722 Phil. 301

FIRST DIVISION

[G.R. No. 194582, November 27, 2013]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. ALLAN NIEGAS Y FALLORE, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal[1] from the Decision[2] of the Court of Appeals, which affirmed *in toto* the Decision[3] of the Regional Trial Court (RTC), Branch 209, of Mandaluyong City finding accused-appellant Allan Niegas *y* Fallore guilty beyond reasonable doubt of the crime of kidnapping for ransom.

The Information dated February 17, 2003 charging accused-appellant Niegas states:

> That on or about the 9th day of December 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one (1) alias Obet, one (1) alias Jun and three (3) John Does whose true identities and whereabouts are unknown, and mutually helping one another, did then and there willfully, unlawfully and feloniously kidnap, detain or deprive of their liberty JAMES AUGUSTO T. MANIKIS and MILA ROSE N. FERNANDEZ for the purpose of extorting ransom from Augusto Alejandro Manikis, Jr., the father of James Augusto T. Manikis.[4]

The prosecution's version of the events, based on witnesses' testimonies, can be summed as follows:

Mila Rose Fernandez (Fernandez) worked for Augusto Manikis, Jr. (Augusto) as the nanny of his son, James Augusto Manikis (James). She testified that on December 9, 2002, at around 7:30 in the morning, she took James, who was then crying, outside the house. She saw Augusto's driver, accused-appellant Niegas, who offered to take them to Jollibee at the Maysilo Circle to pacify the child.[5] They used Augusto's car, a brown Toyota Revo with plate number WLK 755.[6]

From Jollibee, Fernandez thought that accused-appellant Niegas was driving them home. However, accused-appellant Niegas kept on driving and only stopped to allow an unknown man to board the vehicle. She told accused-appellant Niegas to take them home, warning him that the child's grandmother might get angry. The unknown man, however, insisted that accused-appellant Niegas take them to Barangka where he would alight, and accused-appellant Niegas complied.[7]

Two other unknown men boarded the vehicle and sat to the left and right of Fernandez. At Boni Avenue, she was forced to wear covered shades so she could not see anything. They drove for around four hours, and apparently got lost somewhere in Calamba, Laguna. She heard the unknown men asking for directions to go to a place called Larang.[8]

They later reached their destination. Accused-appellant Niegas took her and James inside the concrete house. She and James were held inside a room and were told by accused-appellant Niegas that she should follow their instructions if she wanted to go home alive.[9]

During the eleven days when she and James were missing, there were times when she tried to escape. She attempted to run, but accused-appellant Niegas caught her and pushed her towards the room. When she tried to shout upon seeing an old person, accused-appellant Niegas told her that he will kill her if she does that.[10] She identified accused-appellant Niegas in court, and said that she would recognize the other kidnappers should she see them again.

Augusto testified that his son, James, who was six years old at the time of the testimony, was around one and a half to two years old at the time he was kidnapped. Accused-appellant Niegas was his personal driver for less than a year. He recalled seeing James crying in the morning of December 9, 2002. He instructed Fernandez to buy *pandesal* at the bakery and for her to ask accused-appellant Niegas to accompany them. They left on board his brown Toyota Revo with plate number WLK 755.[11]

Augusto expected them to be back in around fifteen minutes. When they were not yet home at 10:00 a.m., he thought they might have encountered an accident and searched for them in vulcanizing shops and even at the nearest hospital. He then went to the police station to ask for help. While he was at the police station, he was informed through his cellular phone that someone called their home landline and asked for him and his wife.[12]

Augusto went home. At around 4:00 p.m., a caller informed him that his son was under his custody. The caller demanded that he produce Ten Million Pesos (P10,000,000.00).[13]

Augusto sought the help of his relative, Colonel Molina, who referred him to the Police Anti-Crime Emergency Response (PACER) for assistance. During meetings with the PACER, he was instructed to secure a safe house in order to prevent the kidnappers from monitoring their operation.[14]

The kidnappers continued to call Augusto around twice a day, asking about the money demanded by them. He told them each time that he and his family were still raising the money. After about ten days, Augusto told them that he was able to raise One Million Seven Hundred Thousand Pesos (P1,700,000.00). The kidnappers settled for this amount and agreed to meet with Augusto. Initially, Augusto was supposed to bring the money to Tagaytay City. The meeting place was later changed to Marikina City. The kidnappers, noticing that there were police officers following Augusto, postponed the delivery of the money.[15]

On December 19, 2002, Augusto was told to go to the Sta. Mesa train station at 6:00 p.m. He used his motorcycle to go to Sta. Mesa, and, as always, the police officers followed him. Upon arriving at the station, the kidnappers instructed him through his cellular phone to walk through the rails until it was dark. He complied. He proceeded to a basketball court. A short man approached him and told him to give the bag and his cellular phone. He was then instructed to wait for further information as to when he can see his son.[16]

Augusto was fetched by his brother at a mini store. The following day, on December 20, 2002, at around 7:00 p.m., he was informed by the negotiator of the kidnappers that he could meet his son and Fernandez at the Metropolis Mall. He went to said mall with the help of his brother-in-law, and found James and Fernandez at the parking lot of the jeepney station.[17]

Augusto never saw accused-appellant Niegas since the kidnapping incident. Fernandez told Augusto that accused-appellant Niegas was one of the kidnappers who took them somewhere in Laguna, and that when she asked accused-appellant Niegas to help them escape, he punched her stomach. Augusto filed a criminal complaint against accused-appellant Niegas in Mandaluyong City. He thereafter learned that accused-appellant Niegas was arrested one year later and was told that the person who organized the crime was the father of accused-appellant Niegas's girlfriend.[18]

Augusto further testified that the incident inculcated fear and paranoia in him and his family. They hired security guards, and felt fear whenever their security guards were not around. He does not allow his son to go outside their house alone. The public prosecutor manifested at this point of his testimony that the witness was teary eyed and can hardly talk.[19]

The parties agreed to dispense with the presentation of prosecution witnesses Police Officer (PO) 3 Erma Jabal and PCI Rolan Magno after the defense agreed to admit the affidavits and/or documents prepared and signed by these officers upon the admission of the prosecution that said officers had no personal knowledge of the alleged kidnapping incident.[20]

Only **accused-appellant Niegas** was presented for the defense. He testified that he was washing the car of his employer, Augusto, when Fernandez approached him and told him to buy pandesal. He initially suggested to Fernandez that she walk to a nearby bakery, but Fernandez insisted that they buy at Pugon de Manila. He drove Fernandez and James to Pugon de Manila using his employer's Toyota Revo. When they reached the place, Fernandez gave him money and asked him to buy the pandesal. However, when he alighted from the vehicle, a man approached and poked a gun at him. The man's four companions entered the vehicle. Two of them flanked him, while the other two flanked Fernandez and James at the back seat.[21]

Accused-appellant Niegas resisted the unknown men and inquired about their intentions. The latter replied that they were arresting him and taking him to the precinct. He and Fernandez were blindfolded and forced to lie down. They were detained for several days, until they were released at Susana Heights. He lost count of how many days they were detained. Since he was still afraid and was threatened

by the men who kidnapped them, he refused to go with Fernandez back to Augusto's home. He instead went home to his province in Leyte.[22]

Accused-appellant Niegas claims that he never asked for ransom money from Augusto. He did not report the incident to the police because he cannot identify the men who kidnapped them. He cannot contact Augusto because his wallet was taken during the kidnapping.[23]

On June 26, 2008, the RTC of Mandaluyong City rendered its Decision finding accused-appellant Niegas guilty of the crime of kidnapping for ransom. The dispositive portion of the Decision read:

> **WHEREFORE**, in view of the foregoing, this Court finds accused **ALLAN NIEGAS y FALLORE, GUILTY** beyond reasonable doubt of kidnapping for ransom and is hereby sentenced to Reclusion Perpetua, and to pay the victims JAMES AUGUSTO T. MANIKIS and MILA ROSE N. FERNANDEZ the amounts of One Hundred Thousand Pesos (Php100,000.00) each as moral damages and Fifty Thousand Pesos (Php50,000.00) each as exemplary damages.[24]

The trial court held that Fernandez's narration of the kidnapping was straightforward, spontaneous, and contained such details which could not have been the result of a deliberate afterthought. The trial court noted that her description of the interior of the house was eventually confirmed by the PACER when they conducted a backtracking operation. This backtracking operation was part of the testimony of PO3 Erma Jabal which was stipulated upon by the parties. The elements of the crime of kidnapping were thus sufficiently established by the testimony of Fernandez, while the extortion of ransom was established by the testimony of Augusto.[25]

On June 25, 2010, the Court of Appeals affirmed the RTC Decision *in toto*. According to the appellate court, Fernandez's identification of accused-appellant Niegas was positive and unequivocal. Furthermore, there was no evidence of ill motive on the part of either Fernandez or Augusto, making their respective testimonies worthy of full faith and credit. The Court of Appeals likewise noted that accused-appellant Niegas deliberately fled and went home to his province where he was apprehended. Accused-appellant Niegas's one-year flight is further evidence of his guilt.[26]

Hence, the defense filed this appeal, where accused-appellant Niegas adopts the Brief he submitted to the Court of Appeals containing the following assignment of errors:

I

> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF KIDNAPPING DESPITE THE ABSENCE OF DIRECT EVIDENCE TO ESTABLISH HIS CRIMINAL CULPABILITY.[27]

In *People v. Pagalasan*,[28] this Court synthesized the applicable provision and elements of the crime of Kidnapping and Serious Illegal Detention:

Article 267 of the Revised Penal Code as amended by Republic Act No. 7659, reads:

> ART. 267. *Kidnapping and serious illegal detention*. — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death:
>
> 1. If the kidnapping or detention shall have lasted more than three days.
>
> 2. If it shall have been committed simulating public authority.
>
> 3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made.
>
> 4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female, or a public officer.
>
> The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.
>
> When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed. (As amended by RA No. 7659).

For the accused to be convicted of kidnapping, the prosecution is burdened to prove beyond reasonable doubt all the elements of the crime, namely: (a) the offender is a private individual; (b) he kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping must be illegal; and (d) in the commission of the offense any of the following circumstances is present: (1) the kidnapping or detention lasts for more than three days; (2) it is committed by simulating public authority; (3) any serious physical