



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 247712**

**Present:**

- versus -

PERALTA, *CJ.*, Chairperson,  
 CAGUIOA,  
 REYES, J. JR.,  
 LAZARO-JAVIER, and  
 LOPEZ, *JJ.*

**CRISTINA MENDOZA y DAVID,  
 RAMMIL CALMA y REYES,  
 NESTOR JULIANO y SARMIENTO,  
 GALLARDO MARTIN y LLEMOS,  
 SESENANDO MARTIN y AGUSTIN,  
 LEONARDO ALINCASTRE y  
 ISIDRO and RENATO OBEDOZA y  
 QUINTO,**

Accused,

**CRISTINA MENDOZA y DAVID,  
 NESTOR JULIANO y SARMIENTO,  
 GALLARDO MARTIN y LLEMOS  
 and SESENANDO MARTIN y  
 AGUSTIN**

Accused-Appellants.

**Promulgated:**

**JUN 10 2020**

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**DECISION**

**REYES, J. JR., J.:**

Before this Court is the appeal of the Decision<sup>1</sup> dated July 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08257 affirming the Decision<sup>2</sup> dated March 29, 2016 of the Regional Trial Court (RTC) of Balanga City, Bataan, Branch 2 in Criminal Case No. 11684, convicting herein accused-

<sup>1</sup> Penned by Associate Justice Pablito A. Perez, with Associate Justices Ramon M. Bato, Jr. and Pedro B. Corales, concurring; *CA Rollo*, pp. 143-167.

<sup>2</sup> Penned by Presiding Judge Antonio Ray A. Ortiguera; *id.* at 60-91.

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appellants Sesenando Martin y Agustin (Sesenando), Gallardo Martin y Llemos (Gallardo), Nestor Juliano y Sarmiento (Nestor), and Cristina Mendoza y David (Cristina; collectively, accused-appellants), for the crime of Kidnapping for Ransom.

On January 30, 2009, the Department of Justice filed an Information against Sesenando, Gallardo, Nestor, Cristina, and three other individuals namely: Leonardo Alincastre y Isidro (Leonardo), Rammil Calma y Reyes (Rammil), Renato Obedoza y Quinto (Renato), and two other unidentified individuals: John Doe and Peter Doe, for the crime of Kidnapping for Ransom penalized under Article 267 of the Revised Penal Code (RPC). The said Information reads:

That on or about the 9<sup>th</sup> day of January 2009, in Pilar, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with John Doe and Peter Doe, whose true names and identities and whereabouts are still unknown, an [sic] all of them mutually helping and abetting one another, did then and there, by force and intimidation, willfully, unlawfully and feloniously, take, carry away, kidnap, and deprive YASAR IRFAN and REYMOND BARICAS y PADAYAW of their liberty against their will, by blocking the path of the said victims while on board a blue Kawasaki Bajaj-wind 125 motorcycle, forcibly dragging them inside a red Mitsubishi Adventure vehicle, divesting them of their personal belongings including a Nokia 5310 Express Music mobile phone, V8 China mobile phone, silver necklace worth Php2,000.00, silver bracelet valued at Php1,000.00, four (4) silver rings all worth P1,500.00 and P11,250.00 in cash, and by bringing them to a safe house in Hermosa, Bataan, until they were released on January 11, 2009. That the abduction of YASAR IRFAN and REYMOND BARICAS y PADAYAW was for the purpose of extorting ransom from the family of the victims as in fact a demand for ransom was made as a condition [for] their release amounting to fifty (50) million (Php50,000,000.00) pesos, which was later reduced to four hundred thousand (Php400,000.00) pesos, which was paid and delivered on January 11, 2009 at Dinalupihan, Bataan, and which facilitated the release of the victims, to the damage and prejudice of said victims Yasa[r] Irfan and Reymond Baricas y Padayaw.

CONTRARY TO LAW.<sup>3</sup>

When arraigned on May 18, 2009, Sesenando, Gallardo, Nestor, Leonardo, Rammil, and Cristina entered a “not guilty” plea, while Renato also pleaded “not guilty” upon arraignment on November 9, 2009. Thus, trial on the merits ensued.

Based on the collective testimonies of its witnesses, the prosecution alleged that in the morning of January 9, 2009, Yasar Irfan (Yasar) and his driver Reymond Baricas y Padayaw (Reymond) were riding a Kawasaki motorcycle along Barangay (Brgy.) Pantingan, Pilar, Bataan coming from Bagac, Bataan when they were suddenly flagged down by six men.<sup>4</sup> An armed man, later identified as Renato, signaled for them to stop.<sup>5</sup> Thereafter, Yasar and Reymond were made to board a red Mitsubishi Adventure by five men later identified as

<sup>3</sup> Id. at 60-61.

<sup>4</sup> Id. at 62.

<sup>5</sup> Id.

Sesenando, Gallardo, Leonardo, Renato, and Rammil.<sup>6</sup> Inside the car, Yasar and Reymond were blindfolded and robbed of their personal belongings.<sup>7</sup> They travelled for about 30 minutes, with Rammil, who rode the motorcycle, trailing behind.<sup>8</sup> Yasar and Reymond were brought to a nipa hut where they remained blindfolded and their feet chained.<sup>9</sup> Reymond then heard a male voice speak to a female voice over the loudspeaker of a phone.<sup>10</sup> “*Andito na po sa amin yung dalawang tao na pinakuha nyo sa amin*”, said the male voice.<sup>11</sup> “Good work,” replied the female voice.<sup>12</sup> At the time, Yasar was just behind Reymond.<sup>13</sup> Yasar was then asked for the contact number of his father Mohammed Munir Tahir (Mohammed).<sup>14</sup> Using the loudspeaker of a phone, Reymond heard one of the kidnappers say “*Hawak naming ang anak mo at isang tauhan mo*” and demanded ₱5 Million<sup>15</sup> in exchange for the release of the captives with a threat to deliver Yasar’s head should the ransom be not paid.<sup>16</sup> Yasar was hit several times and both victims were held hostage in the nipa hut and was only allowed to remove their blindfolds when eating.<sup>17</sup> In the afternoon of January 10, 2009, Yasar heard someone say “*Nandyang na si Kicker Singh*”; he peeped through his blindfold and saw an Indian National accompanied by a woman later identified as Cristina.<sup>18</sup> Cristina then said that if the ransom money will not be given, the two “pigs” should be disposed of.<sup>19</sup> In the evening of that same day, Yasar and Reymond were given their dinner. After eating, they were not blindfolded again and were brought out of the nipa hut to a mango tree.<sup>20</sup> Later, Yasar and Reymond heard that the ransom money was given and everyone laughed in merriment.<sup>21</sup> On January 11, 2009, at around 1:00 a.m., Yasar and Reymond were brought to Brgy. Cataning in Hermosa, Bataan in a tricycle driven by Gallardo.<sup>22</sup> There, Yasar and Reymond were told to wait for Mohammed<sup>23</sup> who arrived about an hour later and brought them home.

Just hours later, that same day, the police asked Yasar and Reymond to accompany them to the place where they came from and there, they found the blindfold that was used.<sup>24</sup> Yasar and Reymond also showed the police the nipa hut where they were detained from January 9 to 11, 2009.<sup>25</sup> The police proceeded inside the nipa hut, found Sesenando, Gallardo, and Nestor, and immediately

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<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. at 64.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id. at 65.

<sup>15</sup> Also referred to as ₱50 Million in the Information, supra note 3.

<sup>16</sup> Id. at 65.

<sup>17</sup> Id.

<sup>18</sup> Id. at 63.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id. at 151.

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arrested them.<sup>26</sup> Therein, the police recovered, among others: the motorcycle helmet Yasar wore at the time of the abduction; cloth used as blindfold; metal chain with padlocks used to tie the victims' legs; 10 pieces of ₱500 bills; 50 pieces of ₱100 bills; a butterfly knife; and the brown envelope wherein the ransom money was placed.<sup>27</sup> Subsequently, Sesenando, Gallardo, and Nestor were brought to the Police Anti-Crime and Emergency Response (PACER) in Camp Crame.<sup>28</sup> There, an inventory revealed that the serial numbers of the bills seized from Sesenando and Nestor matched those of the ransom money.<sup>29</sup> At around 11:00 a.m., Leonardo surrendered himself to the authorities and upon search of his house, a multifold of bills in different denominations were retrieved.<sup>30</sup> Thereafter, at about 12:30 p.m., the PACER team was able to locate Cristina's residence where they found Rammil and several bills in his possession – the serial numbers of which also matched those of the ransom money.<sup>31</sup> Cristina insisted on accompanying Rammil to the police station. The police asked for identification and when Cristina opened her bag, the law enforcers saw quite a number of ₱500 bills which, upon close inspection, matched the serial numbers of the ransom money.<sup>32</sup>

The evidence for the defense, succinctly synthesized by the CA, are as follows:

*[Sesenando]'s defense.*

From January 2, 2009, Sesenando was [in] Brgy. San Pedro, Hermosa, Bataan attending the wake of his uncle, Fidel Batulayan. It was only on January 10, 2009 at 6:00 p.m. that he went back to Sitio Palma, Brgy. Cataning, Hermosa, Bataan to tend to his plants and animals.

As Sesenando was nearing his hut, he saw Leonardo carrying a helmet, some chains, and rags. With Leonardo [was] a masked man accosting two (2) men who [were] blindfolded. The other man (who he later learned as accused Renato) pointed a gun at his head and said, "*Gagamitin ko itong ulo mo sa ayaw at sa gusto mo.*" The men then took his cellular phone, watch, and machete (*itak*). He went in his hut where he was guarded by the masked man until he fell asleep. Sesenando was woken up by noises from outside. He took a peek and saw his son, accused Gallardo, walking towards his house with one of the men pointing a gun at his back.

At 6:00 a.m. of January 11, 2009, Sesenando woke up to find that the men had left. When he went to the other hut, he saw the ten (10) pieces of 500[-]peso bills taken by the men from him. Sesenando was looking for his belongings when he was suddenly kicked on the back by a policeman. He was arrested and his huts were ransacked. He was held with the other accused at Camp Crame where accused Leonardo threatened him and his family not to say anything.

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<sup>26</sup> Id.  
<sup>27</sup> Id.  
<sup>28</sup> Id.  
<sup>29</sup> Id. at 152.  
<sup>30</sup> Id.  
<sup>31</sup> Id.  
<sup>32</sup> Id. at 153.

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*[Gallardo]'s defense.*

From 4:00 a.m. to 10:00 p.m. on January 9, 2009, Gallardo was plying his jeepney route from Orani to Dinalupihan, Bataan. He then attended a wake at Brgy. San Pedro, Hermosa, Bataan. On January 10, 2009, still from 4:00 a.m. to 10:00 p.m., Gallardo plied the same route. As evidence, Gallardo submitted a Certification by the president of HODJODA<sup>33</sup> attesting that he was working his usual route on both dates. When he went home on January 10, 2009, his mother asked him to go to Sitio Palma to bring a blanket and some medicine to his father, Sesenando, who was not feeling well. Gallardo travelled using his bicycle. Upon arriving at the area of his father's hut, Gallardo saw several men with their faces covered. One man (who he learned as accused Rammil) was calling someone through a cellular phone, while another pointed a gun at him asking his purpose in coming there. Gallardo was then escorted inside his father's hut where he saw Leonardo standing outside. Gallardo went inside, gave the medicine and blanket to his father, and fell asleep.

Around 6:15 a.m. of January 11, 2009, Gallardo was awakened by a police officer poking an M16 rifle on his head. Gallardo was punched and hit by a metal pipe by the police officers. He was also asked of the whereabouts of the other kidnappers. Gallardo answered that he did not know anything.

Gallardo was brought to Camp Crame where he was tortured for three (3) days. There, Leonardo confided to him that kidnapping [was] his job and cautioned him not to say anything to the authorities.

*[Nestor]'s defense*

On January 9, 2009, Nestor was in his house in Olongapo. At 5:30 p.m. on January 10, 2009, Nestor received a text message from her daughter, Flordeliza Martin (wife of Wilfredo Martin and daughter-in-law of [Sesenando]), asking his assistance in taking care of Flordeliza's sick daughter.

At 7:00 p.m. of the same date, Nestor arrived at Wilfredo's hut which is adjacent to Sesenando's two (2) huts at Sitio Palma, Brgy. Cataning, Hermosa, Bataan. After looking after his grandchild, Nestor ate supper and went to sleep.

In the morning of January 11, 2009, Nestor was awakened by several men pointing their M16 rifles at him. Nestor was tied up, frisked, and the hut where he slept was searched. After a while, one of the men showed Nestor several bills claiming that they were found in his hut. Nestor denied involvement in the crime. Prior to the incident, Nestor said he did not know accused Leonardo, Rammil, Cristina and Renato.

*[Cristina]'s defense.*

On January 9, 2009 at 12:00 p.m., Cristina was in an LBC branch [in] Dinalupihan, Bataan to get a money remittance. She received PhP6,000.00 in 500[-]peso bills.

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<sup>33</sup> Hermosa, Orani, Dinalupihan Jeepney Operators Drivers Association.

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From 9:00 a.m. of January 10, 2009 until 5:00 a.m. of January 11, 2009, Cristina was at the Bataan Provincial Jail for a conjugal visit with a certain Jun Singh. Fernando Isidro and Noli Padilla, both inmates of Bataan Provincial Jail testified that they were assigned to list the jail visitors and they confirm[ed] that Cristina entered the jail on January 10, 2009 between 8:00-9:00 a.m. and left the following day. Reynaldo Pineda, Jail Officer of Bataan Provincial Jail also attested that Cristina was a frequent visitor of Jun Singh and although he did not personally witness Cristina signing her name on the visitor's log book, he remembered her arriving at the jail on January 10, 2009 and leaving only the next day between 5:00-5:45 a.m. Riza Fuentez, Senior Jail Officer of Bataan District Jail, however testified that there [was] no certification for the release of the logbook for Cristina or to her counsel.

After leaving the jail, she went to the market before going home at around 8:00 a.m. While at her house, she heard a commotion outside. She investigated and saw Rammil kneeling in her garage. A police officer was pointing a gun at him. The police officers then asked Cristina if they could search her house. She consented but the officers did not find anything. Rammil was taken away but Cristina insisted that she accompany him. At the Hermosa precinct, Rammil was beaten up by the police officers. A certain police officer named Marcelino then ordered Cristina to give him her bag. She yielded and Marcelino took the money she withdrew from LBC.

*[Leonardo]'s defense*

On January 11, 2009, from 11:00 a.m. to 12:00 noon, Leonardo was in his house at Brgy. Balsik, Hermosa, Bataan. A police officer entered his house and pointed a gun at his children and wife. The police officers were accompanied by someone who pointed to him as one of the kidnapers. Leonardo was invited to the police station and the officers ordered him to surrender his belongings. The officers searched his house, but they did not find anything. He demanded from them a search warrant but they just dismissed him. [Leonardo] was taken to the police station in Bataan and then to the PACER office in Camp Crame.

*[Rammil]'s defense.*

Rammil got acquainted with Cristina because her son, Richie Mendoza, is his friend. He helps Cristina collect loan payments. Rammil denied ownership of the recovered money.<sup>34</sup> x x x

### ***The RTC Ruling***

In convicting the accused-appellants, the RTC held that the prosecution was able to satisfactorily establish, by testimonial and documentary evidence, all the elements of Kidnapping for Ransom under Article 267 of the RPC, as amended by Republic Act (R.A.) No. 7659.<sup>35</sup> Moreover, the RTC found that 1) the identities of accused-appellants; 2) their respective participation; and 3) the fact that demands were made for the delivery of ransom money for the release of the victims were all adequately proven.<sup>36</sup> Further, the RTC gave credence to the positive identification

<sup>34</sup> CA rollo, pp. 153-156.

<sup>35</sup> Id. at 84.

<sup>36</sup> Id. at 85.

and detailed narrations of Yasar and Reymond over the bare denials and weak alibis of the accused-appellants.

Thus, on March 29, 2016, the RTC rendered its Decision finding Sesenando, Gallardo, Leonardo, Nestor, Rammil and Cristina guilty as charged, the *fallo* of which read:

WHEREFORE, the Court renders judgment finding the accused [Sesenando], [Gallardo], [Leonardo], [Nestor], [Rammil], and [Cristina] GUILTY beyond reasonable doubt of the crime of kidnapping for ransom defined and penalized under Republic Act No. 7659. Pursuant to Republic Act No. 9346, they are hereby sentenced to suffer the prison term of RECLUSION PERPETUA without eligibility for parole. All the accused are credited in full of the preventive imprisonment they have already served in confinement.

Further, the above-named accused are sentenced to pay, jointly and severally, [Yasar] the amount of [PhP]11,000.00 and [Reymond] the amount of [PhP]7,250.00 as actual damages, and to each of the victims [Yasar] and [Reymond] civil indemnity of [PhP]100,000.00, moral damages of [PhP]100,000.00, and exemplary damages of [PhP]100,000.00. The foregoing amounts shall earn interest at the rate of six percent (6%) per annum from the date of finality of judgment until fully paid.

The case against [Renato] is DISMISSED by reason of his death.

SO ORDERED.<sup>37</sup>

Aggrieved, Sesenando, Gallardo, Nestor, and Cristina filed their Notice of Appeal on April 7, 2016,<sup>38</sup> whilst Rammil appealed<sup>39</sup> through counsel on April 11, 2016.

### The CA Ruling

At the outset, the CA noted that counsel for Rammil failed to file an Appellant's Brief within the period provided in the Notice to File Brief<sup>40</sup>. Hence, Rammil's appeal was *motu proprio* dismissed by the CA thereby rendering his conviction final.<sup>41</sup> The CA clarified that Rammil's appeal, even if granted, would fail just the same.<sup>42</sup>

The CA then went on to affirm the conviction meted by the RTC upon accused-appellants. In upholding the conviction of the accused-appellants, it agreed with the RTC that all the elements of the crime charged were duly proven. It found that the totality of the evidence presented clearly showed that Yasar and Reymond "were deprived of their liberty when they were forcibly dragged

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<sup>37</sup> Id. at 91.

<sup>38</sup> Id. at 21.

<sup>39</sup> Id. at 22.

<sup>40</sup> Id. at 33.

<sup>41</sup> Id. at 158.

<sup>42</sup> Id.

towards a red Mitsubishi Adventure car where they were blindfolded, brought to a safe house, their feet chained and were not allowed to leave the hut.”<sup>43</sup> Moreover, according to the CA, it was undisputed that Yasar and Reymond were abducted in Pilar, Bataan and such fact was even stipulated during the pre-trial.<sup>44</sup> It pointed out that the defense’s own witness testified that he (Sesenando) saw two men who were blindfolded being accosted by Leonardo, Renato, and several masked men towards a hut.<sup>45</sup> Verily, for the CA, the victims’ account of their abduction was corroborated on material points by no less than the testimonies of both the prosecution and one of the defense’s witnesses.<sup>46</sup> Finally, the CA held that the defense’s denials and respective alibis were debunked by the positive identification made by the victims and other prosecution witnesses.<sup>47</sup>

And so, in the dispositive portion of the herein assailed Decision dated July 27, 2018, the CA wrote:

**WHEREFORE**, the instant appeal is **[DISMISSED]**. The assailed Decision dated March 29, 2016 of Branch 2, [RTC] of Balanga City, Bataan in Criminal Case No. 11684 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>48</sup>

Consequently, the accused-appellants filed their Notice of Appeal<sup>49</sup> on September 5, 2018. Thereafter, in a Resolution<sup>50</sup> dated August 14, 2019, the Court required the parties to file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties, however, manifested<sup>51</sup> that they are adopting their respective briefs filed before the CA.

In their Brief, accused-appellants assigned the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT SUFFICIENT EVIDENCE EXIST TO ESTABLISH BEYOND REASONABLE DOUBT THE IDENTITIES OF THE ACCUSED-APPELLANTS AS PERPETRATORS OF THE CRIME.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS X X X WHEN THEIR GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.<sup>52</sup>

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<sup>43</sup> Id. at 159.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> Id. at 164.

<sup>48</sup> Id. at 166.

<sup>49</sup> Id. at 171.

<sup>50</sup> *Rollo*, pp. 35-36.

<sup>51</sup> Id. at 50-58.

<sup>52</sup> *CA rollo*, p. 42.



### The Court's Ruling

The Court finds no merit in the present appeal.

Accused-appellants were charged and convicted under Article 267 of the RPC, as amended by R.A. No. 7659,<sup>53</sup> which states:

ART. 267. Kidnapping and serious illegal detention. — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death:

1. If the kidnapping or detention shall have lasted more than three days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female, or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed.

From the foregoing, the following elements can be deduced: (a) the offender is a private individual; (b) he kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping must be illegal; and (d) in the commission of the offense any of the following circumstances is present: *i*) the kidnapping or detention lasts for more than three days; *ii*) it is committed by simulating public authority; *iii*) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or *iv*) the person kidnapped or detained is a minor, female, or a public officer.<sup>54</sup> Significantly, if the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his detention is immaterial.<sup>55</sup>

After a painstaking review of the case, the Court finds no cogent reason to deviate from the common findings of the RTC and the CA, and their respective calibration of the credibility of the witnesses presented especially since both were in the best position to assess them. The Court is most certainly convinced that the prosecution has proven with moral certainty that it was accused-appellants who

<sup>53</sup> AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES. Approved December 13, 1993.

<sup>54</sup> *People v. Kamir*, 817 Phil. 698, 708 (2017).

<sup>55</sup> *People v. Pagalasan*, 452 Phil. 341, 362 (2003).

conspired to kidnap the victims Yasar and Reymond, and they did so for the purpose of extorting money from Yasar's father. Moreover, the collective testimonies of the prosecution witnesses – mainly that of the victims – unmistakably and positively identified the assailants and narrated in detail the events that transpired from the moment they were abducted in the morning of January 9, 2009, up to their release on January 11, 2009.

Further, as correctly ruled by the CA, accused-appellants' denials and alibis are inherently weak defenses and thus, cannot be given greater evidentiary weight than the positive declaration by credible witnesses. The Court defers to the conclusion of the CA in this regard:

Sesenando maintains that he was [in] San Pedro, Hermosa, Bataan from January 2-10, 2009 attending the wake of a relative, Fidel Batulayan [Batulayan]. Gallardo also testified that he attended said wake on the evening of January 9, 2009. The prosecution however pointed out that Batulayan was buried on January 6, 2009 per [his] Death Certificate x x x. This belies Sesenando and Gallardo's defense that they were at a wake in San Pedro when the kidnapping occurred.

x x x x

Nestor's alibi that he was [in] Olongapo on January 9, 2009 and that he was summoned by his daughter, Flordeliza, on January 10, 2009 to attend to a sick grandchild is also specious. x x x

More telling is Flordeliza's *Simumpaang Salaysay* dated January 23, 2009 which contradicts Sesenando, Gallardo and Nestor's alibis. Flordeliza narrated that: Nestor arrived at their hut [in] Sitio Palma, Hermosa, Bataan on January 8, 2009; on the same date Nestor, together with Flordeliza, Violeta, Sesenando and Gallardo went to the wake of [Batulayan] xxx; on January 9, 2009 at 11:00 a.m., Flordeliza, together with her children, Sesenando, Violeta, and Nestor went home to Sitio Palma; upon arriving at their hut they saw armed men who detained them[.] x x x

To add more confusion, Violeta x x x narrated that: on January 9, 2009, she and Sesenando were at Batulayan's wake x x x; that in the afternoon of the same date, Sesenando received a text message from Flordeliza asking Sesenando to return to Sitio Palma, Hermosa, Bataan because some unknown men were at their hut; Sesenando immediately returned to Sitio Palma[.] x x x

These material inconsistencies x x x dilute the probative weight of Sesenando, Gallardo, and Nestor's denials and alibis and engenders serious doubts as to their reliability and veracity.

As to Cristina's alibi, the defense was unable to show that it was physically impossible for Cristina to be at the safe house [in] Sitio Palma [in] the afternoon of January 10, 2009. x x x Cristina insists that she was at the Bataan Provincial Jail for a conjugal visit from 9:00 a.m. on January 9, 2009 until the following day at 5:00 a.m. x x x However, as observed by the RTC, the exact whereabouts of Cristina between the hours of 9:00 a.m. of January 10, 2009 to 5:00 a.m. of January 11, 2009 [was] unaccounted for. [The] Bataan Provincial

Jail is about 20 to 25 kilometers away from [Bdry.] Cataning, Hermosa, Bataan. Such distance can be traversed in less than 30 minutes by a motorized vehicle. Thus, it was not physically impossible for Cristina to be at the *locus criminis* at the time of the incident. In addition, positive identification by [Yasar] and [Reymond] that she was at the safe house on x x x January 10, 2009 destroys her defense of alibi x x x.

Accused [Leonardo] and accused-appellant Rammil offered nothing but their bare denial x x x<sup>56</sup>

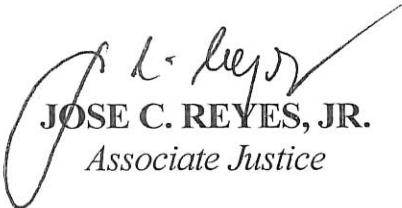
Absent any showing that the RTC or the CA overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, their assessment of the credibility of witnesses deserves high respect by the Court.

All told, the elements of kidnapping, as embodied in Article 267 of the RPC, as amended, and the existence of conspiracy having been sufficiently proven in the case at bench, the Court sustains the decision of the CA.

Anent the penalty, the RTC and the CA correctly imposed upon accused-appellants the penalty of *reclusion perpetua* in view of R.A. No. 9346.<sup>57</sup>

**WHEREFORE**, premises considered, the present appeal is **DISMISSED**. The Decision dated July 27, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08257 which upheld the Decision dated March 29, 2016 of the Regional Trial Court of Balanga City, Bataan, Branch 2 in Criminal Case No. 11684, is hereby **AFFIRMED**.

**SO ORDERED.**

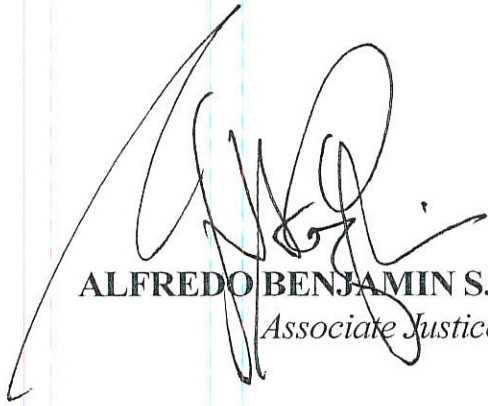
  
**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*

<sup>56</sup> CA *rollo*, pp. 162-164.

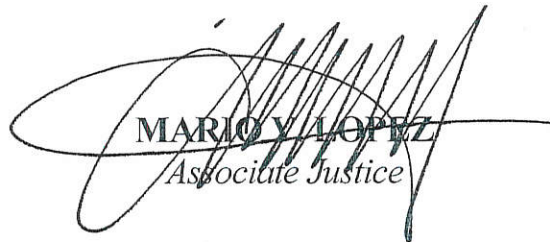
<sup>57</sup> AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES. Approved on June 24, 2006.



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



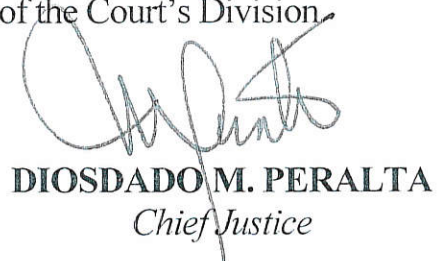
**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
*Chief Justice*