

EN BANC

[G.R. No. 118570, October 12, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENEDICTO RAMOS Y BINUYA ALIAS "BENNIE," ACCUSED-
APPELLANT.**

D E C I S I O N

PER CURIAM:

This is an automatic review of the decision of the RTC-Br. 78, Quezon City, in Crim. Case No. Q-94-58036 finding accused-appellant BENEDICTO RAMOS y BINUYA guilty of two (2) separate heinous crimes - kidnapping for ransom and murder - and sentencing him to suffer the supreme penalty of DEATH in each case to indemnify the heirs of the victim in the amount of P50,000.00 plus P105,150.00 for funeral expenses.^[1]

On 13 July 1994, at about six-thirty in the morning, an American pastor named Malcolm Bradshaw was driving his car along EDSA to take his daughter Michelle to school. At the bus stop between Corinthian Gardens and the corner to White Plains Avenue, Quezon City, he saw a woman, later identified as the victim Alicia Abanilla, struggling to break away from the arms of a man known later to be accused-appellant Benedicto Ramos y Binuya alias "Bennie." The woman hailed a passenger bus and then a white car to no avail. Perhaps no one comprehended the situation she was in. Realizing that the woman was in deep trouble, Bradshaw stopped his car and blew his horn repeatedly to attract the woman's attention. She was hysterical and Bradshaw was to her heaven-sent. She grabbed the opportunity and ran towards Bradshaw's car and hopped in at the back seat. Unfortunately for her, Ramos caught up with her and squeezed himself into the same car.

From EDSA Bradshaw turned right towards White Plains Avenue where he was flagged down by a traffic policeman. As Bradshaw slowed down Ramos pulled out his gun and ordered him to go straight ahead, which the latter obeyed. As they cruised along White Plains avenue, Alicia handed her wallet to Michelle and asked the latter to look in there for some medicine. Later she took back her wallet and tried to look for her medicine herself. As she went through the contents of her wallet a receipt fell off and landed on the left side of Michelle. Alicia then asked the accused, "Bennie, has Cecil had her baby?" "No," replied Ramos. Is she having it by caesarian?" Ramon did not answer. "Does Cecil know that you are doing this to me x x x that you are holding me hostage?" Again Ramos did not answer.^[2]

Upon reaching Katipunan Avenue in front of Blue Ridge Subdivision, Ramos told Bradshaw to stop at Rajah Matanda Street, Project 4, Quezon City, where he got off and pulled Alicia out of the car. She clung to the shoulder of Michelle muttering, "God bless you. Pray for me and notify my family." Then she placed her arm around Bradshaw's neck and softly whispered to him, "I will probably not get out of this

with my life. Tell my family my situation." At about ten of seven, Ramos finally succeeded in pulling Alicia out of the vehicle.

Soon after, Bradshaw discovered the receipt dropped by Alicia Abanilla which contained her name and residence telephone number. Thus after taking his daughter to school, he proceeded to his office, called the number in the receipt and inquired about Mrs. Abanilla. The maid informed him that Mr. and Mrs Abanilla had already left for work at Meralco. Later that morning, at the instance of Bradshaw, one of his employees called up a friend at Meralco to inquire about Mrs. Abanilla, and the former was told that Mrs. Abanilla was at that time apparently being held hostage by a man who was demanding ransom for her release.

Meanwhile, at around seven-fifteen, Alicia called up her boss, Atty. Pastor del Rosario, for whom she worked as a confidential secretary at Meralco. Atty. Del Rosario was still in bed. She begged him not to ask any question but said that she needed P200,000.00 in cash immediately, otherwise, she might not be able to go home anymore. She assured him that she had enough funds in the bank to repay him. She then requested him to give the money to Inday, a lady messenger at Meralco, with instruction to deliver the money to her at Glori Supermart at Sikatuna Village. Atty. Del Rosario suggested that the money be delivered instead by a Meralco security personnel but she refused, saying, "Please not security, I do not want them to know what happened to me." Towards the end of their conversation, Alicia entreated, "Sir, you are the only one who can help me now, I cannot turn to anyone else. Please help me."^[3]

Del Rosario hurriedly gathered P200,000.00 in cash, placed the money in a white envelope and tucked it in a plastic bag. He then ordered his driver, Serrano Padua, to fetch Inday from Meralco. When Inday arrived, Del Rosario gave her the money and told his driver to take her to Mrs. Abanilla at Glori Supermart with specific instruction to give the money to no else but Mrs. Abanilla.^[4]

At around seven-thirty, a taxicab driven by Antonio Pineda passed by. Ramos and Mrs. Abanilla boarded the cab and took the back seat. They proceeded towards Anonas Extension in Sikatuna Village near Glori Supermart. Ramos instructed Pineda to park his taxi in front of the Supermarket as they had to wait for someone. For P700.00 Pineda agreed to wait for them so he could take them later to Norzagaray, Bulacan. Driver Serrano Padua and Inday finally arrived at their rendezvous. Pineda, who was requested by Alicia to receive the money, approached them and asked about the package for Mrs. Abanilla. However, Inday refused to give the money saying that she was instructed to deliver it only to Mrs. Abanilla. Pineda went back to the taxi and informed his passengers of Inday's refusal. Mrs. Abanilla gave her identification card to Pineda and told him to ask Inday to face the taxi and show herself through the window. Pineda went back to Inday, gave Mrs. Abanilla's ID and asked her to approach the taxi to see Mrs. Abanilla. Inday recognized Alicia so the former handed the money to Pineda. Thereupon, Ramos told Pineda, "*Tara, deretso tayo sa Norzagaray.*"

On the way to Norzagaray travelling along Commonwealth Avenue, Ramos suddenly changed his mind and decided to head for Bocaue, Bulacan, instead. During the entire trip, Pineda noticed Alicia looking very pale, fidgety and apparently perturbed.

Upon arriving in Bocaue, they went straight to the St. Paul Hospital compound where they parked. Pineda and Ramos got off to relieve themselves by a fence. Pineda noticed a revolver tucked in Ramos' waist. Afterwards, Ramos told Pineda to leave the taxi for while as he was going to discuss something with his companion. Obviously, he was interested in counting the money in the plastic bag. As Pineda waited for his passengers to call him, he observed that this woman passenger kept opening and closing the rear door of his taxi as if trying to get out.

Pineda became uneasy. He slowly inched himself towards his taxi. There he saw Ramos straggling his woman companion. So he told Ramos, *"Boss, iba na yata iyang ginagawa mo ah, baka mapadamay ako diyan!"* He boarded his taxi and asked his passengers to transfer to another vehicle as he did not want to get involved on what was going on. But Mrs. Abanilla pleaded, *"Mama', huwag mo akong iiwanan dito dahil papatayin ako ng lalaking ito. May kapatid ka din na babae."* Ramos retorted, *"Hoy! Pati iyong isip ng driver nililito mo."* Then he ordered Pineda to take them back to MacArthur Highway where they would take another ride.

As Pineda drove out of the hospital compound, Mrs. Abanilla panicked and held him by the shoulder pleading, *"Huwag mo akong iiwanan dito."* When Pineda reached MacArthur Highway near Sto. Niño Academy in Bocaue he saw a traffic aide, Gil Domanais, who was directing traffic. He had a gun on his waist. Upon seeing the armed traffic aide, Pineda stopped his cab, got off and told Domanais that his male passenger had been strangling his female companion. He also narrated that his passengers, who had been with him since morning, refused to get off his cab and he had not yet been paid by them. Domanais suggested to him to bring his passengers to the police station.

Domanais peeped through the window of the taxi and saw Ramos with his left arm around the shoulders of Alicia. She was crying. She told Domanais that Ramos was armed with a revolver and was hurting her. At that moment Ramos pulled out his gun prompting Domanais and Pineda to run away and take cover. Ramos then transferred to the driver's seat and drove the cab away. In a desperate effort to free herself, Alicia opened the left rear door and jumped out of the cab; unfortunately, her blouse was caught in the process. As a consequence, she was dragged by the vehicle. Ramos suddenly stopped the taxi, and as Alicia attempted to rise, he aimed his gun at the back of his hapless victim, fired at her twice, hitting her just above her nape. Domanais, who was armed with a .38 caliber pistol and witnessing the shooting, fired at Ramos; but he missed him. Then he called for police assistance as Ramos fled on foot.

On the same day, responding elements of the Bocaue Police Station apprehended Ramos in a grassy area at the Violeta Metroville Subdivision. The police confiscated his .22 caliber Smith and Wesson Magnum with four (4) live ammunitions and two (2) spent shells, and recovered a bag containing - P138,630.00 consisting of P1,000.00 and P500.00 bills.

Mrs. Abanilla's body was left at the scene of the shooting, lying face down parallel to the taxi. Dr. Benito B. Caballero, Medico-Legal Officer of the Province of Bulacan, conducted the autopsy and testified that the cause of death was "shock due to massive external. . . intracranial. . . . hemorrhage due to gunshot wound in the head penetrating the skull and the brain tissue."^[5]

Thereafter an Information was filed against Benedicto Ramos y Binuya alias "Bennie" charging him with the complex crime of kidnapping for ransom with murder, to which he pleaded not guilty. To expedite the proceedings, the prosecution and the defense agreed during the pre-trial that the testimony of their witnesses would be in the form of affidavits which would be the bases for the cross-examination. Trial on the merits then ensued.

For his part, Ramos denied having kidnapped and killed the victim. In his Sinumpaang Salaysay^[6] he narrated his version of the incident -

3. Na, ang bintang sa akin na 'kidnapping for ransom with murder' ay walang katotohanan sapagkat ang totoo ay ang mga sumusunod: a. Ang yumaong si Alicia Abanilla ay aking ninang sa kasal noong ikinasal kami ng aking asawang si Cecillia Pascual noong 17 October 1993 sa Sta. Rita Parish Church, Quezon City. Bago ako at ang aking asawa ikasal sa nabanggit na simbahan ay kasal na kami sa isang civil marriage noong June 30, 1993 sa City Hall ng Maynila x x x x d. Na, dahilan sa wala akong hanapbuhay mula ng ako'y tanggalin sa Meralco, ako'y nagsabi sa aking ninang Alice na ako ay paluwagan ng kaunting halaga ng pera dahil sa ang aking asawa ay manganganak at wala akong panggastos. Ang una kong sabi sa kanya ay noong unang linggo ng Hulyo, 1994 sa pamamagitan ng telepono sa Meralco. Ang sabi niya sa akin huwag akong mag-alala pagkat tutulong siya sa akin kapag manganganak na ang aking asawa. Ngunit pinagbawalan niya akong magpunta sa kanyang bahay o kaya sa kanyang opisina, kaya sa telepono lamang kami nag-uusap x x x x g. Sapagkat ako'y ayaw papuntahin ng aking ninang Alice sa kanyang bahay at sa kanyang opisina, at ang sabi niya ay abangan ko na lamang siya sa EDSA kanto ng White Plains, ang ginawa ko inabangan ko siya sa kanyang rota patungo sa kanyang opisina. Ng kami ay magkita sa EDSA sa may kantong patungong White Plains, sinabi ko agad sa kanya na kailangan ko na 'yong ipinangako niyang tulong para sa aking asawa. Ang sabi niya sa akin bukas na raw niya ibibigay at doon din sa lugar na iyon kami magkita. Hindi ako pumayag at doon kami nagtalo, pagkat sabi ko sa kanya pupunta ng ospital ang asawa ko at ngayon din kailangan ko ng pera. Habang kami nagtatalo, may dumarating na sasakyang Toyota Corolla Station Wagon na ang driver ay Amerikano at pinara ng ninang Alice ko at hinintuan kami ng kano na napag-alaman ko nitong bandang huli na si Malcolm Bradshaw, at isinakay si ninang Alice at sumakay na rin ako x x x x j. Ng kami ay dumating sa St. Paul Hospital sa Bocaue, napag-alaman kong wala doon ang asawa ko, kaya't sabi ko kay ninang Alice tutuloy kami sa Norzagaray, sa bahay ng aking biyenang at baka nandoon pa si Cecil. Ayaw ng sumama ni ninang Alice sa Norzagaray dahil nahihiya daw siya sa biyenang ko, kaya't kami nagtalo. Gusto kong makumbinsi si ninang Alice na sumama sa Norzagaray kaya pinakiusapan ko ang driver ng taxi na lumayo muna sandali pagkat may pag-uusapan kami ni ninang Alice at sumunod naman ang driver na lumayo sa taxi x x x x k. Sinabi ko kay ninang Alice na kailangan sumama siya sa akin sa Norzagaray at siya ang magbigay ng pera kay Cecil upang malaman ni Cecil na ang pera ay galing sa kanya. Ito sa dahilan na kung ako ang magbibigay ng pera sa asawa ko, baka itong si Cecil ay magduda na masama ang pinanggalingan ng pera at matakot, at magkaroon ng shock at duguin. Ang aking pangamba na baka magduda si Cecil na ang pera ay

galing sa masamang paraan ay dahil sa ako nga ay napagbintangan na nagpalsifica ng tseke ni Atty. del Rosario at yun din ang dahilan ng aking pagkakatanggal sa trabaho ko sa Meralco x x x x 1. Hindi kami nagkasundo ng ninang ko at maya-maya dumating na ang driver at nagyaya na dahil gutom na raw siya. Pumayag ako na lumakad na ang taxi at ang plano ko ay ituturo ko sa driver ang daan patungo sa Norzagaray, ngunit pagdating sa MacArthur Highway, hininto ng driver ang taxi sa kanang parte ng Highway patungong Maynila at bumaba ang driver at kinausap yung traffic aide na may baril at nakatayo sa tabi ng highway. Hindi ko narinig kung ano ang sinabi ng driver sa traffic aide ngunit ng makapagusap na sila, ang traffic aide ay lumapit sa taxi na para bagang magiimbestiga. Ng sumilip ang traffic aide sa bintana ng taxi sa tapat ng driver na noon ay nakabukas, sinabi ng ninang Alice na may baril ang kasama ko. Ang traffic aide ay natakot at biglang lumayo at kumuber sa tabi ng pader at ang driver naman ay tumakbong palayo. Ang ginawa ko ay lumipat ako sa lugar ng driver at ang plano ko ay ako na ang magmamaneho patungong Norzagaray pagkat ang driver tumakbo na at nangangamba ako na baka kung ano na ang nangyayari kay Cecil at wala sa ospital x x x x m. Ng lumakad na ang taxi, si ninang Alice na noon ay nakaupo pa rin sa likuran ng driver seat, biglang tumayo at dinampot ang baril na dala ko na noon ay nasa tabi ko sa upuan ng driver at biglang binuksan ang kaliwang pinto sa hulihan at bababa ngunit nahawakan ko ang damit niva ng aking kaliwang kamay, pagkat nakahawak sa manibela ang kanang kamay ko at siya hindi nakababa agad. Sa aming pagbubuno pagkat hinihila ko siya na mapauupo muli at siya naman ay pilit na bumababa, pumutok ang hawak niyang baril ng dalawang beses. Maya-maya may pumutok na isa at biglang tumumba si ninang Alice at bumagsak sa kalsada na ang ulo ay patungo din sa direksyon ng taxi x x x x n. Ng makita ko si ninang Alice na bumagsak sa kalsada, bigla akong bumaba at dinampot ko yung baril na noon ay nabitiwan na ni ninang Alice at dinampot ko rin ang bag ng ninang ko at tumakbo akong papalayo pagkat naalala ko yung traffic aide na nakakuber sa tabi ng pader na noon ay malapit pa sa taxi.

After trial, the court *a quo* convicted Ramos of two (2) separate crimes - kidnapping for ransom and murder - instead of the complex crime charged in the Information. It held that there was no proof that the victim was kidnapped for the purpose of killing her so as to make the offense a complex crime. Thus, the killing of the victim was found to be merely an afterthought, making accused-appellant liable for two (2) separate offenses.

In this petition, accused-appellant imputes to the trial court the following errors: *First*, the lower court erred in concluding that his guilt was proved beyond reasonable doubt; *Second*, the lower court erred in disregarding vital pieces of evidence in his favor; and, *Third*, the lower court erred in finding him guilty of the crimes of kidnapping for ransom and murder.

Specifically, accused-appellant argues that kidnapping was never sufficiently established. He maintains that all throughout the incident the victim was not under detention at any moment nor was she deprived in any manner of her liberty; that if there was some kind of pressure or force employed upon the victim, such pressure or force did not amount to a deprivation of liberty but was merely a matter of