

THIRD DIVISION

[G.R. No. 210434, December 05, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
CHRISTOPHER ELIZALDE Y SUMAGDON AND ALLAN PLACENTE Y
BUSIO, ACCUSED-APPELLANTS.**

DECISION

PERALTA, J.:

Before the Court is an appeal from the Decision^[1] dated May 31, 2013 of the Court Appeals (CA) in CA-G.R. CR-HC No. 05100, which affirmed the Decision^[2] dated March 4, 2011 of the Regional Trial Court (RTC), Branch 195, Parañaque City, in Criminal Case No. 05-0669 for kidnapping for ransom with homicide.

The antecedent facts are as follows:

On June 3, 2005, an Information^[3] was filed against accused-appellants Christopher Elizalde y Sumagdon and Allan Placente y Busio, together with their co-accused Arcel Lucban y Lindero, Allan Dela Peña, Alden Diaz, and alias Erwin, charging them with the special complex crime of kidnapping for ransom with homicide as defined and penalized under Article 267 of the Revised Penal Code (RPC) for detaining and depriving, with the use of firearms and threats, Letty Tan y Co of her liberty and against her will, for the purpose of extorting a P20,000,000.00 ransom as a condition for her release, by shoving her inside a red Toyota Lite Ace van, then later transferring her to a jeepney where she was eventually found dead with gunshot wounds after an armed encounter with police operatives. The accusatory portion of said Information reads:

That on or about 6:30 in the evening of June 17, 2003 on Dr. A. Santos St., Sucat Road, Paranaque City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually aiding and abetting one another, with the use of firearms, employing force, threat, and intimidation did then and there, wilfully, unlawfully, and feloniously take, carry away, kidnap and deprive Letty Tan y Co of her liberty against her will by shoving her inside a red Toyota Lite Ace van with plate number ULK 341 at gunpoint and thereafter transferred her to a Mazda XLT jitney bearing plate number CRV-299 where said victim was later found with gunshot wounds which caused her death engaging in armed encounter with police operatives in Tarlac City. The abduction of Letty Tan y Co was for the purpose of extorting ransom from her family as in fact a demand for ransom was made as a condition for her release amounting to Twenty Million Pesos (P20,000,000.00) to the damage and prejudice of the heirs of said Letty Tan y Co in whatever amount may be awarded them under the provisions of the New Civil Code.

Contrary to law.^[4]

Only appellants Elizalde and Placente as well as Dela Pena were arrested while the rest remain at-large. Upon arraignment, they all pleaded not guilty to the offense charged.^[5] Thereafter, during trial, the prosecution presented the testimonies of the victim's husband, Antonio Tan, an eyewitness, Mario Ramos, and several police officers, namely, PO3 Nestor Acebuche, Police Inspector Joselito Nelmda, Dr. Ronaldo B. Mendez, Kagawad Honorio Ramos Lundang, and SPO2 Miguel Acosta.^[6]

Antonio testified that at around 6:30 p.m. on June 17, 2003, while he was closing their concrete products store, Nysan Concrete Products, along Dr. A. Santos Avenue, Sucat, Parañaque City, Letty went inside their vehicle that was parked at the right side of the road facing their store. Suddenly, a red Toyota Lite Ace van with plate number ULK 341 arrived. He then saw about seven (7) armed men alight therefrom, three (3) of which pointed their guns at him and told him not to move, while two (2) of the other four (4) dragged Letty into their van. Thereafter, they sped away. Antonio immediately called his children and his brother, Nick. In a series of telephone calls to the store's phone, the kidnappers told them not to report the matter to the authorities and to be ready with P20M the following day. Nevertheless, they called the Police Anti-Crime and Emergency Response (PACER) unit of the PNP who met them at the Mandarin Oriental Hotel at around 9:00 p.m. that same day. Through Antonio's cellular phone, they would bargain with the kidnappers, telling them that they did not have the amount, to which the kidnappers replied that they will not see Letty again without it. At noon of the next day, the PACER team informed Antonio and his family about a shootout in Tarlac where three (3) persons were killed. They proceeded to the Tarlac Provincial Hall where they saw Letty's lifeless body with a gunshot below her chin. Antonio identified the other bodies as those who kidnapped his wife and later learned that the others, appellants included, were able to escape.^[7]

Sometime in April 2004, however, Antonio saw a news report on TV which showed a picture of a wounded person involved in a shooting incident in Navotas. He instantly recognized said person as appellant Elizalde and called a PACER agent to inform him thereof. Consequently, together with the PACER team, he went to V. Luna Hospital where Elizalde was confined and identified him as one of the men who dragged his wife into the red van.^[8]

A few years after, when appellant Placente was arrested in 2007, Antonio identified him as one of the armed persons who poked a gun at him while the others dragged his wife. This was through the cartographic sketches that the PACER team drew at the time of the incident. Antonio also identified Placente, who was apparently also involved in the April 2004 kidnapping, when he was shown several photos of suspects from PACER's gallery. According to Antonio, he easily recognized appellants for they were all not wearing masks at the time of the incident.^[9]

Prosecution witness P/Insp. Nelmda, who had been stationed at the Intelligence Unit of the Police Non-Commissioned Office (PNCO) Tarlac City for sixteen (16) years, likewise testified that in the morning of June 18, 2003, he received information that a stolen red Toyota Light Ace van would be passing their area. Two (2) police cars were dispatched. Aboard one (1) of the two (2) cars, Nelmda and his team tailed the red van after seeing it pass through their control point. Upon seeing both police cars, the passengers of the red van alighted and fired at Nelmda and

the other police officers. A shootout ensued during which a colorless jeepney passed by and likewise fired at the police. Nelmidia recalled being shot at the buttocks by appellant Elizalde, who was riding the jeepney. He further recalled that after the shootout, the jeepney passengers eventually dumped said vehicle near a bridge along Sitio Barbon, Tarlac, wherein he saw Letty's lifeless body.^[10]

P/Insp. Nelmidia's testimony was corroborated by Mario Ramos who narrated that at around noon on June 18, 2003, while he was walking towards Sitio Barbon with his friend to go fishing, he saw a colorless jeepney crisscrossing along the road. After passing through fifteen (15) meters from where they were standing, the jeepney stopped. He then heard three (3) gunshots from inside it. Thereafter, he saw four (4) armed persons alight therefrom to head towards the irrigation area. He recalled appellant Elizalde being the last person to alight the jeepney. When the door of the vehicle opened, he saw the dead body of a fat, fair-skinned Chinese woman with a bullet hole in her head, her clothes ripped apart. When the police officers arrived at the scene, Ramos and his friend left.^[11]

The defense countered by presenting the testimonies of appellants, Technical Sergeant Ortiliano, who prepared appellant Elizalde's clinical records, and a certain Nilo Avelina.^[12]

Appellant Elizalde denied the charges against him, claiming that he did not know Antonio, Letty or any of his co-accused.^[13] According to him, he went to Manila for the first time on April 15, 2003 from Samar, where he was working in a bakery, to look for his mother. He lived with his cousin in Sta. Cruz, Manila. On the day of the alleged kidnapping on June 17, 2003, Elizalde testified that he was in Blumentritt, Manila, selling boiled peanuts in a pushcart from 7:00a.m. to 3:00p.m. Afterwards, he went straight home for fear of getting lost being in Manila for the first time.^[14]

Almost a year thereafter, on April 1, 2004, Elizalde narrated that another one of his cousins visited him at home and promised that he would help him find a job. They then boarded a small red vehicle with three (3) other persons he did not know. Elizalde asked his cousin who said persons were and where they were going but his cousin would not tell him. After an hour, he was surprised to hear gunshots. He was hit at the right portion of his chest below the naval and thereafter lost consciousness. When he woke up, he was already at the V. Luna Hospital and learned that he was the only one who had survived. He recounted that after a week thereat, several police officers came with a man in handcuffs he later came to know as Nilo Avelina. According to Elizalde, the police officers forced Avelina to point at him as one of the perpetrators in a kidnapping case in Quezon City, even if Avelina did not know who he was. A week after, a different set of police officers came and forced him to admit to being involved in said case, which he succumbed to even if he had no knowledge thereon for fear of what said officers might do to him. The Quezon City RTC eventually convicted Elizalde and Avelina for kidnapping. Meanwhile, several police officers came to inform him that he was going to be brought to Tarlac to face Frustrated Murder and Carnapping charges against him. He was convicted by the Tarlac RTC of Frustrated Murder, but was subsequently acquitted on appeal. Thereafter, he was again informed of another case, this time, on the instant Kidnapping for Ransom with Homicide accusation.^[15]

During trial, the defense also presented Avelina to corroborate appellant Elizalde's testimony as to the latter's claim that the former pointed to him as co-kidnapper in

the Q.C. case even if Avelina did not know who he was and merely because he was told that he would be freed if he did as he was told.^[16]

In addition, appellant Placente next testified and also denied knowing any of his co-accused as well as the accusations against him. According to Placente, he came to Manila in 1982 from Samar. On the alleged day and time of the kidnapping, he was merely working, driving a tricycle owned by his neighbor on his way to the market in Pasig City. His job normally ends at 8:00 p.m., and on that day, he claimed that he did not go anywhere other than his daily route. Thereafter, he parked the tricycle in front of his neighbor's house and returned the key, as he normally did. In August 2003, he began driving a taxi. In 2005, however, he went back to Samar with his pregnant wife and his son so that his wife can give birth there. He worked as a laborer and a farmer until he was arrested on May 9, 2007.^[17]

On March 4, 2011, the RTC found appellants guilty beyond reasonable doubt of the special complex crime of kidnapping for ransom with homicide and rendered its Decision, the dispositive portion of which reads:

WHEREFORE, this Court finds both accused CHRISTOPHER ELIZALDE Y SUMAGDON AND ALLAN BUSIO PLACENTE, GUILTY BEYOND REASONABLE DOUBT of the special complex crime of KIDNAPPING FOR RANSOM WITH HOMICIDE and hereby sentences them to suffer the penalty of Reclusion Perpetua without eligibility for parole.

Accused Elizalde and Placente are likewise ordered to pay the heirs of Letty Tan y Co the following: P75,000.00 as civil indemnity; P500,000.00 as moral damages; P25,000.00 as temperate damages; and P100,000.00 as exemplary damages.

As regards accused ALLAN DELA PEÑA, for failure of the prosecution to prove his guilt beyond reasonable doubt, he is hereby ordered ACQUITTED. The City Jail Warden of Parañaque City is hereby ordered to release said accused from his custody unless he is being held for some other legal cause/s.

With respect to accused Arcel Lucban y Lindero @ Nonoy, Alden Diaz and one Alias Erwin, the instant case is hereby ordered ARCHIVED. Let Alias Warrants of Arrest be issued against them.

SO ORDERED.^[18]

The RTC gave credence not only to the fact that the prosecution witnesses testified in a positive, categorical, unequivocal and straightforward manner, but also to the inherent weakness of appellants' defenses of denial and alibi. According to the trial court, the prosecution duly established all the following elements of the crime of kidnapping for ransom: (a) intent on the part of the accused to deprive the victim of his liberty; (b) actual deprivation of the victim of his liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim.^[19] Antonio, in positively identifying the appellants, convincingly testified on the events that transpired on the day of the alleged incident. Said testimony was even strengthened by the testimonies of the other prosecution witnesses, especially in light of the fact that there exists no showing that said witnesses were impelled with improper and ill motive.^[20]

Aside from this, the trial court further noted that the appellants' defense of denial was not even corroborated by any credible witness. Elizalde's testimony that he was just selling peanuts, as well as Placente's testimony that he was merely driving his neighbor's tricycle, are self-serving statements unsupported by any substantiating evidence. Elizalde's cousin or Placente's neighbor could have been presented to corroborate their claims. The defense, however, failed to do so. Moreover, Avelina's testimony that he was forced by policemen to point at appellant Elizalde as one of his cohorts in the kidnapping case in Quezon City, even if true, has no bearing in this case simply because it was an entirely different case.^[21] Thus, in view of the clarity of the prosecution's version of events, the trial court found the presence of conspiracy shown by Placente's act of poking a gun at Antonio, while Elizalde and their cohorts dragged Letty into the van.^[22]

On appeal, the CA affirmed the RTC Decision, but reduced the moral damages to P100,000.00. The CA ruled that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great weight and respect. On the one hand, the prosecution witnesses unerringly established the crime in a clear and candid manner, positively identifying appellants as Letty's abductors. The argument that Antonio's testimony contains inconsistencies is inconsequential for they merely refer to minor details which actually serves to strengthen rather than weaken his credibility as they erase suspicion of being rehearsed.^[23] On the other hand, the appellate court ruled that appellants' defense cannot prosper having failed to prove that they were at some other place at the time when the crime was committed and that it was physically impossible for them to be at the *locus criminis* at the time.^[24] Appellants merely alleged their bare alibis of selling peanuts and driving a tricycle without even attempting to present any credible witness that could corroborate the same.^[25]

In this regard, the CA agreed with the RTC as to the existence of conspiracy among appellants and their cohorts. Their community of criminal design could be inferred from their arrival at Antonio's store already armed with weapons, Placente and companions pointing their guns at Antonio, while Elizalde and companions dragged Letty into their van. Moreover, they demanded P20M for Letty's freedom which never materialized as she was killed during captivity by the kidnappers before evading arrest. Thus, having been proven that they each took part in the accomplishment of their common criminal design, appellants are equally liable for the complex crime of kidnapping for ransom with homicide.^[26]

Consequently, appellant filed a Notice of Appeal^[27] on June 25, 2013. Thereafter, in a Resolution^[28] dated February 26, 2014, the Court notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties, however, manifested that they are adopting their respective briefs filed before the CA as their supplemental briefs, their issues and arguments having been thoroughly discussed therein. Thus, the case was deemed submitted for decision.

In their Brief, appellants essentially assigned the following error:

I.

THE COURT OF APPEALS ERRED IN FINDING ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED BY