

## EN BANC

[ G.R. No. 123779, April 17, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN SURIAGA Y CHAVEZ, ACCUSED-APPELLANT.**

### DECISION

**PER CURIAM:**

It is always a distressing task to impose the death penalty on an accused. However, it is the bounden duty of this Court to apply the law imposing such penalty when justified. *Dura lex, sed lex.*

On February 22, 1995, an Information was filed with the Regional Trial Court (RTC) Branch 78, Quezon City, charging Ruben Suriaga, Rosita Dela Cruz and Joel Isidera with kidnapping for ransom and serious illegal detention committed as follows:

“That on or about 5:00 o’clock in the afternoon of January 22, 1995, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused RUBEN SURIAGA and ROSITA DELA CRUZ, being private individuals, conspiring together, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously kidnap and take away NICOLE RAMOS, a 2-year old female child, without the consent of her parents, for the purpose of extorting ransom from the latter, and immediately thereafter, the said accused still conspiring together, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously detain her and deprive her of her freedom and liberty up to and until about 4:30 o’clock in the afternoon of the following day.

“That accused JOEL ISIDERA, having learned of the kidnapping and without having participated therein either as principal or accomplice, take part subsequent to its commission by assisting the principal accused, RUBEN SURIAGA and ROSITA DELA CRUZ, to profit by the effects of the crime by accompanying and driving for accused RUBEN SURIAGA to the place where the pay-off was made and receiving the ransom money in the amount of P100,000.00, to the damage and prejudice of the parents of NICOLE RAMOS, spouses Johnny and Mercedita Ramos in the said amount and such other amounts as may be awarded to them under the provisions of the Civil Code.

“CONTRARY TO LAW.”

No bail was recommended for Ruben Suriaga.

During the scheduled arraignment and pre-trial conference on March 8, 1995, accused Suriaga, through his counsel *de parte* manifested that he was willing to

enter a plea of guilty to the offense charged provided that the penalty to be imposed is *reclusion perpetua*.

Upon arraignment, however, Suriaga and his co-accused entered a plea of "Not guilty."

The relevant facts established by the prosecution are:

On January 22, 1995, at around 5:00 o'clock in the afternoon, Edwin Ramos, a prosecution witness, was cleaning the car of his older brother, Johnny Ramos at Sangangdaan, Caloocan City. The latter was taking care of his 2-year old daughter, Nicole, who was then playing inside the car.<sup>[1]</sup>

Suriaga, a cousin of the Ramos brothers, arrived. He was accompanied by his live-in-partner and co-accused Rosita dela Cruz.<sup>[2]</sup> Suriaga requested Edwin if he could drive the car, but the latter declined, saying he did not have the keys.<sup>[3]</sup> Meanwhile, Johnny returned to his house because a visitor arrived. At this instance, Rosita held Nicole and cajoled her. Rosita asked Edwin if she could take Nicole with her to buy barbeque at Monumento, Caloocan City. Having been acquainted with Rosita for a long time and because he trusted her, Edwin acceded. When Rosita and the child left, Suriaga joined them.<sup>[4]</sup>

But after the lapse of more than one hour, they failed to return. Worried, Edwin rushed inside the house and after being told by Johnny that Nicole has not yet arrived, he (Edwin) searched for her at the Sangangdaan Market, Caloocan City, but there was no trace of the child, nor of her companions.<sup>[5]</sup>

At the same time, Johnny and his wife, Mercedita, began their search in the entire vicinity of their barangay.<sup>[6]</sup> Then they proceeded to Ever Gotesco along Commonwealth Avenue, Quezon City, but they could not find their daughter and Rosita.

At the Ramos' residence, Nicole's grandfather received a phone call asking for ransom in the amount of P100,000.00. He recognized that the caller was Suriaga.

When Johnny came to know of such telephone call, he immediately reported it to the PACC Task Force Habagat in Camp Crame, Quezon City. It was 11:30 in the evening of January 22, 1995.<sup>[7]</sup>

The next day, January 23, at around 7:00 o'clock in the morning, Suriaga called Mercedita, introduced himself and asked her if she and her husband would give the amount. She gave a positive answer and said, "kahit ipangutang namin."<sup>[8]</sup> Suriaga warned her that if she will not deliver the money, her daughter would be placed in a plastic bag or thrown in a garbage can.<sup>[9]</sup>

Thereafter, the Task Force Habagat gave Mercedita instructions on the delivery of the ransom money. The pay-off site would be in front of the Fairview General Hospital, Quezon City on that same day, January 23, 1995.

Meantime, surveillance teams from PACC were being organized to rescue Nicole and

to apprehend the suspects.<sup>[10]</sup>

At 4:00 o'clock in the afternoon, also of that same day, Mercedita, with the cash money, and while being tailed by the PACC agents, proceeded in a jeepney to the Fairview General Hospital. She reached the place at around 4:35 o'clock in the afternoon and waited for Suriaga. At around 5:00, Suriaga, accompanied by Joel Isidera, arrived. Then the three of them boarded a jeepney and disembarked on Regalado Street. It was then that Suriaga asked Mercedita for the money. Since Joel Isidera was beside her, Mercedita gave him the money. Subsequently, they boarded a tricycle. After travelling a short distance, the PACC agents suddenly appeared and arrested Suriaga and Isidera.

Prior thereto, Inspector Jose Duenas' Team was able to rescue Nicole in a shanty where Rosita's sister lived located at the NAWASA Squatters Area, Ideal Subdivision, Quezon City.<sup>[11]</sup> Upon being informed thereof, Mercedita and the PACC agents proceeded to that place.

Forthwith, the ransom money was properly recovered and returned to spouses Johnny and Mercedita Ramos. It was photocopied for identification purposes.<sup>[12]</sup> At the same time, accused Suriaga, Rosita dela Cruz and Joel Isidera were investigated at the PACC Headquarters, Camp Crame, Quezon City.

On February 15, 1995, an Information for kidnapping for ransom and serious illegal detention was filed against Ruben Suriaga and Rosita dela Cruz, as principal, and Joel Isidera, as accessory.

In his defense, accused Suriaga denied the charges. He claimed that on January 22, 1995, he only "borrowed" Nicole for a stroll with Rosita Dela Cruz along Monumento. After thirty minutes, Suriaga decided to go to Rosita's house to get something. Since the traffic was heavy, he did not return the child but instead called her grandfather.<sup>[13]</sup> They slept at Rosita's house, the accused being convinced that Nicole's parents would not worry because he always took care of the child.

The next day, at around 3:00 o'clock in the morning, before Suriaga left for B.F. Quezon City to butcher a pig, he instructed Rosita to call Nicole's parents and inform them that the child would be returned in the afternoon. When he came back the following day, January 24, at 10:00 in the morning, Rosita informed him that they have been charged with the police headquarters for kidnapping Nicole. Forthwith, he immediately called his uncle (the child's grandfather) denying the imputation, promising he would return her immediately. His uncle told him that since Mercedita would go to Fairview General Hospital that afternoon, it would be best if they would just meet there. But he was not able to bring Nicole to the place because the child was then sleeping.

After trial, the lower court rendered judgment finding Suriaga guilty beyond reasonable doubt of kidnapping for ransom as charged, while acquitting the other accused, thus:

"WHEREFORE, the Court finds accused Ruben Suriaga GUILTY beyond reasonable doubt for the crime of Kidnapping for Ransom defined and penalized under Art. 267 of the Revised Penal Code, as amended by

Republic Act No. 7659, and is hereby sentenced to suffer the penalty of DEATH. For failure of the prosecution to prove the guilt of accused Rosita Dela Cruz and Joel Isidera beyond reasonable doubt, they are hereby ACQUITTED. Accused Rosita Dela Cruz may now be released from detention unless she is being held for some other legal cause.

“SO ORDERED.”

In his appeal, Suriaga attributes to the trial court the following errors:

“I

THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE TO THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.

“II

THE COURT A QUO SERIOUSLY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED IN THE INFORMATION DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.”<sup>[14]</sup>

which shall be discussed jointly being interrelated.

Appellant laments that he was convicted despite the infirmity of the prosecution’s evidence. He points out that the testimonies of the prosecution’s witnesses did not inspire belief, stressing that if Nicole Ramos was indeed kidnapped for ransom, her parents should not have delayed the payment of the ransom money until late in the afternoon of January 23, 1995, the day agreed upon. Their reaction was contrary to normal human behavior. Moreover, Mercedita’s claim that she and her husband were still raising the amount contradicts the latter’s testimony that they had the money at that time, having recently sold a lot in GAO, Quezon City.<sup>[15]</sup>

Appellant’s contention obviously lacks merit.

A review of the records shows that the prosecution was able to establish by its evidence, absent any scintilla of doubt, that appellant is guilty, as charged.

Mercedita Ramos, Nicole’s mother, narrated how appellant committed the crime, thus:

“6. TANONG: Maari mo na bang sabihin mo ngayon sa akin ang buo’t tunay na pangyayari hinggil sa pagkakadukot sa iyong anak na si Nicole Ramos?

6. 10 SAGOT: Noong ika-22 ng Enero 1995 sa ganap na oras humigit kumulang sa mga alas 5:00 o 5:30 ng hapon habang ako ay nasa aming bahay aking nakita na pumunta ang kapatid ng aking asawa at tinanong sa akin ang bata kung nakita ko. At sabi ko naman sa kanya “hindi ba ikaw yon ang kasama ng bata,” at ang sagot naman niya sa akin na kinuha daw ni Rosita at Ruben para

isama na ibibili ng barbeque. At hinanap namin kasama ang aking asawa sa buong *barangay*, at nang hindi namin makita naghintay pa rin po kami sa Ever Gotesco Commonwealth Avenue kong saan aming tinanong kung nasan nakatira sa Rosita. Nang wala kaming makuha na impormasyon tumawag po kami sa bahay kung saan nalaman namin na ipinatubos sa halagang ISANG DAANG LIBONG PESO (P100,000.00) upang maibalik ang aking anak.

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11. TANONG: Noong ikaw ay umuwi sa inyong bahay at ang iyo namang asawa ay tumuloy sa PACC Task Force Habagat, ano naman ang mga sumusunod na pangyayari habang ikaw ay nasa inyong bahay?
1. SAGOT: Hinintay ko po ang muling pagtawag noon kumidnap sa aking anak nang walang tumawag ay hinintay ko na lang ang pag-uwi ng aking asawa at doon nalaman ko na siya ay nakipag-coordinate sa PACC Task Force Habagat. At kinabukasan ng umaga ng ika-23 ng Enero 1995 sa mga oras ng bandang alas 7:00 o 7:30 ng umaga humigit kumulang ay muling tumawag si Ruben at tinanong sa akin kung magkano ang hinihingi ni JHUN na pantubos sa bata. At sinagot ko sa halagang ISANG DAANG LIBONG PISO (P100,000.00). At sinabi ko sa kanya, "Oo, magbibigay kami kahit ipangutang namin basta lang matubos ang aming anak," at pagkatapos noon ay binaba na ang telepono."<sup>[16]</sup>

#### ON DIRECT EXAMINATION

"Q: In the same Affidavit, in answer to Question No. 11, you testified and I quote: "At kinabukasan ng umaga ng ika-23 ng Enero 1995 sa mga oras na bandang alas 7:00 o 7:30 ng umaga humigit kumulang ay muling tumawag sa aming bahay at hinanap ako at aking nakausap si Ruben." My question is how did you know that the person who called you between 7:00 and 7:30 in the morning was Ruben?

A: He introduced himself, Sir.

Q: And by Ruben you are referring to the accused, Ruben Suriaga?

A: Yes, sir.<sup>[17]</sup>

#### ON CROSS EXAMINATION

"Atty. Mijares: You said you also received the 4th call. What time