



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff and Appellee,

G.R. No. 192233

Present:

versus-

VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

SPO1 CATALINO GONZALES,
JR.,
 Accused-Appellant.

Promulgated:

February 17, 2016

[Signature]

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DECISION

PEREZ, J.:

On appeal is the Decision¹ of the Court of Appeals in CA-G.R. CR.-H.C. No. 02638, affirming with modification the Judgment² of the Regional Trial Court (RTC), Trece Martirez City, Branch 23, convicting accused-appellant SPO1 Catalino Gonzales, Jr. for the crime of Kidnapping for Ransom.

On 30 January 2006, appellant was charged with Kidnapping for Ransom in the following Information:

That on December 28, 2005, at about 10:30 o'clock in the morning in the Municipality of Tanza, Province of Cavite and within

¹ Rollo, pp. 2-31; Penned by Associate Justice Andres B. Reyes, Jr. with Associate Justices Vicente S.E. Veloso and Marlene Gonzales-Sison concurring.

² Records, pp. 294-313; Presided by Executive Judge Aurelio G. Icasiano, Jr.

[Signature]

the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with threats and/or intimidation and through the use of force, did then and there, willfully, unlawfully, and feloniously take, carry away, and deprive **PETER TAN** and his son **MICHAEL TAN**, a minor of two (2) years of age, of their respective liberties against their will for the purpose of extorting money as in fact a demand for money in the amount of Three Million (P3,000,000.00) Pesos, Philippine Currency, was demanded as a condition for their safe release to their damage and prejudice.

With the attendance of the aggravating circumstance of abuse of authority against **SPO1 CATALINO GONZALES, PS1 NATHANIEL CAPITENEA and PO2 ARDEN G. LANAZA**, being active members of the Philippine National Police.³

On arraignment, appellant entered a plea of not guilty. Trial ensued.

The victim Peter Tan (Tan) and his wife Huang Haitao (Haitao) lived in Retirees' Village in Tanza, Cavite. They operated a stall in a market also in Tanza.

Haitao narrated in her Sworn Statement⁴ that in the morning of 28 December 2005, Haitao left the house ahead of Tan and their two-year old son to go to the market. When Haitao arrived at their stall, she tried calling Tan in his phone but the latter did not answer. Finally, the call was answered by someone who introduced himself as a National Bureau of Investigation (NBI) agent and who told Haitao that her husband was arrested for illegal possession of *shabu*. Haitao immediately asked for her husband's whereabouts but the alleged NBI agent hung up. Haitao then called Tan's phone again. Before she could talk to her husband, someone snatched the phone away from Tan and told her that someone would get in touch with her. At around 10:30 a.m., an unknown Chinese man called up Haitao and informed her that her husband and son were detained for possession of drugs, and that she should pay off the captors. That evening, a man called Haitao and demanded ₱5,000,000.00 for the release of her husband and son. The demand was lowered to ₱3,000,000.00. Haitao was ordered by the captor to prepare the money and go to Luneta Park on the following day.

Haitao reported the incident to the Philippine Anti-Crime Emergency Response Unit (PACER) of the Philippine National Police. The Luneta Park meeting did not push through. Haitao still received various instructions

³ Id. at 1-2.

⁴ *Rollo*, pp. 125-127.

from the captors to fetch her son until the PACER received information that Haitao's son was in White Cross Children's Home. Haitao was eventually reunited with her son.

On 15 January 2006, Haitao received a text message from an unidentified man who claimed that he knew about Tan's kidnapping and demanded ₱30,000.00 from Haitao. They met at McDonald's restaurant in Tanza, Cavite. When the man, later identified as Edwin Torrente (Torrente) approached Haitao, he was arrested by PACER agents.

It turned out that Torrente was part of the group which forcibly took Tan and his son. In exchange for the needed information, Torrente was placed under the Witness Protection Program and was utilized as a state witness.

In his Sworn Statement,⁵ Torrente narrated that on 27 December 2005, he was approached by appellant and told about a plan to arrest Tan, an alleged drug pusher in Tanza, Cavite. At around 7:00 a.m. on 28 December 2005, Torrente received a text message from appellant asking him to proceed to the Shell Gas Station along Coastal Road in Imus, Cavite. Thereat, Torrente met appellant, his son, Joy Gonzales, Lt. Capitanea, and nine other people. The group then proceeded to the Retirees' Village in Tanza, Cavite to conduct a surveillance of the house of appellant. At around 11:00 a.m., the group left the village and went to a nearby Mc Donald's restaurant to have some snacks. After eating, the group went back to the village and chanced upon Tan who was inside his Ford vehicle. They immediately blocked Tan's car, forced him and his son to alight from the vehicle, and boarded them into another vehicle. Torrente then went back to the gas station to get his motorcycle and proceeded to his house. On 31 December 2005, Torrente received a call from appellant informing him that Tan would soon be released as negotiations were ongoing. Torrente admitted that he called Haitao and asked for a meeting. When Torrente sensed the presence of policemen, he immediately surrendered and voluntarily gave his statement.

Appellant denied the charges against him and proffered the defense of alibi. Appellant claimed that on 28 December 2005, at 10:08 a.m., he was at the Land Bank of the Philippines branch in Dasmariñas, Cavite to encash his check. After encashing his check, appellant went home and stayed there until 8:00 p.m. to attend a party. On 31 December 2005, Torrente went to his house and together, they conducted a surveillance against drug suspects.

⁵ Id. at 128-131.

On 17 January 2006, he planned to meet up with Torrente at the Shell Station along Anabu Road in Imus, Cavite. When appellant arrived at the gas station, two armed men alighted from their vehicles and poked their guns on him. Appellant was then forcibly dragged into the vehicle. Appellant claimed that he was subjected to physical and mental torture before he was brought to the PACER office.⁶

The branch manager of Land Bank, Mr. Edgar Deligero, corroborated appellant's alibi. He acknowledged that a check under appellant's name was encashed on 28 December 2005 at 10:08 a.m. He noted that based on the bank's verification procedure, the signature of appellant is valid and an identification document was presented by the appellant. Hence, the bank manager confirmed that it was indeed appellant who personally encashed the check.⁷

Appellant's daughter corroborated appellant's statement that he was tortured. Jocelyn Gonzales witnessed his father's condition while the latter was detained in the PACER's office. She also saw a first medical certificate and heard the DOJ prosecutor order a second medical examination. Dr. Edilberto Antonio confirmed the issuance of two medical certificates certifying the injuries suffered by appellant.

On 12 July 2006, the trial court rendered judgment finding appellant guilty beyond reasonable doubt of the crime of Kidnapping for Ransom and sentencing him to suffer the penalty of *reclusion perpetua* and to pay ₱200,000.00 as exemplary damages.

Appellant challenged the trial court's decision affirming his conviction on the ground of alleged discrepancies in the testimonies and statements of prosecution witnesses. Appellant specifically pointed out the discrepancy in the time of the commission of the crime. Appellant asserted that based on the statement of Haitao, the kidnapping incident took place at around 10:30 a.m. while state witness Torrente, claimed that the kidnapping occurred after 11:00 a.m. Furthermore, appellant insisted that Torrente's claim that he and appellant were together from 7:30 a.m. up to after 11:00 a.m. on 28 December 2005 is inconsistent with the fact that appellant, as confirmed by the branch manager, was at the Land Bank branch in Dasmariñas, Cavite at 10:08 a.m. to encash a check. Based on these inconsistencies, appellant maintained that he should be acquitted. Appellant

⁶ TSN, 1 June 2006, pp. 12-29.

⁷ TSN, 20 June 2006, pp. 27-31.

also argued that the absence of the victim puts in serious doubt the presence of the *corpus delicti*.

The Office of the Solicitor General (OSG), for its part, recommended that appellant be held guilty of kidnapping for ransom. The OSG contended that there is no material discrepancy as to time that would tend to create reasonable doubt as to appellant's guilt. The OSG stressed that the *corpus delicti* in this case is the actual confinement, detention and restraint on the victims. The OSG asserted that the prosecution has proven that the detention of the victims was perpetrated by appellant, among others.

In a Decision⁸ dated 12 November 2009, the Court of Appeals affirmed the ruling of the trial court.

The appellate court rejected appellants' defense of alibi and held that it cannot prevail over the positive identification by the state witness. The appellate court also dismissed the alleged disparities on the sworn statements and testimonies of prosecution witnesses as trivial and minor details that do not detract in any way from the main thrust of what the prosecution witnesses related in court.

On 7 July 2010, this Court required the parties to simultaneously file their respective Supplemental Briefs.⁹ While the OSG manifested that it is adopting its brief earlier filed before the Court of Appeals,¹⁰ appellant filed his Supplemental Brief¹¹ reiterating that the inconsistent statements of the prosecution witnesses with respect to the time of the commission of the crime are so crucial to merit his acquittal. Appellant maintains that he was at the bank at 10:08 a.m. Using this as a reckoning point, both of the prosecution witnesses' claim of the time of kidnapping are erroneous. The disparity in the statements of the prosecution witnesses creates a doubt in the guilt of the accused which, according to appellant, should work for his acquittal.

The bone of contention in this case is whether the inconsistent statements of prosecution witnesses with regard to the time of the commission of the crime will exonerate appellant.

⁸ *Rollo*, pp. 2-31.

⁹ *Id.* at 38-39.

¹⁰ *Id.* at 153-155.

¹¹ *Id.* at 46-78.

In *People v. Delfin*,¹² a case involving simple rape, the Court held that where the inconsistency is not an essential element of the crime, such inconsistency is insignificant and cannot have any bearing on the essential fact testified to. In a case for illegal sale and possession of dangerous drugs,¹³ the Court ruled that inconsistencies and discrepancies in the testimony referring to minor details and not upon the basic aspect of the crime do not diminish the witnesses' credibility. An inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction. In fact in *People v. Macapanas*,¹⁴ we added that these inconsistencies bolster the credibility of the witness's testimony as it erases the suspicion of the witness having been coached or rehearsed.

The alleged inconsistencies related to the time the kidnapping was committed. The elements of kidnapping for ransom under Article 267 of the Revised Penal Code (RPC), as amended, are as follows: (a) intent on the part of the accused to deprive the victim of his liberty; (b) actual deprivation of the victim of his liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim.¹⁵ Time is not a material ingredient in the crime of kidnapping. As long as all these elements were sufficiently established by the prosecution, a conviction for kidnapping is in order.

At any rate, Torrente declared during the cross-examination that he tried to rectify the error with regard to the time, thus:

CROSS-EXAMINATION OF THE WITNESS
CONDUCTED BY ATTY. MAPILE:

ATTY. MAPILE:

Q Mr. Witness, you said you talked to the Prosecutor before taking to the witness stand, is it not?

WITNESS:

A Yes, sir. He explained to me that if I am telling the truth, sir.

Q And he also explained to you the need of correcting paragraph 5 in your sworn statement, is it not because of a typographical error?

A Yes, sir.

¹² G.R. No. 190349, 10 December 2014.

¹³ *People v. Villahermosa*, G.R. No. 186465, 1 June 2011, 650 SCRA 256, 276.

¹⁴ 634 Phil. 125, 145 (2010).

¹⁵ *People v. Yau*, G.R. No. 208170, 20 August 2014, 733 SCRA 608, 629.

Q And except for that error, you confirmed everything to be true and accurate on figures and dates especially the time, am I right?

A Yes, sir.

ATTY. MAPILE:

Q And you have nothing, you have no desire subsequent to correct, to make any further correction?

WITNESS:

A I have, sir. With respect to time only.

Q What time are you talking about Mr. Witness?

A When Peter Tan was taken, it could be more or less 10:00 in the morning, sir.

Q Instead of what? What appears in your statement when he was abducted or taken?

A No more, sir. He was abducted more or less 10:00 o'clock in the morning.

Q You had occasion to read how many times your sworn statement before signing it?

A For about five (5) times, sir.

Q Why did you notice for the first time that Number 5, question number 5 and answer number 5 should be corrected?

A For the third time, sir.

ATTY. MAPILE:

Q And when was the time when you also discovered that the abduction was 10:00 o'clock instead of beyond 10:00 o'clock of December 28, 2005?

WITNESS:

A For the second time, sir.

Q You mean for the second time, the second time that you read your statement?

A Yes, sir.

Q When was that Mr. Witness?

A Before I signed it, sir.

Q Before you signed it, it was stated you did not forget the one who prepared your statement?

A I called the attention of the one who prepared, sir.

Q But what he say?

A According to the Investigator, they changed it already, sir.

Q So you did not sign that purported sworn statement, that sworn statement was already changed?

COURT:

Let us make this clear counsel. As per statement given on January 17 and one January 24.

ATTY. MAPILE:

I'm merely referring to the 17, Your Honor.

COURT:

17.

WITNESS:

A I did not, sir.

ATTY. MAPILE:

Q You did not because you pointed out the mistake?

A Yes, sir.

Q When you refused to sign because you disclosed to get the error, did the Investigator changed your statement?

A Yes, sir.

PROSE. PARICO:

Your Honor, the witness answered earlier "Binago Na Po", that was his statement, Your Honor.

WITNESS:

A The sworn statement is the same, sir.

ATTY. MAPILE:

Q In short, they did not correct the error that you pointed out?

A No, sir. I did not change it.

Q And despite pointing out the error, they did not change it anymore?

A I do not know the reason, sir. ¹⁶

¹⁶ TSN, 9 May 2006, pp. 41-45.

Appellant now seeks to assail the testimony of Torrente as a “last-minute adjustment” which weakens the testimony.

It has been consistently held that discrepancies and/or inconsistencies between a witness’ affidavit and testimony do not necessarily impair his credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack or absence of searching inquiries by the investigating officer. What is important is, in the over-all analysis of the case, the trial court’s findings and conclusions are duly supported by the evidence on record.¹⁷

In this case, both the RTC and the Court of Appeals gave credit to Torrente’s statement. It is a well-settled rule that factual findings of the trial court regarding the credibility of witnesses are accorded great weight and respect especially if affirmed by the Court of Appeals. The Court shall not supplant its own interpretation of the testimonies for that of the trial judge since he is in the best position to determine the issue of credibility of witnesses.¹⁸

A concomitant issue is whether the *corpus delicti* was proven despite the non-presentation of the kidnap victims during trial. Appellant stresses that the *corpus delicti* was not proven because Tan¹⁹ could not be found.

Corpus delicti is the fact of the commission of the crime which may be proved by the testimony of the witnesses who saw it.²⁰ The *corpus delicti* in the crime of kidnapping for ransom is the fact that an individual has been in any manner deprived of his liberty for the purpose of extorting ransom from the victim or any other person.²¹

To prove the *corpus delicti*, it is sufficient for the prosecution to be able to show that (1) a certain fact has been proven — say, a person has died or a building has been burned; and (2) a particular person is criminally responsible for the act.²²

¹⁷ *People v. Galicia*, G.R. No. 191063, 9 October 2013, 707 SCRA 267, 280.

¹⁸ *People v. Ramos*, G.R. No. 190340, 24 July 2013, 702 SCRA 204, 218-219.

¹⁹ There is nothing in the records which indicate the whereabouts of Peter Tan in the letter submitted by appellant, he surmised that Peter Tan might be the same person captured by the police in a drug raid in Pangasinan. This claim however is not supported by any evidence.

²⁰ *People v. Mittu*, 388 Phil. 779, 792 (2000).

²¹ *People v. Castro*, 434 Phil. 206, 220 (2002).

²² *Rimorin, Jr. v. People*, 450 Phil. 465, 474 (2003).

The fact of kidnapping has been duly proved by Haitao who categorically testified that a kidnapping transpired, to wit:

PROSE. PARICO:

May I manifest, Your Honor, that while the witness is reading intensely the affidavit No. 8, she is continues crying, Your Honor.

COURT:

Okay, noted the manifestation of the counsel is granted that while witness is reading paragraph No. 8 question and answer the witness is crying. Noted. Can you interpret in Chinese?

WITNESS:

A And when she went to the Palengke, they were not in the same car. She went ahead and then Peter and the son followed in another car with Plate No. PTY-955. She called her husband five times and nobody was answering, sir. The husband was not answering the cellphone, her cellphone and somebody answered a voice, the voice of a male, Filipino voice. The man said that they arrested Peter, they are from NBI and they arrested him because he has in possession one (1) kilo of shabu, sir. She said that she cannot believe it. They are just telling lies. She could not believe that Peter Tan is in possession of shabu and if Peter will be arrested why will be include my son. She said that she has a business in the market doing glassware and houseware in Tanza, sir.

X X X X

A I called again the cellphone of Peter, sir. She got to talk on Peter at the cellphone and Peter clearly told her in Chinese to ask them where is the child, a boy and quickly, they cut the cellphone. So when she got to talk to the person on the other line, they answered if he is Chinese or Filipino and she said she is Chinese and there somebody who speak to her in Chinese, sir. The Chines[e] told her that his friend gave this Chinese her cellphone number. The Chinese said that they arrested him because her husband has shabu and had a case, sir. And the Chinese said that they are kidnapping the husband and they wanted for ransom and the Chinese said that he is not going to help anymore he wants to go home. He doesn't want to get involve. He doesn't want to get anymore and he wants to go home. She asked again, what is really the case and please don't get the child, don't involve the child in this case, in the case of her husband. She said she was asking the other line where did they bring my husband and what office they brought him to and if she knows the office, she is going to get a lawyer. Then she asked them to return the child, her son back to her. The Chinese said that

Yah, why did you involve the child and after that switch off the cellphone, sir.²³

Torrente, on the other hand, identified appellant as one of the captors.

Article 267 of the RPC provides that the penalty of death shall be imposed if the kidnapping was committed for the purpose of extorting ransom, thus:

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.

Pursuant to R.A. No. 9346, the penalty is correctly reduced to *reclusion perpetua*, without eligibility for parole.

We observe that the lower courts failed to award civil indemnity and moral damages in this case. Civil indemnity is awarded if the crime is qualified by circumstances warranting the imposition of the death penalty.²⁴ On the other hand, moral damages is warranted. Under Article 2217 of the New Civil Code, moral damages include physical suffering, mental anguish, fright, serious anxiety, wounded feelings, moral shock and similar injury.

²³ TSN, 9 May 2006, pp. 19-22.

²⁴ *People v. Roxas*, G.R. No. 172604, 17 August 2010, 628 SCRA 378, 403 citing *People v. Sarcia*, G.R. No. 169641, 10 September 1999, 599 SCRA 20, 44-45.

There is no doubt that Haitao suffered physical, mental and emotional trauma over the kidnapping of Tan and her two-year old son.

In conformity with prevailing jurisprudence,²⁵ the following amount of damages should be imposed:

- 1) ₱100,000.00 as civil indemnity;
- 2) ₱100,000.00 as moral damages; and
- 3) ₱100,000.00 as exemplary damages.

In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all the damages awarded, to earn from the date of the finality of the Court's Decision until fully paid.²⁶

WHEREFORE, the appeal is **DISMISSED**. The appealed decision is **AFFIRMED** with **MODIFICATIONS** that appellant SPO1 Catalino Gonzales, Jr. is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and to pay the family of the kidnap victim Peter Tan the following amounts: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages; and (3) ₱100,000.00 as exemplary damages, all with interest at the rate of six percent (6%) *per annum* from the date of finality of judgment until fully paid.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

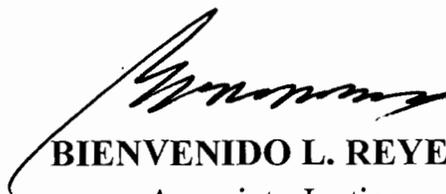

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

²⁵ *People v. Gambao*, G.R. No. 172707, 1 October 2013, 706 SCRA 508, 533.

²⁶ *People v. Licayan*, G.R. No. 203961, 29 July 2015.



DIOSDADO M. PERALTA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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.



MARIA LOURDES P. A. SERENO
Chief Justice