

## EN BANC

[ G.R. Nos. 134823-25, January 14, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTONIO HAMTON A.K.A. "BOY NEGRO," ANTONIO RAMIREZ ALIAS "TONG" OR "CHITO," ACCUSED.**

**ARTHUR PANGILINAN Y DE GUZMAN A.K.A. "TORING," ARNOLD LOPEZ Y SERRANO A.K.A. "ADAN MANALO," REYNALDO YAMBOT Y MASAGAYA, AND JUN NOTARTE (AT LARGE), ACCUSED.**

**ARTHUR PANGILINAN Y DEGUZMAN A.K.A. "TORING," ARNOLD LOPEZ Y SERRANO A.K.A. "ADAN MANALO" AND REYNALDO YAMBOT Y MASAGAYA, APPELLANTS.**

### DECISION

#### **PER CURIAM:**

Before this Court for automatic review is the Joint Decision of the Regional Trial Court of Pasig City, Branch 70, penned by Judge Pablito M. Rojas in Criminal Cases Nos. 105326, 106115 and 106116, finding Arthur Pangilinan, Arnold Lopez and Reynaldo Yambot guilty beyond reasonable doubt of the crimes of kidnapping for ransom and illegal possession of firearms and imposing upon each of them the supreme penalty of death and a prison term of six (6) years and one (1) day to eight (8) years.

Antonio Hamton, who was found guilty of robbery and sentenced to an "indeterminate penalty of from four (4) years of prision correccional to eight (8) years of prision mayor" in Criminal Case No. 105326, filed an appeal with this Court, but later withdrew the same.<sup>[1]</sup>

The Solicitor General narrates the antecedent facts of the case as follows:

"Teofilo Garcia, and his wife, Leonida, were the sole distributors of the Singer Sewing Machines under the business name 'Gamier Industrial Sewing Machines'. On March 8, 1994, around eleven o'clock in the morning, two armed men, later identified as Jun Notarte and Reynaldo Yambot, entered the Garcias' office and showroom at 322 Shaw Boulevard, Mandaluyong City and announced a hold-up. After emptying Teofilo's drawer of Two Thousand Pesos (P2,000.00) in cash, they took him with them outside to a waiting light gray Mitsubishi Lancer. Inside the car were two other men, later identified as herein appellant Arnold Lopez and Arthur Pangilinan. Teofilo was shoved into the backseat of the car and blindfolded with black sunglasses covered with adhesive tapes. One of the men told him, '*Pera lang ang kailangan namin sa iyo*'. His abductors then divested him of his gold ring worth Two Hundred Thousand Pesos (P200,000.00), his gold bracelet worth Fifty Thousand Pesos (P50,000.00), his gold necklace worth Fifty Thousand Pesos

(P50,000.00), and his wallet containing, among others, Two Thousand Three Hundred Pesos (P2,300.00) in cash.

"About the time Teofilo was being led out of the office, Leonida arrived. Seeing her husband's plight, she immediately approached the Mitsubishi Lander and asked the men inside why they were taking her husband. In response, appellant hit her on the nose with a gun and pushed her away. The Mitsubishi Lancer then sped away.

"After traveling for about two hours, the Mitsubishi Lancer stopped. Teofilo's abductors transferred him to a trimobile where, accompanied by appellant, he traveled for thirty minutes more before finally stopping. Teofilo was brought to a house where he was confined in a room with no windows. To prevent him from escaping, his left wrist was chained to an iron grill. Three or four persons guarded him.

"On March 10, 1994, around eleven o'clock in the morning, appellant, who identified himself as 'Adan Manalo,' called up Leonida, telling her to prepare the amount of Ten Million Pesos (P10,000,000.00) as ransom money for her husband's release. When Leonida pleaded for the amount to be lowered since she could not afford it, appellant put the phone down.

"On March 12, 1994, appellant called up Leonida to inquire if she had already raised the ransom amount. Leonida replied that she had raised only Six Hundred Thousand Pesos (P600,000.00) and would be needing more time to raise the rest of the amount.

"Appellant called again around twelve noon of March 14, 1994. Asked how much money she had already raised, Leonida answered that she was still trying to raise the needed amount. She also requested appellant to get for her the key to their office vault from her husband, so that she could get the money inside and add it to the money to be paid as ransom.

"Accordingly, appellant, on March 15, 1994, told Teofilo to give him the key to their office vault and to write a note for his family so that they would know that he was still alive. Teofilo did as he was instructed.

"Around eight o'clock in the morning of March 16, 1994, appellant called up Leonida to inform her that the key to their office vault as well as a note from her husband was ready for her pick-up at Andok's Litson located at EDSA corner Estrella Street. By ten o'clock of the same morning, Leonida was in possession of the key and the note. She was able to confirm that the note was in her husband's handwriting. When appellant called her again later that day, Leonida informed him that she had gotten the key and the note, and that she had raised One Million Pesos (P1,000,000.00) already. Unimpressed, appellant told her that this was not enough and that he would call her again the next day.

"True to his word, appellant called around noontime the following day. Informed by Leonida that she now had One Million Two Hundred

Thousand Pesos (P1,200,000.00), appellant seemed finally satisfied. He then gave Leonida instructions for the pay-off. At a little before four o'clock that afternoon, she should be at the Magallanes flyover and open the hood of her car to make it appear that it developed engine trouble. Appellant would then drive by and stop his car beside hers. After he identifies himself as 'Adan,' Leonida should immediately hand over the ransom money to him.

"All this time, Leonida had been coordinating with the Task Force Habagat of the Presidential Anti-Crime Commission (PACC). Alerted of these latest developments, Col. Michael Ray Aquino, Chief of Special Operations, PACC, planned for the delivery of the ransom money and Teofilo's rescue. Eight teams were formed to monitor the pay-off and conduct rescue operations. The ransom money was placed in a light blue Dunlop bag (Exhibit G) and Leonida was instructed to wear a green dress for easy identification at the pay-off site.

"About 3:45 in the afternoon of the same day, Leonida, accompanied by her driver, arrived at the pay-off site on board her Pajero. Pursuant to appellant's instructions, Leonida's driver opened the hood of the Pajero. A red Toyota Corolla with Plate No. PFW 688 then approached and stopped just beside the Pajero. Leonida saw her husband seated between two men at the back of the red car. Meanwhile, appellant, who was seated in front at the passenger side, got down from the car. After identifying himself as 'Adan,' Leonida gave the Dunlop bag containing the ransom money to him. The Toyota Corolla then sped away.

"Inside the Toyota Corolla, appellant gave Teofilo Three Hundred Pesos (P300.00) for taxi, assuring him that they would drop him off a short distance away. Before they could do so, however, they noticed a speeding white Nissan Sentra behind them. Appellant warned his companions, '*Puwesto kayo, delikado tayo mga kasama, alert kayo, puwesto kayo*'. Without stopping to release Teofilo anymore, the Toyota Corolla raced along EDSA towards Cubao, with the Nissan Sentra in hot pursuit. The chase continued until the Toyota Corolla stopped near the intersection of Guadix Drive and ADB Avenue: Using an armalite, Jun Notarte, the driver of the Toyota Corolla, opened fire at the Nissan Sentra, shattering its windshield. Col. Raymundo Padua and his team members, the occupants of the Nissan Sentra, returned fire. During, the exchange of gunfire, Jun Notarte managed to escape. However, his companions, namely appellant, Arthur Pangilinan, and Reynaldo Yambot, were not as lucky. After about ten minutes of intermittent firing, they were finally subdued and taken into custody. Teofilo was successfully rescued, shaken but unharmed.

"Among the items recovered from Teofilo's kidnappers were the following: the Dunlop bag containing the ransom money in the amount of One Million Two Hundred Thousand Pesos (P1,200,000.00); additional cash in the amount of Thirty Two Thousand Six Hundred Forty Seven Pesos (P32,647.00); an M-16 armalite rifle with Serial No. 164881 (Exhibit CC); and a .45-caliber pistol with Serial No. 1163568 (Exhibit A). Subsequent verification revealed that the M-16 armalite rifle and the .45-caliber pistol were not registered with the Firearms and Explosives Office, Camp

Crame, Quezon City, and that no license to possess these firearms had ever been issued in the names of any of Teofilo's kidnappers.

"Separately apprehended in connection with his kidnapping incident was Antonio Hamton. Having somehow learned about Teofilo's abduction, Antonio, at the same time that appellant was negotiating with [Leonida] for the ransom money, was also calling up Leonida, pretending to be her husband's kidnapper. Antonio's ruse was eventually discovered, but not before he was already able to extort Fifty Thousand Pesos (P50,000.00) from Leonida."<sup>[2]</sup>

An Information, docketed as Criminal Case No. 1061. 14, was filed on April 14, 1994. It charged appellants in this manner:

"That [on] or about March 8, 1994 at about 11:00 o'clock in the morning at Shaw Boulevard, corner Aquino Lane in Mandaluyong City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being all private persons conspiring, confederating and mutually helping/aiding each other and by means of force, threats or intimidation and with the use of arms and vehicles, for the purpose of demanding money or ransom, did then and there willfully, unlawfully and feloniously abduct and kidnap TEOFILO M. GARCIA while at his office; and that once in their physical custody and control detain and deprive him of his liberty against his will, and demand TEN (P10,000,000) Million from his wife Leonida Garcia, in exchange for her husband's life, safety and freedom, but which amount through sheer patient appeals/negotiation was later reduced to P1 .2 Million, which accused finally agreed and accepted which said Mrs. Leonida Garcia, did in fact give, pay and deliver the said amount or ransom money to accused to her loss, damage and prejudice."<sup>[3]</sup>

A second Information, docketed as Criminal Case No. 106116, was filed against appellants thus:

"That, on or about March 8 & 17, 1994 in the City of Mandaluyong, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in their possession, custody and control, a Caliber 45 Pistol, bearing Serial No. SN-1 163568, and one (1) M-16 Rifle with Serial No. RP 164881, without first having secured the necessary license and/or permit, from the corresponding office/agency of government."<sup>[4]</sup>

During their arraignment on May 2, 1994, appellants, assisted by their respective counsels, pleaded not guilty to the twin charges of kidnapping for ransom and illegal possession of firearms.<sup>[5]</sup> After a joint trial, they were found guilty via the automatically appealed Decision, which reads in part:

"**WHEREFORE**, the Court hereby finds accused Arthur Pangilinan y de Guzman, a.k.a 'Toring'; Arnold Lopez y Serrano, a.k.a. 'Adan Manalo'; and Reynaldo Yambot y Masagaya, **GUILTY** beyond reasonable doubt of the offenses of Kidnapping for ransom and serious illegal detention under Article 267 of the Revised Penal Code as charged in Criminal Case No. 106115 and of the offense of Illegal Possession of Firearms as charged in

Criminal Case No. 106116. For the offense of kidnapping for ransom and serious illegal detention, said accused are hereby meted out the death penalty. For the offense of Illegal Possession of Firearms, said accused are hereby sentenced to suffer the penalty of six years and one day to eight years and to pay a fine of THIRTY THOUSAND PESOS (PHP 30,000.00) with subsidiary imprisonment in case of insolvency.

"Accused Pangilinan, Lopez and Yambot are further ordered to return to the private complainant, Teofilo Garcia, the sum of FOUR THOUSAND THREE HUNDRED PESOS (PHP 4,300.00) representing the total amount of cash taken from the latter's office and his person during the abduction, as well as to return or restore to said private complainant the gold bracelet and the gold necklace or if the same is no longer possible, to pay the value of the same which is PHP 50,000.00 each. In addition, said accused are hereby ordered to indemnify, in solidum, the private complainant, Teofilo Garcia, the amount of TWO MILLION PESOS (PHP 2,000,000.00) and to the wife of the complainant, Leonida Garcia, the amount of ONE MILLION PESOS (PHP 1,000,000.00), by way of moral damages."<sup>[6]</sup>

Appellants submitted individual appeal briefs assailing the RTC Decision. They aver that the trial court failed to establish clearly that they had all committed conspiracy to commit kidnapping for ransom. The lower court should have imposed individual penalties upon them depending on their degree of participation in the crime.

Appellants also question their conviction for illegal possession of firearms, arguing that the prosecution failed to produce sufficient evidence showing their physical or constructive possession of the subject firearms. Further, they contend that their conviction for the said offense cannot be made on the basis of the testimony of a prosecution witness of questionable credibility and competence.

Specifically, appellant Reynaldo Yambot assigns the following errors:

"I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT REYNALDO YAMBOT AS CO-CONSPIRATOR IN COMMITTING THE OFFENSE OF KIDNAPPING FOR RANSOM

"II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED REYNALDO YAMBOT GUILTY BEYOND REASONABLE DOUBT OF ILLEGAL POSSESSION OF FIREARMS DESPITE THE FACT THAT THE WITNESS FOR THE PROSECUTION WAS NOT CREDIBLE ENOUGH TO TESTIFY."<sup>[7]</sup>

This assignment of errors has been adopted by appellant Arnold Lopez with the following addition:

"THE TRIAL COURT ERRED IN FINDING THE ACCUSED ARNOLD LOPEZ GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSE CHARGED DESPITE THE FACT THAT HE WAS NOT SUFFICIENTLY REPRESENTED