

SECOND DIVISION

[G.R. No. 184925, June 15, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOSEPH MOSTRALES Y ABAD, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the March 27, 2008 Decision ^[1] of the Court of Appeals (CA), in CA-G.R. CR-H.C. No. 00068 which affirmed with modification the September 9, 2003 Decision ^[2] of the Regional Trial Court, Branch 213, Mandaluyong City (RTC), in Criminal Case No. MC-02-587-FC-H.

The records show that on April 18, 2002, the accused Joseph Mostrales, Diosdado Santos, Ronnie Tan, and ten (10) John Does were charged with kidnapping for ransom, defined and penalized under Article 267 of the Revised Penal Code, as amended by Republic Act (R.A.) No. 7659, in an Information ^[3] which reads :

That on or about the 12th day of November, 2001, in the City of Mandaluyong, Philippines and within the jurisdiction of this Honorable Court, the above named accused, being then private individuals, conspiring and confederating together with @ JOHN-JOHN, @ KUMANDER AGUILA, @ KUMANDER KIDLAT AND TEN (10) JOHN DOES, whose true identities and present whereabouts are still unknown and mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously, for the purpose of extorting ransom from one MA. ANGELA VINA DEE PINEDA and her parents, threatening to kill the said MA. ANGELA VINA DEE PINEDA if the desired amount of money could not be given, kidnap, carry away, detain and deprive the said MA. ANGELA VINA DEE PINEDA, a minor and a female, of her liberty without authority of law, against her will and consent, which kidnapping or detention lasted for more than five (5) days, and with the ransom payment in the total amount of Eleven Million Pesos (P11,000,000.00), given and delivered to the accused.

CONTRARY TO LAW.

Upon arraignment on July 30, 2002, Joseph Mostrales (*Mostrales*) pleaded not guilty to the charge. Both his co-accused, Diosdado Santos (*Santos*) and Ronnie Tan (*Tan*), remained at-large as of the date of promulgation of the CA Decision. ^[4]

After the pre-trial conference held on August 22, 2002, trial ensued. The prosecution presented eleven (11) witnesses: *Herminio Altarejos (Herminio)*, the Pinedas' family

driver; Elsie Bisagas (*Elsie*), the victim's nanny; Alex Atable (*Alex*), another family driver of the Pinedas; Antonio Piodena (*Antonio*), company driver of Dermparma, Inc.; Police Officer 2 Rossel Dejas (*PO2 Dejas*), Police Anti-Crime and Emergency Response (*PACER*) case investigator, Camp Crame; Senior Police Officer 2 Roy Michael Malixi (*SPO2 Malixi*), *PACER* case investigator, Camp Crame; Ma. Angela Vina Dee Pineda (*Ma. Angela*), the kidnap victim; Ma. Aurora Dee Pineda (*Ma. Aurora*), the victim's mother; Dr. Vinzon Pineda (*Dr. Pineda*), the victim's father; Ana Navarra (*Ana*), the victim's former private nurse; and Major Patricia Arumin (*Major Arumin*), *PACER*, Camp Crame.

The defense, on the other hand, presented Mostrales, Jaime Cesista (*Cesista*), Rudy Hombrebueno (*Hombrebueno*), and Isagani Nerez (*Nerez*).

VERSION OF PROSECUTION

The evidence for the prosecution shows that on November 12, 2001 at 6:35 o'clock in the morning, Ma. Angela, the fourteen-year old daughter of Dr. Pineda and Ma. Aurora, and her three (3) minor adopted brothers, Isaac, Jacob and Samuel, left their residence in Legaspi Village, Makati City, bound for the Tabernacle of Faith Christian Academy along J. Ruiz Street, San Juan, Metro Manila where Ma. Angela was a high school sophomore.

Ma. Angela and her siblings were aboard a white Hyundai Starex van with plate number WEA 968 driven by Herminio. Alex, another driver of Dr. Pineda, rode in the passenger seat. Ma. Angela and her nanny, Elsie, were seated at the second row of the van, while the three boys and their nanny, Elgie Bisagas (*Elgie*), sat at the third row.

On their way to school, they passed along Paseo de Roxas to Makati Avenue and crossed the Makati-Mandaluyong Bridge. From there, they proceeded to Nueve de Febrero and turned towards Calderon Street, in the direction of San Juan. On Calderon Street, the van was following a red Toyota Revo bearing plate number WES 277.

Upon approaching the corner of Calderon and Pilar Streets, the Revo abruptly stopped. Herminio blew the van's horn, but the Revo slowly moved backward, prompting him to sound the van's horn again. As he did so, the Revo continued to move in reverse until it hit the front of the Starex. Four armed men, dressed in black and carrying long firearms, alighted from the Revo. Herminio thought that the men were police officers and that he had just committed a traffic violation. Two of the men went to Herminio's side, while the other two positioned themselves at the right side of the van near Alex. [5]

The two men at Herminio's side, one of whom was identified as Mostrales, aimed and poked their guns at the window and demanded that Herminio open the door of the van. The doors of the van opened, and the two men standing at the opposite side of the van pointed their guns at Alex, yanked him outside, forced him to face a nearby wall with his hands up, and frisked him. The men also took the keys from Herminio, opened the van's sliding door and attempted to force Ma. Angela out of the van, shouting, "*Baba, baba!*" [6] When Elsie resisted and protectively held on to Ma. Angela, one of the armed men jabbed Elsie with his gun on the right side of her

torso, grabbed her feet, and pulled her out of the vehicle, causing her to fall on her back onto the ground. One of the armed men, later identified as Santos, entered the van, took Ma. Angela and brought her to the Revo. The four men boarded the Revo and sped off in the direction of Shaw Boulevard. [7]

Herminio, Alex and Elsie ran after the Revo, shouting for help, saying, "*Kinidnap yung kasama naming bata!*" [8] When they reached the Shell gasoline station on Shaw Boulevard, they could still see the Revo at Cherry Foodarama. They flagged down a man on a "*hagad*" motorcycle going in the direction of Sta. Mesa, whom they presumed to be a policeman, relayed to him what had transpired, and pointed to the Revo. The man asked Herminio for the Revo's plate number and color and pursued the vehicle. When he returned, however, he informed Herminio and his companions that he had failed to overtake the vehicle. They returned to the place of the incident, where they saw two policemen in a mobile patrol car. [9] They reported what happened and then proceeded to the Mandaluyong Police Headquarters.

From the Mandaluyong Police Headquarters, Herminio and his companions went to the National Anti-Kidnapping Task Force (NAKTAF) Office in Camp Crame, Quezon City. In the NAKTAF office, Herminio identified Joseph Mostrales and his co-accused Diosdado Santos from photographs shown to him. Herminio, Elsie and Alex then executed their respective sworn statements. Herminio added that he later read in a newspaper that Santos had been killed in another incident.

On that same day, a man called up the Pineda residence in Makati and identified himself to Dr. Pineda as "*Kumander Kidlat*." The caller informed Dr. Pineda that his group had Ma. Angela and warned him not to report the incident to anyone and then hung up. Thereafter, Kumander Kidlat called the Pineda residence every half hour, initially demanding P100 million in ransom, but which was eventually negotiated down to P35 million. Dr. Pineda, however, insisted that he could raise P3 million only. Enraged, Kumander Kidlat repeatedly cursed and directed profanities against him. [10]

Dr. Pineda and his ex-wife, [11] Ma. Aurora, Ma. Angela's mother, agreed to collectively raise P5 million as ransom money. Kumander Kidlat, however, adamantly demanded for a higher amount and threatened to kill Ma. Angela and dump her body in the creek in either the Amorsolo or Valle Verde area. Ma. Aurora testified that on November 13, 2001, while Dr. Pineda was at the bank, Kumander Kidlat let her listen to Ma. Angela's voice over the phone and told her that if they would not deliver the amount their group was demanding, they would rape and kill her daughter.

On November 16, 2001, Dr. Pineda and Kumander Kidlat finally agreed that Ma. Angela's family would pay ransom in the amount of P8 million. Dr. Pineda raised P6 million while Ma. Aurora contributed P2 million. Dr. Pineda personally counted the bills and, following Kumander Kidlat's instructions, arranged the money in a backpack.

On the morning of November 17, 2001, Kumander Kidlat called Dr. Pineda and told him to be ready to deliver the ransom amount. Per his instructions, Ma. Aurora was to deliver the ransom money. He also told Dr. Pineda and Ma. Aurora to have their cellphones ready to receive his instructions. Dr. Pineda's driver, Antonio, was

assigned to chauffeur Ma. Aurora. [12]

At 8:00 o'clock in the morning of the same day, Kumander Kidlat called Ma. Aurora on her cellphone and instructed her to go home and wait for further instructions. After twenty minutes, he called again and instructed her to go to Pancake House in Magallanes. A few minutes after reaching the said restaurant, Kumander Kidlat ordered her to proceed to the Petron station along South Luzon Expressway, where she and Antonio waited for an hour. Kumander Kidlat then instructed her to proceed to Batangas by taking the Carmona Exit, then to turn around, proceed to C-5 and wait at the Smart Zed billboard area where she would give the ransom money to a man who would approach her and would mention the word "*Aguila*." [13]

As instructed, Ma. Aurora and Antonio waited in the car until a man in a white shirt and jeans approached Ma. Aurora's side of the vehicle and told her, "*[P]inagutusan lang po, Aguila*." Then, she handed over the blue bag containing the ransom money to the man, who took it and her cellphone, and told them, "*Umalis na kayo*." [14]

Notwithstanding the payoff, the kidnappers did not release Ma. Angela. Two days later, on November 19, 2001, Kumander Kidlat called up Dr. Pineda at his Makati residence. When the latter asked why Ma. Angela was not released, Kumander Kidlat responded with invectives and demanded more money, saying, "*Huwag ka na magcomplain, magbigay ka pa*." [15] Dr. Pineda said that his family could not give any more than what had already been given. Kumander Kidlat told him that he would call again. Literally sick with fear and worry for his daughter, Dr. Pineda had to be confined at the Makati Medical Center. Upon further negotiations, the kidnappers again demanded that Dr. Pineda and Ma. Aurora pay an additional ransom of P35 million.

For a week, the Pinedas were not allowed to speak with their daughter. The family, thus, sought the assistance of Teresita Ang See (*Ang See*), who introduced them to NAKTAF operatives.

Under the direction of Col. Allan Purisima, Ma. Aurora again negotiated with the kidnappers for Ma. Angela's release in exchange for the payment of a second ransom. For security reasons, during the course of their negotiations, the Pinedas had to constantly relocate and stay at various hotels and condominium units. After several rounds of negotiation, the kidnappers agreed to reduce the amount of the second ransom from P35 million to P3 million. Dr. Pineda raised P2 million while Ma. Aurora contributed P1 million. Following Kumander Kidlat's instructions, Ma. Aurora placed the ransom money in a backpack.

In the meantime, Ana, Ma. Angela's private nurse from birth until she was six years old, testified that she spoke with Ma. Aurora after she learned that Ma. Angela had been kidnapped. On November 20, 2001, Ana met with Ma. Aurora at the Makati Medical Center where Dr. Pineda was confined. Ana was with Ma. Aurora on December 8, 2001, while the latter spoke with Kumander Kidlat on the phone about the delivery of the second ransom. Ana related that Ma. Aurora was crying so hard she could hardly speak. Thus, she took the cellphone from Ma. Aurora and talked to Kumander Kidlat herself. She pleaded with him to allow her to deliver the ransom money to them. Kumander Kidlat acceded and instructed her to proceed to Batangas where his group would receive the money. Thus, Ma. Aurora handed over

to Ana the black backpack containing the P3 million ransom money.

Thereafter, Ana and Major Arumin of the NAKTAF left the Pineda residence in Makati for Batangas via South Luzon Expressway. As instructed by Kumander Kidlat, Ana and Major Arumin stopped at the Petron gas station. Ana spoke with Kumander Kidlat on the phone and was instructed ten minutes later to exit at Southwoods and proceed back to Manila. They were then directed to head to the Centennial Building along C-5 and to stop below the Hi-Nulac billboard at the end of the road. Shortly thereafter, a man approached the car and identified himself to them as "*Kumander Aguila*." After the man took the bag containing the P3 million ransom money and Ana's phone, she and Major Arumin drove back to Makati.

On December 8, 2001, after twenty seven (27) days in captivity, Ma. Angela was taken by the kidnappers to a place where a taxicab was waiting. Following the instructions given to her, Ma. Angela boarded the cab and gave the driver her address. Upon arrival at the building where their family lived, the security guard stationed at the ground floor accompanied her to their unit where she was reunited with her family.

VERSION OF THE ACCUSED

Mostrales denied having participated in Ma. Angela's abduction and claimed that at the time she was kidnapped and immediately prior thereto, he was at his hometown in Barangay Lauren, Umingan, Pangasinan. To vouch for his character, he drew on his having served as a member of the Philippine Marines from April 16, 1984 to March 2002 and his having been assigned as close-in security to Former President Joseph Ejercito Estrada.

The accused related that on October 31, 2001, he and his family visited his father's grave in Barangay Lauren, and that he stayed in Pangasinan for seventeen (17) days thereafter, or until November 17, 2001.

He recalled that on November 12, 2001, he stayed at home with his mother, his siblings and some of their neighbors who were visiting them at that time.

He further testified that in April 2002, he underwent surgery after having been injured in a vehicular accident in Mambungan, Antipolo City. Thereafter he returned to Pangasinan to recuperate. Several days later, however, on May 12, 2002, several NAKTAF operatives arrested him for his alleged involvement in the abduction of Ma. Angela.

Cesista, a farmer and allegedly a barangay tanod in Barangay Lauren, Umingan, Pangasinan, testified that he was a good friend of the Mostrales family and had known the accused since the latter was in elementary school. They were neighbors in Barangay Lauren, his house being situated approximately five meters away from the Mostrales residence. He also claimed that he saw Mostrales from November 1 to 17, 2001, particularly at 6:00 o'clock in the morning and in the afternoon of November 12, 2001, when the kidnapping took place. The next time he saw Mostrales in Pangasinan was on May 12, 2002.

Hombrebueno, a tricycle driver and a member of the Civilian Volunteer Organization of Barangay Lauren, testified that Mostrales was his childhood friend and neighbor,