

EN BANC

[G.R. No. 129306, March 14, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JAMES PATANO Y MARCAIDA, RAMIL MADRIAGA Y LAGONOY AND ROSENDO MADRIAGA Y BANAAG, APPELLANTS.

DECISION

AUSTRIA-MARTINEZ, J.:

For automatic review is the decision dated April 30, 1997, rendered by the Regional Trial Court of Pasig City, Branch 262 in Criminal Case No. 110089-H convicting appellants James Patano, Ramil Madriaga and Rosendo Madriaga of the crime of Kidnapping for Ransom and imposing upon them the supreme penalty of death.

The Amended Information, dated May 15, 1996, charged appellants James Patano, Ramil Madriaga and Rosendo Madriaga as well as Oswaldo Banaag, Manolo Babac, Allan Duarte and Jose Doe, with the crime of Kidnapping for Ransom, committed as follows:

That on or about March 25, 1996, in Mandaluyong City, and within the jurisdiction of this Honorable Court, the aforementioned accused grouping themselves together, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously detain/kidnap and/otherwise deprived VICENTE UY Y CHUA (NGO LIT POON) of his liberty for the purpose of extorting ransom, as in fact demand therefore in the amount of TEN MILLION (P10,000,000.00) PESOS had been made by the above-named accused, while detaining said victim in Antipolo, Rizal, until his rescue on March 27, 1996.

CONTRARY TO LAW.^[1]

All three appellants together with Oswaldo Banaag pleaded not guilty to the crime as charged. Their other co-accused Manolo Babac, Allan Duarte and Jose Doe remain at large. Trial ensued.

The prosecution presented six witnesses.

Kidnap victim Vicente Uy testified as follows -- On March 25, 1996, at around 10:30 in the evening, he was along Wilson St., San Juan, Metro Manila, on his way home driving his Nissan Sentra when a black Pajero bumped his car on the left door, driver's side. Both he and the driver of the Pajero got off their respective vehicles. When he told the driver that they have to call a police officer, he was told that the passengers inside the Pajero were police officers. He was asked to look inside the Pajero. When he did so, the driver suddenly pushed him inside the vehicle while the four other passengers grabbed him. He was blindfolded and his feet and hands were tied. After traveling for about 30 minutes, the vehicle stopped and he was

transferred to the baggage compartment of another vehicle. An object was placed on top of him and he was told that it was an armalite. They traveled again for 30 minutes, after which, he was moved, placed on a "hard object" and covered with "something". He was asked if he has ten million pesos (P10,000,000.00) to which he replied in the negative. They bargained for a while until the ransom money was pegged at five million pesos (P5,000,000.00). They asked for his telephone number which he gave. After some hours, Uy felt somebody lifting him up, telling him that he was already safe, removing his blindfold and untying him. His daughter Lucy Ngo then entered the room. He was asked if he wanted to go to the hospital but he declined.^[2]

On cross-examination, Uy stated that when his blindfold was removed, he saw two handcuffed men. He pointed to appellant Rosendo Madriaga who was in the courtroom, but Uy declared that he is not certain that Rosendo was the one he had seen handcuffed because the one he saw was wearing a moustache and Rosendo does not have one.^[3]

Chief Inspector Gilbert Cruz, in-charge of operations of the Presidential Anti-Crime Commission's (PACC) Task Force Habagat, testified as follows -- On March 27, 1996, his superior, Supt. Calinisan instructed him to proceed to the residence of Uy as the former received a call from Lucy telling him that there was someone in the house of Virginia Avelita, Uy's common-law wife, who claims to know the location of the victim. He went to the house of Lucy and they agreed that he will pose as the family's lawyer. They then went to the house of Virginia. There, he was introduced to appellant Ramil Madriaga who told them that Uy was under the custody of the Antipolo police because he was arrested for swimming without authority at the Villa Cristina Resort (resort for brevity), Antipolo, Rizal, now Antipolo City. Upon his instructions, verification was made by a certain Chief Insp. Quidato^[4] who had gone to the resort and learned that the information was false. Together with Lucy and appellant Ramil, Maj. Cruz proceeded to the resort. Upon reaching the resort, Ramil "dashed" towards cottage no. 2 but Maj. Cruz stopped Ramil. In front of the cottage was a certain Richard Dimal to whom Cruz identified himself as a police officer. He found appellant Rosendo and victim Uy inside the cottage. Dimal and appellant Rosendo were then arrested, handcuffed and brought to the headquarters where they identified a certain Oswaldo Banaag as the "tipster" of the group.^[5]

Lucy Ngo's testimony is as follows -- In the morning of March 26, 1996, she received a call from Virginia Avelita telling her that a certain Ramil Madriaga was at her place with information regarding the whereabouts of her father Vicente Uy, also known as Ngo Lip Poon. She called Maj. Gilbert Cruz and together, they went to Virginia's house. There, they met appellant Ramil who informed them that he received a beeper message from his cousin, appellant Rosendo, telling him that the Antipolo police picked up their group and Uy was recovered. Maj. Cruz then instructed Maj. Winnie Quidato to check with the Antipolo police if there was really an arrest made on that day and it was learned that there was none. Maj. Cruz instructed Quidato to proceed to the resort which they also did together with Lucy's uncles and aunts. At the resort, appellant Ramil got off the car and talked to Maj. Cruz who instructed Ramil: "(O)kay but slowly, do not run or make any move." Halfway towards his cousin, appellant Ramil ran and met appellant Rosendo. Maj. Cruz then ran, followed by his staff. Lucy and her companions were left waiting in the car until Quidato returned and told her that her father is safe, and they

proceeded to the cottage. Appellant Ramil approached Lucy and asked her not to include his cousin Rosendo in the case because of Ramil's help in the rescue of her father.^[6]

Richard Dimal who was arrested by Maj. Cruz on March 27, 1996, testified as follows -- In the evening of March 25, 1996, he was renting some VHS tapes at the Star Gazer video shop located at Pasig City where he saw his friend Nadel Francisco. They chatted until 12 o'clock midnight. Appellant Ramil passed by in his white Toyota Corolla car between 12 o'clock and 1 o'clock in the morning of March 26, 1996 and invited Dimal "to go around" to which the latter acceded. They went to the house of Dimal at Cainta, Rizal. Dimal saw a black Nissan Patrol parked in front of his house. Appellant Ramil then called up a passenger of the Nissan Patrol on his mobile phone and told the latter, "we can't do it here, we must find a darker place." Then they proceeded to Taytay, Rizal and stopped behind its new market. Appellant Ramil alighted from the car and went to the Nissan Patrol. Thereafter, Dimal saw them put something inside the trunk of the car of Ramil. They left Taytay, Rizal and roamed around, with the Nissan Patrol tailing them. When they reached Bulacan, they stopped and Ramil talked to the passengers of the Nissan Patrol. Ramil returned to his car and told Dimal that they will go to Antipolo, Rizal. Upon reaching Antipolo, the passengers of the Nissan Patrol transferred to the car of Ramil. They left the Nissan Patrol behind. Dimal identified Manolo Babac as the driver of the Nissan Patrol and both appellants Rosendo Madriaga and James Patano as well as the two co-accused who are still at-large, Alan Duarte and Jose Doe, as its passengers. When they reached the resort located in Antipolo, Rizal, between 5 o'clock and 6 o'clock in the morning (March 26, 1996), appellant Ramil opened the trunk of his car. Jose and appellant Patano lifted a person out of the trunk and brought him inside cottage no. 2. Dimal asked appellant Ramil if he could go home but Ramil said that they will all leave together. Ramil and Duarte then left the place. Dimal, appellants Rosendo and Patano, and Jose were left inside the cottage. They all went to sleep. When Dimal woke up, it was between 12 o'clock and 1 o'clock in the afternoon (March 26, 1996). He went to the resort's restaurant and stayed there for about 30 minutes. When he went back to the cottage, the others were not there anymore. While waiting for Ramil and the others to come back, he took his dinner between 7 o'clock and 8 o'clock in the evening of "March 26, 1996" and he laid down up to "1 o'clock early morning" of "March 27, 1996". When he went out of the cottage to call up somebody because he was confused having been left alone, appellant Rosendo arrived together with Jose. Jose left again at 6 o'clock in the morning (March 27, 1996) leaving Dimal and appellant Rosendo inside the cottage. They took their lunch in front of the cottage and waited until "around 3 o'clock to 4 o'clock in the afternoon" when appellant Ramil arrived with several companions who he later learned to be the kin of Uy and some police officers. Dimal and appellant Rosendo were left inside the cottage together with some police officers to wait for their (Dimal's and Rosendo's) other companions. At 7 o'clock in the evening, appellant Patano arrived. They stayed in the resort until the afternoon of the next day and they were brought by the policemen to Camp Crame.^[7]

On cross-examination, Dimal admitted that he was arrested that afternoon of March 27; that he was wearing a moustache at the time of the arrest and that he was the one who fed victim Uy.^[8]

Virginia "Virgie" Avelita, Uy's common-law wife, corroborated the testimony of Lucy

and Maj. Cruz regarding appellant Ramil's contact with her. Virginia further testified that appellant Ramil related to her the whole kidnapping scenario; that Ramil informed her that the kidnappers were demanding one hundred thousand pesos (P100,000.00) ransom; that Oswaldo Banaag is the gang's tipster; and that Ramil requested her not to involve his cousin Rosendo.^[9]

The last witness for the prosecution, Chief Inspector Winnie Quidato, Chief of the Intelligence and Operation Division of the Task Force Habagat, corroborated some portions of the testimony of Maj. Cruz on the episode at the resort. He also testified that appellant Patano arrived at the resort at around 9 o'clock to 10 o'clock in the evening of March 27, 1996 bringing with him one thousand pesos (P1,000.00) as payment for the cottage rental.^[10]

The defense presented five witnesses.

First to be presented was accused Oswaldo Banaag, family driver of a certain Beverly Tan. He denied any complicity in the crime. Banaag testified that: he was arrested in White Plains, Quezon City, on March 29, 1996 by Maj. Cruz and was brought to Camp Crame; it was only when he was transferred to a detention cell that he met his co-accused; although he knew victim Uy, he thought that he was being charged with the killing of his employer, Reynaldo Tan; he was surprised when he learned that he was being implicated in the kidnapping of Uy.^[11]

Nadel Francisco, a college student taking up Management course, testified that at "around 4 o'clock to 5 o'clock in the afternoon" of March 25, 1996, Richard Dimal visited him at his house at de Castro, Pasig City. They chatted for about one hour. Dimal invited him to go swimming in Villa Cristina Resort but he declined because he has an examination the following day. Francisco belied Dimal's statement that they were together until 12 o'clock midnight as he was already asleep in his house at that time. He further stated that he did not see appellant Ramil Madriaga on said day.^[12] On cross-examination, Francisco admitted that appellant Ramil's girlfriend asked him to testify but he clarified that he was testifying not because of such request, but because of the subpoena issued to him.^[13]

Appellant Rosendo Madriaga testified thus -- At around 8 o'clock in the evening of March 25, 1996, Richard Dimal, together with a certain Nestor, went to his house and invited him for a swim in Antipolo, Rizal, as it was Nestor's birthday. They arrived at Villa Cristina Resort at around 10 o'clock in the evening and rented a "cottage table" near the pool. While he and Nestor were swimming, he saw Dimal talk to some men and then go upstairs. Later, he noticed that Nestor was no longer around. Afterwards, Dimal came back and invited him to drink. They went to a veranda and there, he saw Nestor drinking Fundador with the same men he previously saw talking to Dimal. Appellant Rosendo recalls the names of two of the men as Allan and Bong. At around 4 o'clock in the morning (March 26, 1996), Dimal confided to him that they were going to actually stand guard over a person. Dimal pulled him towards a room where Rosendo saw a person with bound feet and hands lying on his belly on the floor. When Rosendo told Dimal that he wanted to leave, he was told that Bong's group had men posted at the gate and he might be killed if he left. Scared, he stayed inside the room. Per instructions of Dimal, Rosendo burned all the things belonging to the captive but Rosendo kept a PLDT bill. When Dimal had gone asleep, Rosendo went to the resort's canteen and called the number of

Virginia Avelita reflected on the PLDT bill but the person answering the phone hung up on him several times. He then called up his cousin, appellant Ramil Madriaga, and asked for his help. Ramil initially didn't want to intervene but eventually agreed to help him. He gave the number on the phone bill and appellant Ramil assured him that he will contact such person. He then went back to the veranda where he slept. The next day (March 27, 1996), between 3 o'clock and 4 o'clock in the afternoon, he heard somebody calling his name, and saw appellant Ramil who was with several armed men, running towards him. Dimal then ran and threw a gun near the trees. [14]

Appellant Rosendo further testified that he saw appellant James Patano for the first time in the afternoon of March 28 on board a van at the resort, [15] while he saw Oswaldo Banaag for the first time at the PACC office. [16] Rosendo avers that Dimal implicated him because the latter thinks he was the one who caused his arrest. [17] Further, Rosendo testified that in the room where he, Patano and Dimal were brought by Maj. Cruz, victim Uy only pointed to Dimal as the one who kidnapped him. [18]

Appellant James Patano recounted that: on March 28, 1996, after having gone for a swim, Maj. Quidato arrested him while he was urinating in one of the corners in the resort; he was brought inside a comfort room in one of the cottages where he was asked if he knew Dimal or appellant Rosendo; when he was brought out of the room, he was already unconscious as he was mauled and a plastic bag was placed on his head; he regained consciousness inside a vehicle; from the resort, he was brought to the PACC office; at the PACC office, Dimal's kin, particularly Dimal's sister Arlene and her husband Willie Pangan, asked him to testify against the Madriagas, but he turned them down; and he was also asked to sign an affidavit but he likewise refused. Patano further denied knowing his co-accused in the case. [19]

Appellant Ramil Madriaga asserts his innocence of the crime charged. He testified as follows -- In the early morning of March 26, 1996, his cousin Rosendo called him up asking for his help. Rosendo told Ramil that he was in the resort and was unexpectedly mixed up in a kidnapping; that he could not get out of the resort because there were "look-outs" posted in the area. Rosendo gave Ramil a name and a number written in a PLDT bill. Appellant Ramil was hesitant because the results of the Bar examinations were coming out that day; but nevertheless, he went to see a certain Lt. Capitulo in Camp Aguinaldo and told him about his cousin's predicament. [20] The next day, March 27, 1996, Ramil went to see Virginia Avelita, the name given by appellant Rosendo written on the PLDT bill. He showed her his school I.D. and asked her if she knows anybody who is missing, and the latter replied, "si Vicente ko." He was then made to talk over the phone to Vicente Uy's daughter, who asked him to wait. Virginia, meanwhile, told him that she was going out. After an hour, Virginia, Lucy, three old women, their driver, PACC operatives and Maj. Cruz arrived. After a short conversation, they left for the resort, leaving Virginia behind. He asked the latter to look after his white Toyota Corolla car which he left in her residence. Upon reaching the resort, they were approached by Maj. Quidato who asked him questions. He got off the car when he saw his cousin Rosendo near the pool with Dimal. He pointed the two to Maj. Cruz who instructed his men to scatter. He then started walking towards his cousin, and when appellant Rosendo saw him, he told the latter, "mga kasama natin ito, huwag kang matakot." When he got to Rosendo, he pulled him and they leaned on the wall for fear that they might get