

FIRST DIVISION

[G.R. No. 181440, April 13, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AIDA MARQUEZ, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For review is the August 29, 2007 Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 00467, which affirmed with modification the Regional Trial Court's (RTC) January 21, 2004 Decision^[2] in Criminal Case No. 99-106, wherein accused-appellant Aida Marquez (Marquez), also known as Aida Pulido, was found guilty beyond reasonable doubt of the crime of Kidnapping and Failure to Return a Minor as defined and penalized under Article 270 of the Revised Penal Code, as amended by Republic Act No. 18;^[3] was sentenced to serve the penalty of *reclusion perpetua*; and was ordered to pay the offended party Fifty Thousand Pesos (P50,000.00) as moral damages and Twenty Thousand Pesos (P20,000.00) as exemplary damages.

On December 28, 1998, Marquez was charged with Kidnapping under Article 270 of the Revised Penal Code as amended by Republic Act No. 18, before the RTC, Branch 140 of Makati City.^[4] The Information reads in part as follows:

That on or about the 6th day of September, 1998, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being entrusted with the custody of a minor, JUSTINE BERNADETTE C. MERANO, a three (3) month old baby girl, did then and there willfully, unlawfully and feloniously deliberately fail to restore the latter to her parent, CAROLINA CUNANAN y MERANO (*sic*).^[5]

Marquez pleaded not guilty to the crime charged in her arraignment on October 10, 2002.^[6] Trial on the merits followed the termination of the pre-trial conference.

According to the complainant, Carolina Cunanan Merano (Merano), she met Marquez at the beauty parlor where she was working as a beautician. Merano confessed to easily trusting Marquez because aside from her observation that Marquez was close to her employers, Marquez was also nice to her and her co-employees, and was always giving them food and tip.^[7]

On September 6, 1998, after a trip to a beach in Laguna, Marquez allegedly borrowed Merano's then three-month old daughter Justine Bernadette C. Merano (Justine) to buy her some clothes, milk and food. Merano said she agreed because it was not unusual for Marquez to bring Justine some things whenever she came to

the parlor. When Marquez failed to return Justine in the afternoon as promised, Merano went to her employers' house to ask them for Marquez's address. However, Merano said that her employers just assured her that Justine will be returned to her soon.^[8]

Merano averred that she searched for her daughter but her efforts were unsuccessful until she received a call from Marquez on November 11, 1998. During that call, Marquez allegedly told Merano that she will return Justine to Merano the following day and that she was not able to do so because her own son was sick and was confined at the hospital. Marquez also allegedly asked Merano for Fifty Thousand Pesos (P50,000.00) for the expenses that she incurred while Justine was with her.^[9] When the supposed return of Justine did not happen, Merano claimed that she went to Marquez's house, using the sketch that she got from her employers' driver, but Marquez was not home. Upon talking to Marquez's maid, Merano learned that Justine was there for only a couple of days. Merano left a note for Marquez telling her that she will file a case against Marquez if Justine is not returned to her.^[10]

Merano afterwards went to see then Mayor Alfredo Lim to ask for his help. Merano said that Mayor Lim referred her to Inspector Eleazar of San Pedro, Laguna, who assigned two police officers to accompany her to Marquez's house. When Merano did not find Justine in Marquez's house, she went back to Inspector Eleazar who told her to come back the following day to confront Marquez whom he will call. Merano came back the next day as instructed but Marquez did not show up.^[11]

On November 17, 1998, Merano gave her sworn statement to the police and filed a complaint against Marquez. On February 11, 1999, Marquez allegedly called Merano up again to tell her to pick up her daughter at Modesto Castillo's (Castillo) house in Tiaong, Quezon. The following day, Merano, accompanied by Senior Police Officer (SPO) 2 Diosdado Fernandez and SPO4 Rapal, went to the house of Castillo in Quezon. Merano claimed that Castillo told her that Marquez sold Justine to him and his wife and that they gave Marquez Sixty Thousand Pesos (P60,000.00) supposedly for Merano who was asking for money. Castillo even gave Merano a photocopy of the handwritten "*Kasunduan*" dated May 17, 1998, wherein Merano purportedly gave Justine to the Castillo spouses.^[12] The Castillos asked Merano not to take Justine as they had grown to love her but Merano refused. However, she was still not able to take Justine home with her because the police advised her to go through the proper process as the Castillos might fight for their right to retain custody of Justine.^[13] Merano then learned from Castillo that in an effort to legalize the adoption of Justine, the Castillos turned over custody of Justine to the Reception and Study Center for Children of the Department of Social Welfare and Development.^[14]

To defend herself, Marquez proffered her own version of what had happened during her testimony.^[15] Marquez said that she had only formally met Merano on September 6, 1998 although she had known of her for some time already because Merano worked as a beautician at the beauty parlor of Marquez's financier in her real estate business. Marquez alleged that on that day, Merano offered Justine to her for adoption. Marquez told Merano that she was not interested but she could refer her to her friend Modesto Castillo (Castillo). That very same night, while Marquez was taking care of her son who was then confined at the Makati Medical

Center, Merano allegedly proceeded to Marquez's house in Laguna and left Justine with Marquez's maid. The following day, while Marquez was at the hospital again, Castillo, accompanied by his mother, went to Marquez's house to pick up Justine. Since Marquez was out, she instructed her maid not to give Justine to Castillo for fear of possible problems. However, she still found Justine gone upon her return home that evening. Marquez allegedly learned of the encounter between the Castillos and Merano when a San Pedro police officer called Marquez to tell her that Merano, accompanied by two police officers, went to Castillo's house to get Justine. This was confirmed by Castillo who also called Marquez and told her that Merano offered Justine to him for adoption.^[16]

SPO2 Fernandez, one of the police officers who accompanied Merano to Castillo's house in February 1999, was presented by the defense to prove that he was a witness to the execution of a document wherein Merano gave up her right to Justine to the Castillo spouses. Fernandez said that on February 12, 1999, he and SPO4 Rapal accompanied Merano to the house of Castillo where Justine was allegedly being kept. When they arrived at Castillo's house, where they found baby Justine, Merano and Castillo talked and after sometime, they arrived at an agreement regarding Justine's adoption. SPO2 Fernandez averred that he, Castillo, Merano and SPO4 Rapal left Castillo's house to go to a lawyer near Castillo's house. After the agreement was put into writing, they all signed the document, entitled "*Kasunduan sa Pagtalikod sa Karapatan at Pagpapa-ampon sa Isang Anak*,"^[17] with Castillo and Merano as parties to the agreement, and SPO2 Fernandez and SPO4 Rapal as witnesses. SPO2 Fernandez claimed that he was surprised that Merano gave up Justine for adoption when they supposedly went there to get Justine back.^[18]

On January 21, 2004, the RTC found Marquez guilty beyond reasonable doubt of the crime charged as follows:

WHEREFORE, premises considered, this Court finds accused AIDA MARQUEZ a.k.a. AIDA PULIDO, **GUILTY BEYOND REASONABLE DOUBT** of KIDNAPPING AND FAILURE TO RETURN A MINOR under Article 270 of the Revised Penal Code as amended by Republic Act. No. 18 and is hereby sentenced to suffer the penalty of **RECLUSION PERPETUA**.

For the Civil aspect, accused is ordered to pay private complainant FIFTY THOUSAND PESOS (PHP50,000.00) for moral damage and TWENTY THOUSAND PESOS (PHP20,000.00) for exemplary damage.

Costs against the accused.^[19]

The RTC recounted in detail the factual antecedents of the case and made a comprehensive synopsis of the testimonies of all the witnesses presented. In finding for the prosecution, the RTC held that the testimony of the complainant mother, Merano, was enough to convict the accused Marquez because it was credible and was corroborated by documentary evidence.^[20]

On intermediate appellate review, the Court of Appeals was faced with the lone

assignment of error as follows:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF KIDNAPPING AND FAILURE TO RETURN A MINOR WHEN THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

[21]

On August 29, 2007, the Court of Appeals found Marquez's appeal to be unmeritorious and affirmed the RTC's decision with modifications on the damages awarded, to wit:

WHEREFORE, the instant Appeal is **DISMISSED**. The assailed Decision, dated January 21 2004, of the Regional Trial Court of Makati City, Branch 140, is **AFFIRMED with the MODIFICATIONS** that nominal damages of P20,000.00 is hereby awarded in addition to the P50,000.00 moral damages, while the award for exemplary damages is accordingly **deleted** for lack of basis.[22]

The Court of Appeals, in affirming Marquez's conviction, relied on the satisfaction of the elements of the crime as charged. It said that the conflicting versions of the parties' testimonies did not even matter as the fact remained that Marquez had, at the very least, constructive custody over Justine and she failed to return her when demanded to do so.

The accused Marquez is now before us, still praying for a reversal of her conviction on the same arguments she submitted to the Court of Appeals.[23]

After a painstaking scrutiny of the entire records of this case, this Court finds no reason to reverse the courts below.

Marquez argues that her guilt was not proven beyond reasonable doubt because the elements constituting the crime of serious illegal detention or kidnapping are not present in this case.[24]

The crime of Kidnapping and Serious Illegal Detention falls under Article 267 of the Revised Penal Code, viz:

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.

Marquez further contends that it is illogical for her to voluntarily divulge to Merano the whereabouts of Justine, even recommending the assistance of police officers, if she were indeed guilty of kidnapping.

Accused is mistaken, if not misled, in her understanding and appreciation of the crime she was charged with and eventually convicted of.

A reading of the charge in the information shows that the act imputed to Marquez was not the illegal detention of a person, but involves her deliberate failure to restore a minor baby girl to her parent after being entrusted with said baby's custody.

Contrary to Marquez's assertions, therefore, she was charged with violation of Article 270, and not Article 267, of the Revised Penal Code.

The Revised Penal Code considers it a crime when a person who has been entrusted with the custody of a minor later on deliberately fails to return said minor to his parent or guardian. This may be found in Article 270, which reads:

Art. 270. Kidnapping and failure to return a minor. -- The penalty of *reclusion perpetua* shall be imposed upon any person who, being entrusted with the custody of a minor person, shall deliberately fail to restore the latter to his parents or guardians.^[25]

This crime has two essential elements:

1. The offender is entrusted with the custody of a minor person; and
2. The offender deliberately fails to restore the said minor to his parents or guardians.^[26]

This Court, in elucidating on the elements of Article 270, stated that while one of the essential elements of this crime is that the offender was entrusted with the custody of the minor, what is actually being punished is *not* the kidnapping but the **deliberate** failure of that person to restore the minor to his parents or guardians.^[27] As the penalty for such an offense is so severe, the Court further explained what "deliberate" as used in Article 270 means:

Indeed, the word deliberate as used in Article 270 of the Revised Penal Code must imply something more than mere negligence - **it must be**