard the Toyota Fortuner. They went to the house of the child where Pugeda was able to talk to a caretaker and the child's aunt. From there, Pugeda texted his wife. Pugeda learned that his wife was then at the Imus Police Station to check on his car which had been recovered by the Imus Police.^[17]

Pugeda went to the Imus Police Station to give his statement. There, he saw two (2) of the four (4) kidnappers – the driver who was identified as Jun Santos and the one

(1) sitting on his left side, identified as Roger Santos. Pugeda learned that appellant had been arrested at the Cavite Medical Center while Jun Santos and Roger Santos were arrested and detained at the Imus Police Station because they held some people hostage.^[18]

PO2 Avila testified that he was the investigator on duty at the Imus Municipal Police Station on August 19, 2009, around 10:30 in the morning. Then and there, PO2 Avila personally received a report from a certain Huerta Pugeda about the disappearance of his brother Roman Pugeda, who last went to Tanza, Cavite onboard his Adventure car bearing Plate No. WNR-849 on August 18, 2009 but never came home. PO2 Avila entered in the police blotter the alleged disappearance of Roman Pugeda.^[19] On the same day, a report came in from Police Precinct No. 4 in Bucandala that Roman Pugeda's Adventure car was recovered in a place within its jurisdiction. The vehicle was brought to the Imus Municipal Police Station and was released to Roman Pugeda himself on August 20, 2009 around 5 o'clock in the afternoon.^[20]

PO2 Avila clarified that Huerta Pugeda presented his driver's license at the police station but did not submit a sworn statement regarding his brother's disappearance.^[21]

The prosecution and the defense stipulated on the supposed testimony of SPO1 Franklin Dumalaog, a PACER operative, viz:^[22]

When this case was called for the continuation of prosecution evidence SPO1 Franklin Dumalaog took the witness stand. After oath and offer made, the prosecution proposed the following for stipulations which the accused admitted:

a) that SPO1 Franklin Dumalaog is a member of PACER detailed at Cavite City known as Police Anti-Crime and Emergency Response;

b) that on August 20, 2009, they received information from Ellen Grace Cruz one of the victims, that one of the accused a ceratin a.k.a. "Ricky" one of the kidnappers was at the hospital and in view of said information they proceeded to the hospital and took into custody the accused Elmar Santos;

c) the existence and due execution of the Affidavit of Arrest as well as the signatures of the arresting officers;

d) that the said witness identified accused Elmar Santos.

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The prosecution made its formal offer of evidence^[23] on January 14, 2013 which

the trial court admitted under Order dated February 11, 2013.^[24]

The Defense's Version

As sole witness for the defense, appellant testified that he was being treated for a gunshot wound at the Cavite Medical Center when police officers arrived on August 21, 2009 to arrest him for his alleged involvement in kidnapping. Due to his injury, he was not immediately taken out of the Cavite Medical Center. After a week, however, he was physically transferred to the Philippine National Police General Hospital where he continued treatment for his gunshot wound. One month thereafter, he was detained at the PNP Custodian Center.^[25]

Appellant denied knowledge, let alone, participation in the alleged kidnapping for ransom of Roman Pugeda. He, however, did not file a case against the police officers who arrested him simply because he did not know how to go about it and because he was still recovering from his injury.^[26]

Appellant explained that on August 20, 2009, he sustained a gunshot wound after he accidentally shot himself while holding his uncle's gun. His uncle Roperto Santos took him to Cavite City to work in the construction site where he (Roperto) used to work. After he accidentally shot himself, he was brought to the Vista Clinic located in Noveleta, Cavite. He had to be brought all the way there although there were medical clinics in Cavite City, where the accident took place, because his uncle's gun did not have a corresponding license. When asked where his uncle Roperto was, appellant said that the latter was in hiding due to pending cases against him for robbery and hold-up, murder, and others, none of which, however, happened on August 18 or 19, 2009.^[27]

Appellant maintained that he was at home in Bulacan on August 18, 2009. The only person who could attest to this was his father but he already died. His brother Roger Santos was detained at the Malolos Provincial Jail for a pending homicide case. Aside from the present case filed by Roman Pugeda against him, he had another pending case for kidnapping for ransom filed by a certain Eileen Victa Cruz.^[28]

Appellant did not make a formal offer of evidence.

The Trial Court's Ruling

By Decision^[29] dated December 12, 2014, the trial court found appellant guilty of kidnapping for ransom, *viz*:

WHEREFORE, in view of the foregoing, the accused is found GUILTY beyond reasonable doubt of the crime of "Kidnapping for Ransom" defined and penalized under Article 267 of the Revised Penal Code. Thus, the accused is hereby sentenced to suffer the penalty of Reclusion Perpetua without eligibility for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.