

## SECOND DIVISION

[ G.R. No. 185388, June 16, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODRIGO AWID ALIAS "NONOY" AND MADUM GANIH ALIAS "COMMANDER MISTAH" AND ALSO KNOWN AS "MIS," ACCUSED. MADUM GANIH ALIAS PROMULGATED: "COMMANDER MISTAH" AND ALSO KNOWN AS "MIS," APPELLANT.**

### D E C I S I O N

**ABAD, J.:**

This is a kidnapping for ransom case where the complainant identified one of the accused as he stood with three others in front of the police station while she sat in her tinted vehicle.

#### The Facts and the Case

On May 31, 2001 the city public prosecutor filed a second amended information<sup>[1]</sup> for kidnapping with ransom and serious illegal detention against the accused Madum Ganih alias "Commander Mistah" or "Mis," Rodrigo Awid alias "Nonoy," Ernesto Andagao alias "Nestor," and three others who were known only by the names of "Adjing," "Hasbi," and "Maing" before the Regional Trial Court (RTC) of Zamboanga City, Branch 16, in Criminal Case 16635.

Mrs. Juanita Bernal Lee, married to Joseph "Nonoy" Lee, with whom she had four daughters, testified that she and her husband were in the storage and foundry business.<sup>[2]</sup> They lived in a house surrounded by a 12-foot concrete fence, topped by three strands of barbwire strung on embedded steel bars. All in all, the fence rose to about 18 feet. It had just one steel gate of about 12 feet in height.<sup>[3]</sup>

On January 9, 2000 only Mrs. Lee was left in the house, accompanied by three housemaids, and the accused Ernesto Andagao, a gardener-houseboy. They all slept in an extension of the main house, which extension had three rooms. Mrs. Lee was in one with her 11 Japanese Spitz puppies. Next to hers was the room where Andagao slept, and then there was the room of the housemaids.<sup>[4]</sup>

Part of Mrs. Lee's night routine was to let her puppies out of her room about midnight so they could take a leak. At the early dawn of January 10, 2000, after opening the door of her room to let her puppies out, Mrs. Lee was surprised to see a stranger, a man, standing a few meters from her door. She immediately went back in and tried to shut her door close but the man succeeded in pushing the door open and pulling her out of the room just as another man appeared. Someone struck Mrs. Lee with a gun on both shoulders and kicked her on the ribs. When she fell down, she received a kick on her buttocks.

Mrs. Lee could not recognize the two men who assaulted her as they wore bonnets that covered their faces. They dragged her into the maids' quarters where they covered her mouth with masking tape and tied her hands behind her with telephone wires. One of the men tore a swathe of cloth from the bed sheets and used it to cover her mouth as well. They blindfolded her with a black cloth and covered her head with a black bag that reached down to her chest. They then took her to the garage barefooted. [5]

At the garage, the men forced Mrs. Lee to get into the backseat of her Nissan Sentra. [6] They traveled for about 20 to 30 minutes at normal speed. When the car stopped, the men made Mrs. Lee go down after removing the black bag that covered her head. But she remained blindfolded. They then made her walk barefooted down a muddy ground. Because she walked too slowly, one of her abductors slung her on his shoulder and carried her to a pump boat where they removed the cloth and masking tape that covered her mouth. After a while, they also removed her blindfold and untied her hands. [7]

Though it remained dark, Mrs. Lee managed to note that two men rode with her on the pump boat while a white speedboat led them away from land. She did not know where they were heading but she noticed that they left Zamboanga City. [8]

After traveling for about three to four hours, the pump boat berthed on an island lined with coconut trees. Her abductors gave Mrs. Lee a hooded jacket to wear, then took her to a well for her to take a bath. From there, they took her to the bushes where two armed men guarded her. [9] At about 6:30 p.m., they took her to a two-storey house where they held her captive for almost four months. Mrs. Lee later learned that the house where they had taken her belonged to Suod Hussain and his wife Fatma. [10]

At about past 9:00 p.m. of January 10, 2000, Mrs. Lee met accused Madum Ganih who said to her, "*Ako si Kumander Mistah. Ako na ang hawak sa `yo.*" [11] After keeping her in captivity for about 20 days, her captors took Mrs. Lee out to sea on a pump boat to talk to her husband through a cell phone. [12] When they let her call him a second time, Ganih ordered her to tell her husband to pay her kidnapers P15 million in exchange for her. Her husband told her to bargain for a lesser amount since all he had was P1 million. Ganih demanded a partial payment of P200,000.00 but Mrs. Lee's family could give only P50,000.00. Mrs. Lee's eldest daughter, Michelle, [13] testified that she gave the money to a certain Geater Libas but Ganih later complained that he got only P35,000.00. [14]

Calling her family a third time, the kidnapers reduced their demand to P4 million and threatened to cut off Mrs. Lee's head unless this was paid. [15] At their last call to her husband, Mr. Lee requested the kidnapers to release his wife for P1.2 million. Ganih did not respond immediately as he said he still had to confer with their leader, a certain "boy," whom Mrs. Lee could not recognize as he always covered his face whenever he came to visit. [16]

In the evening of May 5, 2000, Ganih told Mrs. Lee that they would release her the next day. At about 4:00 a.m. of May 6, 2000, her abductors brought Mrs. Lee to

Arena Blanco in Zamboanga City where Ganih gave her P100.00 for fare and an M203 bullet as memento. She eventually got home.<sup>[17]</sup>

Sometime after, Police Chief Inspector Gucela and his men arrested a certain alias "Mis" at Sta. Barbara, Zamboanga City.<sup>[18]</sup> They asked Mrs. Lee to see if she can identify him at the police station. She came on board her Pajero with Gucela by her side but she refused to go out of her tinted vehicle because she did not want to be seen. She could, however, clearly see those outside of it. Subsequently, the police officers brought Ganih and three others to stand in front of the police office. Mrs. Lee recognized and identified Ganih as one of her kidnappers.<sup>[19]</sup>

For his part, Ganih, denied the charge against him. He testified that he had been known as "Madz," not "Mis," and that he had never been known as "Kumander Mistah." He claimed that he was at home in *Barangay* Kaliantana, Naga, Zamboanga del Sur, the whole day of January 10, 2000. Further, he said he attended the birthday party of *Barangay* Chairman Hassan Arani at his house at 2:00 p.m. on May 6, 2000. He also claimed that the police did not make him stand in a proper police line-up for identification.<sup>[20]</sup>

On May 21, 2002 the RTC rendered judgment,<sup>[21]</sup> convicting Ganih of the crime charged and sentencing him to suffer the penalty of death. The RTC, however, acquitted Awid for insufficiency of evidence. The court also ordered Ganih to return the ransom money of P1,250,000.00 as well as the value of Mrs. Lee's diamond earrings and Rado wristwatch, which totaled P95,000.00.

Upon review, the Court of Appeals (CA) rendered a decision dated November 12, 2007,<sup>[22]</sup> affirming the conviction of Ganih but amending the penalty from death to *reclusion perpetua*. The CA also awarded Mrs. Lee P1,250,000.00 in actual damages, P25,000.00 in temperate damages, P50,000.00 in civil indemnity, P100,000.00 in moral damages, and P25,000.00 in exemplary damages.

### **The Issue**

The issue in this case is whether or not accused Ganih, in conspiracy with others, kidnapped Mrs. Lee for a ransom.

### **The Court's Ruling**

To prove the crime charged, the prosecution had to show (a) that the accused was a private person; (b) that he kidnapped or detained or in any manner deprived another of his or her liberty; (c) that the kidnapping or detention was illegal; and (d) that the victim was kidnapped or detained for ransom. <sup>[23]</sup> All these have been proved in this case.

The Court entertains no doubt that Ganih and the others with him kidnapped Mrs. Lee to trade her freedom for a price. Ganih initially demanded P15 million for her but he reduced his demand when Mr. Lee could raise only P1.2 million. The kidnappers actually received this ransom as evidenced by the fact that they immediately released Mrs. Lee after the last negotiation.