

THIRD DIVISION

[G.R. No. 144316, March 11, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TERESA BERNARDO Y TAMBIEEN, ACCUSED-APPELLANT.**

DECISION

MELO, J.:

A moment of indiscretion oftentimes leads to a lifetime of regret.

Before this Court is an appeal from the decision of the Regional Trial Court of the National Capital Judicial Region (Branch XVIII, Manila) in its Criminal Case No. 99-173104 convicting appellant of the crime of kidnapping and failure to return a minor under Article 270 of the Revised Penal Code; and sentencing her to suffer the penalty of *reclusion perpetua*, and to indemnify the complainant, Rosita Tolibas y Aguada P300,000.00 as moral damages and P50,000.00 as nominal damages, and to pay the costs.

The Information for the crime of kidnapping and failure to return a minor filed against appellant on May 19,1999 reads:

That on or about May 13, 1999, in the City of Manila, Philippines, the said accused being then a private individual and without authority of law, did then and there willfully, unlawfully and feloniously kidnap and carry away one ROSELYNN TOLIBAS y AGUADA, a minor, 15 day old baby girl, represented by her mother, ROSITA TOLIBAS y AGUADA, thereby depriving the said ROSELYNN TOLIBAS y AGUADA of her liberty against her will and consent.

Contrary to law.

(p. 5, Rollo.)

Upon her arraignment on June 23, 1999, appellant pleaded not guilty to the charges. Trial thereafter followed.

The facts, as adduced by the prosecution, are faithfully summarized in the brief submitted by the Solicitor General, to wit:

On May 13, 1999, around 11:30 in the morning, 12-year old Maria Roselle Tolibas y Aguada and her 15-day old sister, Rosalyn Tolibas, were with their mother, Rosita Tolibas y Aguada, at the Fabella Memorial Hospital on Felix Huertas Street, Sta. Cruz, Manila. Rosita and her daughter Roselle were at the hospital for medical check up and tooth extraction, respectively (TSN dated August 25, 1999, pp. 1-3).

While Rosita was undergoing medical check up inside the hospital, her two daughters waited at the lobby. Roselle was seating on a bench with her 15-day old sister on her lap when the appellant sat beside her. Appellant befriended Roselle and asked her if the baby was a boy or a girl, and Roselle replied that the baby was a girl (Ibid).

After a while, the appellant gave P3.00 to Roselle and asked her to buy ice water. The appellant took the 15-day old baby from Roselle and assured her that she (accused) would take care of her (Roselle's) sister, while she was buying ice water. Roselle was not able to find ice water for sale and on her way back to the hospital, she saw the accused running away with her baby sister. She chased the appellant and when she caught up with her, the appellant told her that she was running after her (Roselle's) mother. Roselle did not believe the appellant and she held and pulled the appellant's skirt to prevent her from getting away with her (Roselle's) baby sister, but the appellant persisted in running with Roselle holding on to the appellant's skirt. To slow down the accused, Roselle wrapped her arms around the accused, who struggled and pinched Roselle to free herself from her hug. Roselle shouted for help, thereby attracting the attention of Emerento Torres, a Kagawad of Barangay 311, Zone 21, Sta. Cruz, Manila, who was then resting in front of his house on Felix Huertas Street (Ibid, pp;. 3-4, TSN, dated Oct. 19, 1999, pp. 2-4).

Torres saw the appellant carrying a child and struggling with Roselle, who kept on shouting: "Akina ang kapatid ko, akina ang kapatid ko." Torres accosted appellant, who told him that she was looking for the mother of the baby she was carrying so that she could return the baby to her, but Roselle begged him to help her because her mother was at the Fabella Memorial Hospital and the accused was getting her baby sister. Torres took the baby from the appellant and entrusted the baby to his wife. Then he led appellant and Roselle to the hospital to look for the mother of the baby. Torres found Rosita at the hospital and she confirmed to him that she was the mother of the baby (Ibid.).

Torres requested the hospital's security guard to blotter the incident, after which, he turned over the appellant to the police authorities at the WPDC-PNP Headquarters on U.N. Avenue, Manila. The case was investigated by PO3 Renato Guzman, who took down the sworn statements of Roselle, Torres and Rosita, Exhibits "A", "B" and "C", respectively (Id.).

(pp. 75-77, Rollo.)

On the other hand, the defense presented appellant as its sole witness, who narrated a different version of the incident.

Appellant claimed that on May 13, 1999 at around 10 o'clock in the morning, she was at the Fabella Hospital for a medical check-up, being then on her fifth month of pregnancy. At around 10:30 A.M., while she was waiting for her live-in partner at the hospital, a girl carrying a baby came by and asked her to hold said baby. After she accepted the baby, the girl ran away. After thirty minutes of waiting, she decided to go to the hospital's entrance gate to look for the girl. It was when she