

EN BANC

[G. R. Nos. 140900 & 140911, August 15, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODERICK LICAYAN @ RUDY, ROBERTO LARA @
TUNGKOY/UNYOK, PEDRO MABANSAG @ PUTOL (AT LARGE),
ALEX PLACIO (AT LARGE), JOJO SAJORGO (AT LARGE), ALLAN
PLACIO (AT LARGE), NOEL DELOS REYES (AT LARGE), DODONG
ADOLFO (AT LARGE), AND BENJIE MABANSAG (AT LARGE),
ACCUSED, RODERICK LICAYAN @ RUDY, ROBERTO LARA @
TUNGKOY/UNYOK, ACCUSED-APPELLANTS.**

D E C I S I O N

PER CURIAM:

This is an automatic review of the Consolidated Decision,^[1] dated September 9, 1999, of the Regional Trial Court, Branch 272, Marikina City, finding accused-appellants Roderick Licayan and Roberto Lara guilty of Kidnapping for Ransom under Art. 267 of the Revised Penal Code, as amended, and sentencing them to suffer the penalty of death by lethal injection and to indemnify private complainants in the amount of P100,000.00, as moral and exemplary damages, and the additional amount of P20,000.00 for Private Complainant Joseph Co as actual damages. Accused-appellants were acquitted of the crime of Robbery.

The Information^[2] for Kidnapping for Ransom against accused-appellants and their other co-accused charged -

“That on or about August 10, 1998 at around 1:45 a.m., the above-named accused, conspiring, confederating and mutually helping one another, armed with a handgun and with evident premeditation, did then and there willfully, unlawfully and feloniously with the use of force and intimidation kidnap JOSEPH TOMAS CO and LINDA MANAYSAY for the purpose of extorting ransom in the amount of P10 million at Goodies Pares Mami House located at Loyola cor. Constancia St., Sampaloc, Manila, owned and managed by the aforementioned victim Co and thereafter took them with the use of Toyota Tamaraw FX likewise owned by Co as getaway vehicle to a house in Daang Bakal, Parang, Marikina and within the jurisdiction of this Honorable Court where they were kept under detention against their will until they were able to escape the following day at around 4:30 in the afternoon on August 11, 1998.

“CONTRARY TO LAW.”

The Information^[3] for Robbery charged -

"That on or about August 10 and 11, 1998 at Daang Bakal, Parang, Marikina City and within the jurisdiction of the Honorable Court, the above-named accused, armed with a handgun and with intent to gain, conspiring, confederating and mutually helping each other, by means of force and intimidation, did then and there willfully, unlawfully and feloniously take and divested JOSEPH TOMAS CO and LINDA MANAYSAY of the following personal properties after forcible taking them as hostages for ransom, to wit:

"1. Wallet of Co containing his driver's license, original copy of official receipt (OR), certificate of registration (CR) of his two (2) L-300 vans;

"2. Bank time deposit certificate at Metrobank, Valenzuela Branch;

"3. Casio G-Shock watch;

"4. Necklace and earrings of Manaysay; and

"5. P10,000.00 cash

"to the damage and prejudice of said victim as owners thereof against their will.

"CONTRARY TO LAW."

The facts are as follows:

Complainant Joseph Tomas Co owns a restaurant called Goodies Pares Mami House with branches in Valenzuela, Cubao, and Sampaloc.^[4] Co's regular routine was for him and the other complainant, Linda Manaysay, the restaurant's cashier and accounting officer, to make the rounds of the three branches for inspection and collection of left-over food and cash sales. The rounds would normally begin late in the evening and last until early in the morning of the next day.^[5] The prosecution evidence shows that on August 9, 1998, complainant went to the Goodies Valenzuela Branch where they stayed until midnight.^[6] From there, they proceeded to the Cubao branch where they stayed until about 12:45a.m., August 10, 1998. Their last stop was at the Sampaloc branch which they visited at 1:30 a.m.^[7]

While Co was at the Sampaloc branch, supervising the loading of left-over food into the back of his Tamaraw FX service vehicle, three men approached him from behind. When Co saw the men, he asked what they wanted. The men were armed with two caliber .45 pistols and a .38 revolver. None of the men wore any masks.^[8]

Co told the men that if they wanted money, they could get it from the store. The men refused to get money from the store. Without any warning, one of the men's guns went off. When Manaysay heard the shot, she came out and asked the men what they wanted. She told them that they could get money from the store, but

they refused to do so.^[9] Instead, complainants were made to board the rear of the Tamaraw FX.^[10] Two of the men's companions were already seated in the front seat. The man in the driver's seat asked Co for the key to the vehicle.^[11] The three other men also boarded the vehicle with the complainants. Co identified accused-appellant Roderick Licayan as one of his five abductors.^[12]

Co said their hands were tied and their eyes taped, and that they were made to wear caps over their heads as the vehicle reached Quezon Avenue in Quezon City.^[13] After 45 minutes, Co said he felt the vehicle stop. The rear door was opened and he heard the voices of people approaching the vehicle.

Complainants were brought inside a room of a house made of light materials and which had no ceiling.^[14] They were made to sit on the floor.^[15] Then, they were transferred to another room where the covers of their eyes were removed and their feet were tied. Manaysay testified that she saw accused-appellants in the house after the masking tape was removed from their eyes.^[16] Co's wallet which contained P5,000.00 in cash and his watch and Manaysay's necklace and earrings were taken from them.^[17] A person was left to guard them inside the room, whom both complainants identified as accused-appellant Roberto Lara.^[18]

After about two hours, Manaysay told Co that she wanted to urinate. Hence, Co asked their guard if Manaysay could go outside to do it.^[19] The guard left and came back with a half-gallon container which he gave Manaysay to urinate in.

Co tried talking to the guard and pleaded with him to let them go. But the guard replied that he was just following orders. Co offered him some money which he had, but the guard did not accept the money and instead threw it away.^[20]

The guard later fell asleep and Co and Manaysay somehow managed to escape without being noticed by the look-out outside their room.^[21] After running for several meters, complainants took refuge in a house. An old woman living in the house allowed them to use the telephone from which Co was able to call the Marikina Police Headquarters.^[22] The woman told them that they were in Kaolin St., Twinriver Subdivision, Parang, Marikina.^[23] Two police officers from the Marikina police arrived, followed by a police SWAT team.^[24] Complainants' case was later turned over to the Presidential Anti-Organized Crime Task Force (PAOCTF) for investigation.^[25]

On August 11, 1998, at around 6:30 p.m., members of the PAOCTF raided the safehouse at Daang Bakal, Parang, Marikina where Co and Manaysay had been held captive.^[26] A man seen running away was arrested by SPO3 Ismael Fajardo Jr.^[27] Upon being questioned, the man identified himself as accused-appellant Roberto Lara.^[28] SPO3 Fajardo identified accused-appellant Lara from photographs shown to him in court as the man he arrested.^[29] Lara pointed to accused-appellant Licayan as one of his companions and told the PAOCTF members that Lara was hiding in his (Lara's) uncle's house at the back of the San Mateo Rizal Municipal Hall. The PAOCTF members thereafter proceeded to the house and were able to arrest accused-appellant Licayan.^[30]

Lara and Licayan were thereafter brought to the PAOCTF headquarters in Camp Crame where they were identified by Co and Manaysay in a line-up consisting of Lara, Licayan, and eight PAOCTF members.^[31]

Benjamin Co, complainant Joseph Thomas Co's brother, testified that he was twice called in his office by unidentified persons who demanded P10 million for the release of complainants.^[32] The kidnappers were of course frustrated as complainants were able to escape.

Accused-appellants' defense is alibi. Accused-appellant Licayan claimed that on August 11, 1998, at around 7:00 p.m., he was at home in Sta. Cecilia Village, San Mateo Rizal, having dinner with Nicolas Salvivia, a dump truck driver;^[33] that on the next day, August 12, 1998, he was arrested by members of the PAOCTF while he was having drinks with Salvivia and Salvivia's father at the latter's residence in Sta. Cecilia Village;^[34] and that when he was arrested, he was not informed of the charges against him. He said he only learned that he was arrested for the kidnapping of complainants after he had been brought to Camp Crame.^[35]

In Camp Crame, he and his co-accused were handcuffed and made to stand in a police-line up. They were not assisted by counsel.^[36] The complainants pointed to him and Lara as part of the group who kidnapped complainants.^[37] Licayan claimed he only saw complainant Co for the first time when he (Licayan) was brought to Camp Crame.^[38]

On the other hand, accused-appellant Lara, a construction worker, testified that from 7:00 a.m. to 5:00 p.m. of August 10, 1998, he was in his place of work in Antipolo.^[39] At 7:00 a.m. of August 11, 1999, he went home to Novaliches, stopping by the house of his uncle, Pedro Mabansag, in Parang, Marikina. Mabansag had driven Lara's family out of his house and Lara had gone there to get his child's belongings.^[40] However, before he could do so, he was arrested by the Marikina Police at Greenheights.^[41]

Lara wanted to ask his cousin Nicolas Salvivia for help.^[42] The police beat him up and told him that they would go to Salvivia's house. He was made to board a van where his head was covered with a plastic bag and he was again beaten up.^[43] The police found Salvivia and Licayan in Salvivia's house and ordered the two to drop to the ground.^[44] The police poked a gun to Lara's head and told him to identify his companions, otherwise he would be killed. Thus, according to Lara, he pointed to Licayan.^[45]

Lara claimed that at Camp Crame, after he and Licayan were identified by complainants in a police line-up, they were forced to sign a statement.^[46] They were not informed of their right to remain silent and to be assisted by counsel.^[47] Lara denied that Atty. Confesor B. Sansano, who appeared to have assisted him in making his statement, actually assisted him.^[48]

After trial, the Regional Trial Court, Branch 272, Marikina City, rendered its decision

acquitting accused-appellants of robbery but convicting them of kidnapping and sentencing them to death and to pay damages to complainants. The dispositive portion of its decision states:

"WHEREFORE, judgment is hereby rendered finding RODERICK LICAYAN and ROBERTO LARA GUILTY beyond reasonable doubt for the crime of Kidnapping for Ransom penalized under Article 267 of the Revised Penal Code in relation to R.A. 7659, and imposing upon both of them the penalty of death by lethal injection and the solidary payment to each of the victims the amount of One Hundred Thousand (P100,000.00) Pesos as moral and exemplary damages and an additional amount of Twenty Thousand (P20,000.00) Pesos for Joseph Co as actual damages for the valuables taken from him. However, both accused are acquitted for the crime of robbery for the reasons previously discussed in keeping with the constitutional presumption of innocence of any man whose guilt is not within the standard of moral certainty. The cases against the other accused Pedro Mabansag @ Tata Pandak, Jose Sajorgo, Allan Placio, Noel Delos Reyes, Dodong Adolfo and Benjie Mabansag who all remain at large are ordered archived and let alias warrants for their arrest be issued."

Hence, this appeal. Accused-appellants contend that -

- "I. THE COURT A QUO GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES DESPITE THE MANIFEST INCONSISTENCIES IN THEIR TESTIMONIES.
- "II. THE COURT A QUO GRAVELY ERRED IN NOT RULING THAT THE ACCUSED APPELLANTS WERE ILLEGALLY ARRESTED, AND THE CIRCUMSTANCES UNDER WHICH THEY WERE ARRESTED DO NOT FALL UNDER THE WARRANTLESS ARREST.
- "III. ASSUMING IN ARGUENDO THAT THE ACCUSED-APPELLANTS ARE GUILTY, THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE ACCUSED-APPELLANTS ACTED IN CONSPIRACY WITH THE OTHER CO-ACCUSED AND IN NOT FINDING THAT THE ACCUSED-APPELLANTS' PARTICIPATION IN THE COMMISSION OF THE CRIME AS MERE ACCOMPLICES."

The Court finds the appeal to be without merit.

First. As in all criminal cases where conviction or acquittal depends almost entirely on the victim's positive identification of the culprit, the basic issue presented in the case at bar deals with the credibility of the complainants. For this purpose, the assessment of the evidence by the trial court is given the highest degree of respect because of the judge's opportunity to observe directly the demeanor of the witnesses on the stand.^[49]

Accused-appellants make much of complainants' failure to remember the physical features and characteristics of their abductors. The following testimony on cross-