



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 218915  
Plaintiff-Appellee,

- versus -

HECTOR CORNISTA y  
REOTUTAR @ TULAY, ALVIN  
LABRA y CORNISTA @  
BUNDOY or @ MUNDOY,  
GARY BATHAN y ALVERO,  
RICARDO BANAAY, JR. y  
SINANGOTE @ TATANG or @  
BOY MARA, PEDRO SORIMA  
@ PETER TABAS, ARNEL  
CAÑEGA y LAGUNSA @ ANI  
FONTILLAS, ELORDE  
BITANGOL @ ELOR, ROMEO  
RAYGA y BANCO @ UNDO  
FONTILLAS @ EKONG, JOEL  
ATENTA DIONALDO @  
ENTOY GAMBA or ENTOY @  
BARKLEY, ANDY QUINTANA,  
ISIDRO ARGUILLES  
INOSANTO JR. @ EDRANG or  
@ BUDOY, FREEMAN  
BAGARES y ROBENTA @  
PRIMAN or @ NEGRO or  
BROSS, ALIAS LITO,  
ANTONIO BATUCAN y  
ABANILLA @ TOYEK and  
ALIAS TOTO,

Accused,

x-----x

HECTOR CORNISTA y  
REOTUTAR and ALVIN  
LABRA y CORNISTA,  
Accused-Appellants.

x-----

Members:

PERLAS-BERNABE, J.,  
Chairperson,  
REYES, A. JR.,  
HERNANDO,  
INTING, and  
DELOS SANTOS, JJ.

Promulgated:

19 FEB 2020

-x

## DECISION

### HERNANDO, J.:

Challenged in this appeal is the October 22, 2014 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04829 which affirmed with modification the September 24, 2010 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 69 in Crim. Case No. 06-528 which found appellants Hector Cornista y Reotutar (“**Hector**”) and Alvin Labra y Cornista (“**Alvin**”) (collectively, **appellants**) and accused Ricardo Banaay, Jr. y Sinangote (“**Banaay**”) guilty beyond reasonable doubt of the crime of Kidnapping for Ransom with Homicide defined and penalized under Article 267 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659 (R.A. No. 7659).

### The Antecedents

Accused-appellants Hector and Alvin, together with their co-accused Rogelio Mendoza y Samson (Mendoza), Gary Bathan y Alvero (Bathan), Banaay, Pedro Sorima alias “Peter Tabas” (Sorima), Romeo Cañega y Lagunsad (Romeo), Arnel Cañega y Lagunsad (Arnel), Elorde Bitangol (Bitangol), Romeo Rayga y Banco (Rayga), Joel Atenta Dionaldo (Joel), Andy Quintana (Quintana), Isidro Arguilles Inosanto, Jr. (Isidro), Freeman Bagares y Robenta (Freeman), alias “Lito,” Antonio Batucan y Abanilla (Antonio), and alias “Toto” were charged with the crime of Kidnapping for Ransom with Homicide defined and penalized under Article 267 of the RPC, as amended by R.A. No. 7659, before the RTC of Binangonan, Rizal, Branch 69. The accusatory portion of the Information<sup>3</sup> dated May 11, 2006, and docketed as Criminal Case No. 06-528, reads:

That on or about May 3, 2005, at Brgy. Pa-asa, Binangonan, Rizal and within the jurisdiction of this Honorable Court, the above-mentioned accused, conspiring, confederating and mutually helping one another, did then and there, by force and intimidation, willfully, unlawfully and feloniously take and kidnap ARTURO PICONES against his will, while he was about to board his Honda Civic with plate number XFT 871 in front of his restaurant at [sic] Binangonan, Rizal, for the purpose of extorting a ransom, as in fact a demand for ransom was made as a condition for his release amounting to ₱5,000,000.00, wherein ₱440,000.00 in cash as well as jewelries were paid on May 6, 2005 at Purok 6, Manggahan, Marikina City, and despite the said partial payment, shoot Arturo Picones to death, on May 28, 2005 at Angono, Rizal, to the damage and prejudice of his heirs.

CONTRARY TO LAW.<sup>4</sup>

<sup>1</sup> *Rollo*, pp. 2-14; penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Hakim S. Abdulwahid and Romeo F. Barza.

<sup>2</sup> *CA rollo*, pp. 24-47; penned by Presiding Judge Narmo P. Noblejas.

<sup>3</sup> Records, Volume 1, pp. 1-4.

<sup>4</sup> *Id.* at 2.

On arraignment, appellants, together with their co-accused Mendoza, Banaay, Romeo, Arnel, Rayga, Joel, Isidro, Freeman, and Antonio, with the assistance of counsel, each entered a plea of “not guilty” to the crime charged in the Information. After the termination of the pre-trial conference, trial ensued.<sup>5</sup>

The following transpired in the course of the proceedings before the RTC: (i) on motion of the prosecution, accused Mendoza was discharged as a state witness; (ii) Romeo died; (iii) Bathan, Sorima, Bitangol, Quintana, alias “Lito,” and alias “Toto” remained at-large.<sup>6</sup>

The prosecution presented the following as its witnesses: (a) accused Mendoza, as state witness; (b) Carmelita Picones (Carmelita); (c) John Llana (John); (d) Police Officer (PO) 3 Percival Pineda (PO3 Pineda); (e) Police Chief Herminio Cantaco; (f) PO1 Edsel Reyes; and (g) Police Chief Inspector (PCINSP) Jose Marquez.<sup>7</sup>

The defense, on the other hand, presented the following as its witnesses: (a) Accused Rayga, Arnel, Freeman, Antonio, Banaay, Joel, and Isidro; (b) appellants Hector and Alvin; and (c) Teodolfo Sardido.<sup>8</sup>

### The Antecedents

#### *Evidence for the Prosecution*

Carmelita testified that she and her spouse, Arturo Picones (“Arturo”), owned a restaurant located on Manila East Road, Binangonan, Rizal. On May 3, 2005, at around 2:30 in the morning, while they were about to leave their restaurant and to board their car, four armed men approached them. One of the four men poked a gun at Carmelita who was seated at the front seat while another man occupied the back seat of the car. At the same time, the two other men poked a gun at Arturo who was standing on the left side of the car. Arturo was then made to sit at the back seat of the car together with one of the men. The other man sat at the driver’s seat.<sup>9</sup>

When Arturo was already seated at the back seat of the car, one of the men pulled Carmelita from the front seat and occupied the seat in her stead. Thereafter, the four men sped away taking Arturo with them. Carmelita then immediately ran inside the restaurant and reported the abduction of her husband to the Angono police. During the incident, Arturo was wearing a white shirt, maong pants, and Islander slippers.<sup>10</sup>

---

<sup>5</sup> *Rollo*, p. 4.

<sup>6</sup> *Id.*

<sup>7</sup> *CA rollo*, p. 114.

<sup>8</sup> *Id.* at 115.

<sup>9</sup> *Id.* at 116-117, citing TSN, March 12, 2007, pp. 6 and 8-10.

<sup>10</sup> *Id.* at 117, citing TSN, March 12, 2007, pp. 10-12.

At 10:30 in the morning of the same day, Carmelita received a call from a man informing her that they have custody of Arturo and demanding the amount of ₱5,000,000.00 as a precondition for Arturo's release. Carmelita responded that she did not have that amount and that their house and restaurant were even loaned from the bank, which caused the man to get angry.<sup>11</sup>

At 11:30 in the morning of the same day, Carmelita received another call from someone inquiring whether she was able to raise the amount. Carmelita responded that she will try to raise the amount of ₱5,000,000.00.<sup>12</sup>

At 8:30 in the evening, Carmelita called the Police Anti-Crime and Emergency Response (PACER) in Camp Crame to report the kidnapping incident.<sup>13</sup>

After reporting the incident, Carmelita received a text message that their car was found in Muzon, Taytay. At 10:30 in the evening, Carmelita received another call asking her how much she was able to raise. Carmelita answered that she has ₱70,000.00 which angered the caller again.<sup>14</sup>

On May 5, 2005, at 10:30 in the morning, a man called again and inquired from Carmelita how much she was able to raise. She told the caller that she already has ₱370,000.00. She also requested to talk to her husband, which was granted. During said call, Arturo told her to borrow money from his employer. However, Carmelita was only able to raise the amount of ₱470,000.00. She was then instructed to separately wrap the amounts of ₱150,000.00 and ₱320,000.00 in a newspaper. She was also told to place the money in a blue plastic bag.<sup>15</sup>

On May 6, 2005, at 1:30 in the afternoon, Arturo's abductors instructed Carmelita to proceed to Metropolis, an establishment in Alabang, Muntinlupa. Accompanied by her son-in-law, John, Carmelita went to the designated place.<sup>16</sup>

However, upon reaching Metropolis, she was told to proceed to Robinson's Fairview in Quezon City. While waiting thereat, Carmelita received another instruction to proceed to Jollibee. When Carmelita did not agree, the caller instructed her instead to go to Sta. Lucia Mall, Cubao.<sup>17</sup>

While on their way to Sta. Lucia Mall, they received another instruction for them to proceed to Jollibee Masinag in Antipolo City, which they followed. They arrived there at around 7:30 in the evening and were

<sup>11</sup> *Id.* at 117, citing TSN, March 12, 2007, pp. 12-13.

<sup>12</sup> *Id.* at 117-118, citing TSN, March 12, 2007, pp. 12-13.

<sup>13</sup> *Id.* at 118, citing TSN, March 12, 2007, pp. 12-13.

<sup>14</sup> *Id.*, citing TSN, March 12, 2007, p. 14.

<sup>15</sup> *Id.* at 118, citing TSN, March 12, 2007, pp. 14-16.

<sup>16</sup> *Id.* at 119, citing TSN, March 12, 2007, pp. 16-18.

<sup>17</sup> *Id.*

instructed to use the restrooms to relieve themselves. Thereafter, they were told to go to the parking area of tricycles on Panorama Street, Marikina City. Upon reaching said location, they were again told to proceed to Purok 6, Manggahan. This time, Carmelita requested John to deliver the money in her stead. Consequently, John boarded a tricycle to reach Purok 6, Manggahan, bringing with him the money and Carmelita's cellphone.<sup>18</sup>

At around 8 o'clock in the evening, John arrived at the meeting place. He then received a phone call, informing him that somebody would approach him, and that he should give the money to that person. A few minutes later, a man approached John and took the ransom money and Carmelita's cellphone. John asked the man about his father-in-law, Arturo, and he was informed that Arturo was okay. The man then immediately left with the money and Carmelita's cellphone. John returned to the place where he parked the car.<sup>19</sup>

Arturo was not released by his kidnappers despite the delivery and receipt of the ransom money. Carmelita and John had waited for a month until a police officer from the Angono Police Station informed them that a dead body was found in Brgy. San Isidro, Angono, Rizal.<sup>20</sup>

On May 28, 2005, Carmelita and John went to the Angono Police Station and spoke with PO3 Pineda. Carmelita then pleaded for the police to dig up the body of Arturo. Together with the police, Carmelita and John went to the Angono Municipal Cemetery. After the body was exhumed, Carmelita and John confirmed that it was Arturo.<sup>21</sup>

During the trial, Carmelita identified appellant Alvin as the man who poked a gun at her and appellant Hector as the one who pulled Arturo to the back seat of the car during Arturo's abduction on May 3, 2005.<sup>22</sup> On the other hand, John identified accused Bathan as the one who received the ransom money.<sup>23</sup>

In addition, accused-turned-state witness Mendoza testified during the trial that he was recruited by his cousin, Hector, to be a member of the Waray-Waray Kidnap for Ransom Group. He was recruited to be the cook of the group. At around 5 o'clock in the afternoon of May 2, 2005, Hector brought him to a small house in Angono, Rizal which was owned by a certain alias "Toto." Hector then left after instructing Mendoza to stay behind. When he arrived at the said house, accused Quintana, Sorima, Isidro, Bitangol, Entoy alias "Berkley," an alias "Lito," Rayga, Romeo and Antonio were already there.<sup>24</sup>

<sup>18</sup> *Id.* at 119-120, citing TSN, February 11, 2008, pp. 12-13.

<sup>19</sup> *Id.* at 30 and 120, citing TSN, February 11, 2008, pp. 14-15 and 22.

<sup>20</sup> *Id.*, citing TSN, March 12, 2007, pp. 20-21.

<sup>21</sup> *Id.* at 120-121, citing TSN, March 12, 2007, pp. 20-21.

<sup>22</sup> *Id.* at 121, citing TSN, October 13, 2008, pp. 23-24.

<sup>23</sup> *Id.*, citing TSN, February 11, 2008, p. 17.

<sup>24</sup> *Rollo*, p. 7, see also TSN, May 21, 2007, pp. 14-17.

Mendoza further testified that on May 3, 2005, at around 3 o'clock in the morning, Hector arrived together with accused Banaay, Romeo, Freeman, Bathan, Alvin and alias "Toto." They brought with them a man who was hogtied and wearing a white shirt, maong shorts, and Islander slippers. Mendoza later came to know the man as Arturo. As Hector instructed, Mendoza cooked for and provided food to Arturo for four days.<sup>25</sup>

On May 6, 2005, around 10 o'clock in the evening, Hector, along with accused alias "Toto," alias "Ekong," Bathan, and Freeman returned to the house in Angono, Rizal on board a white taxi. Hector then gave Mendoza ₱16,000.00. Afterwards, Mendoza saw Hector having a conversation with accused Freeman, alias "Toto," Bathan, Banaay, and alias "Ekong." After their conversation, Hector called on accused Bitangol. Thereafter, Hector ordered accused Quintana and Gamba to bring Arturo downstairs where accused Bitangol shot him on the head four times with a 0.45-caliber gun. Arturo was then thrown into a creek.<sup>26</sup>

### *Evidence for the Defense*

Hector and Alvin averred that they have been working as administrators of Hacienda Ragaza in Brgy. Palanog, Jaro, Leyte since the years 2000 and 2001, respectively. On August 27, 2005, they went to Manila.<sup>27</sup>

Alvin narrated that prior to August 27, 2005, he has never set foot in Manila. Similarly, Hector emphasized that he went to Manila on August 27, 2005, accompanied by Alvin, to buy spare parts for his jeepney. They met up with Mendoza in Valenzuela who agreed to help them buy the spare parts for the jeepney.<sup>28</sup>

While they were staying in a rented house in Valenzuela, a group of armed men, who introduced themselves as police officers, arrived and arrested Mendoza as well as Hector and Alvin. They were then brought to a camp in Laguna where they were individually subjected to tactical interrogation. They were accused of being members of the Waray-Waray Kidnap for Ransom Group. Hector and Alvin then claimed that they were tortured, electrocuted, and forced to admit the accusation. Thereafter, they were turned over to the PACER in Camp Crame.<sup>29</sup>

---

<sup>25</sup> *Id.* at 28 and 122, citing TSN, May 21, 2007, pp. 18-22.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 7.

<sup>28</sup> *Id.* at 8.

<sup>29</sup> *Id.*

### Regional Trial Court's Ruling

On September 24, 2010, the RTC promulgated its Decision<sup>30</sup> finding Hector, Alvin, and Banaay guilty beyond reasonable doubt as principals for the crime of Kidnapping for Ransom with Homicide. The case against Bitangol, Bathan, Quintana, Sorima, alias "Lito," and alias "Toto," were ordered archived pending their arrest. On the other hand, the rest of the accused were acquitted for insufficiency of evidence and for failure of the prosecution to prove their guilt beyond reasonable doubt for the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, after finding accused Hector Cornista y Reotutar, Alvin Labra y Cornista and Ricardo Banaay, Jr. y Sinangote GUILTY beyond reasonable doubt as principals for the crime of Kidnapping for Ransom with Homicide under Article 267 of the Revised Penal Code, as amended by R.A. 7659; this Court hereby sentences them to suffer the penalty of *reclusion perpetua* instead of the death penalty by virtue of R.A. 9346 and said accused shall not be eligible for parole under Act No. 4103, the Indeterminate Sentence Law, as amended.

In addition, the said accused are ordered to pay, jointly and severally, to the family of victim, Arturo Picones[,], through Carmelita V. Picones the amount of ₱200,000.00 as actual damages for the wake and coffin; ₱50,000.00 each as moral damages; ₱50,000.00 each by way of exemplary damages; ₱75,000.00 as civil indemnity for the death of the victim; and the amount of ₱470,000.00 actually given as ransom money.

However, accused Romeo Rayga y Banco, Arnel Cañega y Lagunsad, Freeman Bagares y Robenta, Antonio Batucan y Abanilla, Joel Atenta Dionaldo and Isidro Arguilles Inosanto, Jr. are ACQUITTED for insufficiency of evidence and for failure of the prosecution to prove their guilt beyond reasonable doubt for the crime charged.

Meantime, the case against Elorde Bitangol, Gary Bathan, Andy Quintana, Pedro Sorima, alias "Lito," and alias "Toto" who are at large is ordered archived pending their arrest.

X X X X

SO ORDERED.<sup>31</sup>

Aggrieved by the findings of the trial court, appellants Hector and Alvin filed an appeal<sup>32</sup> with the CA.

---

<sup>30</sup> CA rollo, pp. 24-47.

<sup>31</sup> *Id.* at 46-47.

<sup>32</sup> *Id.* at 50.

### Court of Appeals' Ruling

The CA dismissed the appeal and affirmed the RTC ruling that Hector, Alvin, and Banaay are guilty beyond reasonable doubt of the crime charged. However, the CA modified the amounts of damages awarded. The dispositive portion of the CA's Decision reads:

WHEREFORE, premises considered, the appeal is hereby DISMISSED and the September 24, 2010 Decision of the Regional Trial Court of Bina[n]gonan, Rizal, Branch 69, in Criminal Case No. 06-528, finding Hector Cornista y Reotutar, Alvin Labra y Cornista and Ricardo Banaay, Jr. y Sinangote guilty beyond reasonable doubt of the crime charged is AFFIRMED with MODIFICATION, in that they are ordered to pay, jointly and severally, to the heirs of the victim, Arturo Picones, ₱535,000.00 as actual damages, ₱200,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱75,000.00 as civil indemnity.<sup>33</sup>

The CA modified the award of actual damages to ₱535,000.00 consisting of the ₱470,000.00 ransom money and the duly receipted burial expenses of ₱65,000.00. It increased the award of exemplary damages to ₱100,000.00 in view of the two qualifying circumstances of demand for ransom and killing of the victim. Finally, it increased the award of moral damages to ₱200,000.00.

Aggrieved, appellants filed an appeal with this Court.<sup>34</sup>

#### The Issue:

Whether or not the CA correctly affirmed the conviction of appellants for the crime of Kidnapping for Ransom with Homicide.

#### The Court's Ruling

The appeal is without merit. The CA correctly affirmed the trial court's ruling finding appellants guilty of the crime charged.

*Appellants' guilt was proven beyond reasonable doubt based on the prosecution's evidence.*

Appellants raised the following arguments in their appeal: (i) the prosecution failed to prove the perpetrator's identity beyond reasonable doubt because *firstly*, it was impossible for Carmelita to have seen the faces of the malefactors since the only source of illumination was the restaurant's signage.<sup>35</sup> *Secondly*, the descriptions of the faces of the malefactors provided

---

<sup>33</sup> *Rollo*, pp. 12-13.

<sup>34</sup> *Id.* at 15.

<sup>35</sup> *CA rollo*, p. 76.



by Mendoza should not have been given credence because his alleged participation in the Waray Waray Kidnap for Ransom Group was limited only to acting as the cook of the group.<sup>36</sup> They further pointed out that Mendoza failed to give an accurate description of the clothes the victim was wearing when he was killed. He testified that when the victim was shot on the head, he was already wearing a colored jacket and a cream shorts, and not the clothes he was originally wearing when he was kidnapped.<sup>37</sup> However, Carmelita testified that she was able to identify the body of the victim because of the clothes he was wearing on the night he was abducted by the malefactors, *i.e.*, maong short pants and white t-shirt;<sup>38</sup> and (ii) the trial court erred in not appreciating the appellants' defense of alibi.<sup>39</sup> Appellants alleged that they were in Jaro, Leyte at the time the crime was committed, thus it was impossible for them to have been present at the scene of the crime in Binangonan, Rizal.<sup>40</sup>

The Court is not convinced with the foregoing arguments. While there may indeed be contradictions in Carmelita's and Mendoza's testimonies, the same were nevertheless minor and inconsequential and did not detract from the proven elements of the offense of Kidnapping for Ransom with Homicide. The rule is that "a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details [and collateral matters,] which do not touch the essence of the crime do not impair their credibility."<sup>41</sup> In addition, Carmelita testified that at the time Arturo was kidnapped, there was a light on the fence, a daylight in front of the restaurant, and the restaurant's signboard illuminated the area. Thus, she was able to recognize appellants.<sup>42</sup> Furthermore, as the CA aptly held, appellants failed to give any reason why Carmelita would falsely accuse them of kidnapping her husband.<sup>43</sup> In the absence of any ill motive on the part of Carmelita to point to the appellants as the perpetrators of the crime, her testimony must be given full faith and credit.<sup>44</sup>

Furthermore, We note that the CA affirmed the findings of the RTC. Settled is the rule that "factual findings of the RTC, when affirmed by the CA, are entitled to great weight and respect by this Court and are deemed final and conclusive when supported by the evidence on record."<sup>45</sup> Thus, We find no cogent reason to disturb their findings.

---

<sup>36</sup> *Id.* at 76-77, citing TSN, May 21, 2007, p. 12.

<sup>37</sup> *Id.* at 77, citing TSN, May 21, 2007, pp. 29-30.

<sup>38</sup> *Id.*, citing TSNs, March 12, 2007, p. 10 and October 13, 2008, p. 34.

<sup>39</sup> *Id.* at 75.

<sup>40</sup> *Id.* at 77-78, citing TSNs, August 20, 2009, pp. 4-5 and November 23, 2009, p. 4.

<sup>41</sup> *People v. Bis*, 728 Phil. 568, 575 (2014).

<sup>42</sup> *Rollo*, p. 127; citing TSN, March 12, 2007, pp. 8 and 32-33.

<sup>43</sup> *Id.*

<sup>44</sup> *People v. De Guzman*, 550 Phil. 374, 383 (2007); *see also People v. Magbanua*, 472 Phil. 674, 689 (2004).

<sup>45</sup> *People v. Jao*, 810 Phil. 1028, 1037 (2017); *see also People v. Ng Yik Bun*, 654 Phil. 83, 100 (2011).

***Appellants are guilty of the special complex crime of Kidnapping for Ransom with Homicide.***

The elements of kidnapping for ransom under Article 267 of the RPC, as amended, are as follows: (a) intent on the part of the accused to deprive the victim of his/her liberty; (b) actual deprivation of the victim of his/her liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim.<sup>46</sup> In the special complex crime of Kidnapping for Ransom with Homicide, the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought.<sup>47</sup>

In the instant case, the prosecution was able to prove the foregoing elements of Kidnapping for Ransom with Homicide.

*Firstly*, appellants' intent to deprive Arturo of his liberty was evident from the moment his freedom of movement was forcibly curtailed on May 3, 2005 at 2:30 in the morning, wherein appellants poked a gun at him and his wife Carmelita while they were both about to board their car, and made Arturo take the back seat of the car. Thereafter, Arturo was taken against his will to Angono, Rizal.<sup>48</sup>

*Secondly*, the prosecution was able to prove the actual deprivation of his liberty. Prosecution witness Mendoza testified that on May 3, 2005, appellants brought Arturo to a small house in Angono, Rizal. He further witnessed that Arturo's hands were tied at the back with a chain. In addition, he testified that he, together with some of the accused, guarded Arturo for several days until he was shot by accused Bitangol on May 6, 2005.<sup>49</sup>

*Thirdly*, the prosecution was able to prove that ransom money was demanded for the release of Arturo. Carmelita testified that on May 3, 2005, at 10:30 in the morning, she received a call informing her that Arturo was held captive and will only be released upon payment of ₱5,000,000.00. Several negotiations were had between the kidnappers and Carmelita during the period of May 3 to May 5, 2005. Eventually, the kidnappers agreed to the amount of ₱470,000.00 which Carmelita was able to raise. Thereafter, she was instructed to wrap the money in two separate batches – ₱150,000.00 in one newspaper and the remaining ₱320,000.00 in another newspaper, and to place them in a blue plastic bag. On May 6, 2005, Carmelita and her son-in-law, John, received several instructions from the kidnappers as to where to proceed with the money, which they followed. Finally, she was ordered to go

<sup>46</sup> *People v. SPO1 Gonzales, Jr.*, 781 Phil. 149, 156-157 (2016); see also *People v. Lugnasin*, 781 Phil. 701, 710 (2016) and *People v. PO1 Trestiza*, 676 Phil. 420, 451 (2011).

<sup>47</sup> *People v. Ramos*, 358 Phil. 261, 286-287 (1998).

<sup>48</sup> *CA rollo*, pp. 124-125; see also TSN, March 12, 2007, pp. 8-12.

<sup>49</sup> *Id.* at 125; citing TSN, May 21, 2007, pp. 18-28.

to Purok 6, Manggahan, to deliver the money. In turn, she requested John to go to said place.<sup>50</sup>

In addition, John testified in relation to the ransom money. According to him, he rode a motorcycle and went to Purok 6, Manggahan as per instruction of the kidnapers. On his way to the said place, the kidnapers made several calls and instructions. Upon his arrival at the meeting place, the kidnapers called again and instructed him to give the ransom money to the person who will eventually approach him. When said person arrived, John handed him the ransom money. He later identified the man as accused Bathan. However, Arturo was not released by his kidnapers despite the delivery and receipt of the ransom money.<sup>51</sup>

Finally, Arturo was killed in the course of the detention. About a month after the delivery and receipt of the ransom money, Carmelita and John were informed by a police officer from the Angono Police Station that a dead body had been found in Brgy. San Isidro, Angono, Rizal. On May 28, 2005, Carmelita and John went to the Angono Police Station and pleaded for the police to dig up the corpse of Arturo. Together with the police, Carmelita and John went to the Angono Municipal Cemetery. After the body was exhumed, Carmelita and John confirmed that it was Arturo.<sup>52</sup>

On the other hand, appellants mainly raised *alibi* as their defense. However, the defense of alibi is the weakest among the defenses as it is easily fabricated.<sup>53</sup> Thus, “[f]or alibi to prosper, one must not only prove that he was somewhere else when the crime was committed but also that it was physically impossible for him to have been at the scene of the crime at the time it was committed.”<sup>54</sup> In the instant case, appellants assert that they were in Jaro, Leyte at the time the crime was committed, thus it was impossible for them to have been present at the scene of the crime in Binangonan, Rizal.<sup>55</sup> However, We find that appellants failed to prove that it was physically impossible for them to be present at the crime scene at the time the crime was committed, since nowadays a person may easily travel back and forth to Manila and Leyte. Thus, it was not physically impossible for appellants to travel to said places during the period that the crime was committed or on the first week of May 2005. In any case, the defense of alibi cannot prevail over the positive identification by the prosecution’s witnesses.<sup>56</sup>

---

<sup>50</sup> *Id.* at 126; citing TSN, March 12, 2007, pp. 13-19.

<sup>51</sup> *Id.*, citing TSN, February 11, 2008, pp. 13-17.

<sup>52</sup> *Id.* at 120-121, citing TSN, March 12, 2007 pp. 20-21.

<sup>53</sup> *Lucas v. Court of Appeals*, 438 Phil. 530, 542 (2002).

<sup>54</sup> *Id.*

<sup>55</sup> *CA rollo*, pp. 77-78, citing TSNs, August 20, 2009, pp. 4-5 and November 23, 2009, p. 4.

<sup>56</sup> *Lucas v. Court of Appeals*, *supra*; see also *People v. Almanzor*, 433 Phil. 667, 700 (2002) and *People v. Basquez*, 418 Phil. 426, 444 (2001).

### ***Penalties and Civil Indemnities***

The RTC ordered the appellants to pay the heirs of the victim the following amounts: (a) ₱200,000.00 as actual damages for the wake and coffin; (b) ₱50,000.00 each as moral damages; (c) ₱50,000.00 each by way of exemplary damages; (d) ₱75,000.00 as civil indemnity for the death of the victim; and (e) ₱470,000.00, for the amount actually given as ransom money.

The CA modified the award of damages and ordered appellants to pay jointly and severally, to the heirs of the victim, Arturo, ₱535,000.00 as actual damages, ₱200,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱75,000.00 as civil indemnity.<sup>57</sup>

We affirm the award of actual damages in the amount of ₱535,000.00, which consists of the actual cost of Arturo's coffin at ₱65,000.00<sup>58</sup> and the ransom money of ₱470,000.00 which was delivered to and received by the appellants.<sup>59</sup> We also affirm the award of exemplary damages in the amount of ₱100,000.00, in view of this Court's ruling in *People v. Jugueta*.<sup>60</sup>

However, in light of recent jurisprudence,<sup>61</sup> we modify the awards for moral damages and civil indemnity to ₱100,000.00 each.

With regard to the civil indemnity of accused Banaay who was found guilty by the trial court but did not file an appeal from the trial court's Decision, he is liable to pay jointly and severally, to the heirs of the victim, Arturo, only up to the amount of ₱75,000.00 as civil indemnity, which was imposed by both the RTC and the CA.

**WHEREFORE**, the instant appeal is **DISMISSED**. The October 22, 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04829 is hereby **AFFIRMED** with **MODIFICATION** in that the award for moral damages is reduced to ₱100,000.00, while the award of civil indemnity is increased to ₱100,000.00. However, with regard to the civil indemnity, accused Ricardo Banaay, Jr. y Sinangote is liable to pay jointly and severally, to the heirs of the victim, Arturo Picones, only up to the amount of ₱75,000.00.

---

<sup>57</sup> *Rollo*, p. 13.

<sup>58</sup> Exhibit DD, Official Receipt No. 0173; Records, Volume 2, p. 434.

<sup>59</sup> See also *People v. Fajardo, Jr.*, 541 Phil. 345, 368 (2007).

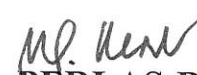
<sup>60</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

<sup>61</sup> *Id.* at 850.

**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson


  
**ANDRES B. REYES, JR.**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

**ATTESTATION**

I attest 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.

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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