



**Republic of the Philippines  
Supreme Court  
Manila**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**

Plaintiff-Appellee,

**G.R. No. 208404**

Present:

SERENO, *CJ.*,  
Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PERLAS-BERNABE, and  
CAGUIOA, *JJ.*

- versus -

**VICENTE LUGNASIN and  
DEVINCIO GUERRERO,**  
Accused-Appellants.

Promulgated:

**FEB 24 2016**

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**DECISION**

**LEONARDO-DE CASTRO, J.:**

For review is the January 23, 2013 Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR.-H.C. No. 02971, which affirmed with modification the March 24, 2003 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 76, Quezon City, in Criminal Case No. Q-99-87600, entitled “*People of the Philippines v. Vicente Lugnasin, Tito Lugnasin, Excelso Lugnasin, Elmer Madrid, Rogelio Baldaba and Devincio Guerrero,*” wherein accused-appellants Vicente Lugnasin (Vicente) and Devincio Guerrero (Devincio) were found guilty beyond reasonable doubt of the crime of kidnapping for ransom.

On October 15, 1999, the Department of Justice filed an Information against Vicente, Devincio and four other individuals, namely, Tito E. Lugnasin (Tito), Excelso B. Lugnasin (Excelso), Elmer A. Madrid (Elmer), Rogelio D. Baldaba (Rogelio), and five other unidentified individuals: John Doe, Peter Doe, Richard Doe, George Doe, and James Doe, for the crime of

<sup>1</sup> Rollo, pp. 4-16; penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Japar B. Dimaampao and Elihu A. Ybañez concurring.  
<sup>2</sup> CA rollo, pp. 26-44; penned by Judge Monina A. Zenarosa.

*kidnapping for ransom* defined and penalized under Article 267 of the Revised Penal Code. The Information reads:

That on or about April 20, 1999 in Quezon City and within the jurisdiction of this Honorable Court accused VICENTE LUGNASIN, TITO LUGNASIN, EXCELSO LUGNASIN, ELMER MADRID, ROGELIO BALDABA, DEVINCIO GUERRERO, and other persons whose identities ha[ve] not yet been ascertained, while conspiring, conniving and confederating with one another, did then and there with criminal and malicious intent, with the use of force, threat and intimidation, with firearms, take and carry away the person of Nicassius Cordero, to the Municipality of Tanauan, Province of Batangas, detaining him thereat, depriving Nicassius Cordero of his liberty, against his free will and consent, for the purpose of extorting ransom money for his safe release from detention said demand for the payment of ransom money was made on the relatives of Nicassius Cordero, and the same was release[d] in the evening of April 24, 1999 along the South Luzon Expressway.<sup>3</sup>

When arraigned on November 5, 2001, accused-appellant Vicente pleaded not guilty to the crime charged. Accused-appellant Devincio likewise pleaded not guilty when he was arraigned on March 6, 2002. Both accused-appellants made no stipulation during their respective pre-trial conferences except for their identities and the jurisdiction of the court.

The nine other accused remain at large.

The facts succinctly synthesized by the RTC are as follows:

The prosecution's lone witness, Nicassius Cordero narrated in court how he was abducted while opening the garage door of his residence in Mindanao Avenue in the late evening of April 20, 1999 by three armed men. He identified Devincio Guerrero as the man with a 38 cal. revolver who came from his left side and pushed him inside the car. The man who came from his right side and identified later as Tito Lugnasin drove the car with Elmer Madrid riding at the back. After divesting him of his ₱5,000.00 cash and asking some questions, he realized he was being kidnapped for ransom. Repeatedly, he declared that he was not a rich man. Along Libis, another cohort, Celso Lugnasin, rode with them until they reached the South Superhi[gh]way and after paying the toll fee, they drove on for about fifteen minutes and stopped just behind an owner type jeepney before they switched places. The jeepney driver introduced himself as Commander and drove the car. [Cordero] saw Commander's face. He was later identified as Vicente Lugnasin. After driving for some minutes more, they alighted, [Cordero's] abductors placed the car's sunvisor around his face and ordered him to walk barefooted towards a small house. [Cordero] was kept there for four days, while they negotiated with Saleena, his sister-in-law for the ransom money. On the fourth day, Commander was already angry and threatened to finish him off. He was eventually released, without ransom money being paid.

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<sup>3</sup>

Id. at 10.

Vicente Lugnasin, a resident of Luzviminda I, Dasmariñas Quezon City denied the accusation, saying he only saw Cordero for the first time at the Department of Justice and Cordero could not even identify him. He recounted that on May 14, 1999[,] while preparing for the town fiesta celebration, policemen came to his residence and arrested him and his brother Tito [and] cousin Excelsio for alleged involvement in a robbery case. They were tortured, then put on display for media men to feast on and for alleged victims to identify. After posting bail, he was later arrested for illegal possession of firearms. He was also charged with two other cases, a bank robbery and the Mercury Bank robbery, both pending before the sala of Judge Jose Mendoza.

Devincio Guerrero, a fish vendor at the Pasig Market, likewise denies any involvement in the kindnap[ping] of Cordero. He swears he saw him for the first time only in the courtroom. He recalled that nearing Holy Week in 2002[,] five uniformed policemen arrested him without a warrant in Lucena City, where he used to buy smoked fish to sell. He was transferred to Camp Karingal before being detained at the QC Jail, where he is detained up to the present. On May 14, 1999[,] he was a sponsor at a baptism of the child of his *kumpadre* in Bgy. Luzviminda, Dasmariñas, Cavite. On his way home, he was accosted by police officers while urinating along the roadside. He was detained first at the Cavite City Jail then at the Trece Martires jail. He saw Vicente Lugnasin only at the Quezon City Jail.<sup>4</sup>

The Court of Appeals also made a finding that accused-appellant Vicente made known their intentions when he asked Cordero about his work, family, and a contact person, and told him that they would be demanding 30 Million Pesos as ransom for his release.<sup>5</sup>

### ***Ruling of the RTC***

On March 24, 2003, the RTC, resolving the lone issue of “*whether [or not] Cordero’s identification of Vicente Lugnasin and Devincio Guerrero as among his kidnappers is reliable,*”<sup>6</sup> promulgated its Decision, finding both accused-appellants guilty beyond reasonable doubt of the crime charged, to wit:

WHEREFORE, finding the accused Vicente Lugnasin and Devincio Guerrero guilty beyond reasonable doubt of the crime of kidnapping for ransom described and penalized under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659 in conspiracy with each other and other Does, the Court hereby sentences them to each suffer the penalty of Death and to indemnify jointly and severally the private complainant Nicassius Cordero the amount of ₱50,000.00 as moral damages.

The warrants of arrest issued against the other accused remain.<sup>7</sup>

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<sup>4</sup> Id. at 39-40.

<sup>5</sup> *Rollo*, p. 7.

<sup>6</sup> Id. at 41.

<sup>7</sup> Id. at 43-44.

In convicting the accused-appellants, the RTC found Cordero to be a careful, truthful, and candid witness, whose story was supported by the evidence submitted. It added that this was in contrast to the accused-appellants' bare denial of their participation in the kidnapping. The RTC also pointed out that Cordero was able to identify both accused-appellants as he saw their faces before he was blindfolded.

### *Ruling of the Court of Appeals*

On January 23, 2013, the Court of Appeals affirmed the accused-appellants' conviction with modification as to the penalty. The *fallo* of the Decision reads:

**WHEREFORE**, premises considered, the instant appeals are hereby **DISMISSED** for lack of merit.

The Decision dated March 24, 2003 of the Regional Trial Court, Branch 76, Quezon City, in Criminal Case No. Q-99-87600, is **MODIFIED** in that the penalty of death imposed upon appellants is **AMENDED** to *Reclusion Perpetua, without the possibility of parole*.<sup>8</sup>

The Court of Appeals held that the elements of the crime of kidnapping for ransom were established by the prosecution through its lone witness, Cordero, whose credible testimony should be accorded great weight. It also ruled that Cordero's identification of his abductors conformed to the stringent guidelines of out-of court identification, contrary to accused-appellant Devincio's assertion that it was marked with suggestiveness.<sup>9</sup>

As regards accused-appellant Devincio's argument that his warrantless arrest was illegal since it did not fall under Section 6, Rule 109 of the Rules of Procedure, as amended, the Court of Appeals held that accused-appellant Devincio's right to question his arrest and subsequent inquest/preliminary investigation is deemed waived due to his failure to raise such argument before his arraignment.<sup>10</sup>

Addressing accused-appellant Devincio's claim that his rights under Republic Act No. 7438, entitled "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof" were violated, the Court of Appeals pointed out that he neither offered any evidence nor executed an extrajudicial confession or admission for such allegation.<sup>11</sup>

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<sup>8</sup> Id. at 16.

<sup>9</sup> Id. at 12.

<sup>10</sup> Id. at 14.

<sup>11</sup> Id. at 15.

Finally, in light of Republic Act No. 9346, which prohibits the imposition of the death penalty, the Court of Appeals modified the penalty from Death to *reclusion perpetua* without the possibility of parole.<sup>12</sup>

Both accused-appellants are now before this Court praying for a reversal of their conviction on the same arguments upon which their appeal to the Court of Appeals were anchored.<sup>13</sup>

### *Issues*

Accused-appellant Devincio assigned the following errors in his Appellant's Brief:

#### I

THE COURT A QUO GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONY OF THE LONE PROSECUTION WITNESS.

#### II

THE COURT A QUO GRAVELY ERRED IN FINDING [DEVINCIO] GUILTY NOTWITHSTANDING THE PRESENCE OF SUGGESTIVENESS IN [THE] IDENTIFICATION BY THE PRIVATE COMPLAINANT OF THE APPELLANT AS ONE OF HIS ABDUCTORS.

#### III

THE COURT A QUO GRAVELY ERRED IN NOT FINDING [DEVINCIO]'S WARRANTLESS ARREST AS ILLEGAL.

#### IV

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT [DEVINCIO]'S RIGHTS UNDER REPUBLIC ACT NO. 7438 (AN ACT DEFINING CERTAIN RIGHTS OF PERSONS ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF) WERE VIOLATED.<sup>14</sup>

Accused-appellant Vicente, for his part, posed a lone error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING [VICENTE] DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>15</sup>

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<sup>12</sup> Id. at 15-16.

<sup>13</sup> Id. at 26-30.

<sup>14</sup> CA *rollo*, pp. 249-250.

<sup>15</sup> Id. at 356.

### ***Ruling of this Court***

This Court finds no compelling reason to overturn the assailed judgment of conviction.

### ***Elements of Kidnapping for Ransom established.***

The accused-appellants were charged and convicted under Article 267 of the Revised Penal Code as amended by Republic Act No. 7659,<sup>16</sup> viz.:

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 aforequoted provision, in prosecuting a case involving the crime of *Kidnapping for Ransom*, the prosecution must establish the following elements: *(i)* the accused was a private person; *(ii)* he kidnapped or detained or in any manner deprived another of his or her liberty; *(iii)* the kidnapping or detention was illegal; and *(iv)* the victim was kidnapped or detained for ransom.<sup>17</sup>

A painstaking review of the present case clearly shows that all the aforestated elements were proven in the criminal case on review.

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<sup>16</sup> An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, and for Other Purposes.

<sup>17</sup> *People v. Awid and Ganih*, 635 Phil. 151, 158-159 (2010).

The testimony of Cordero sufficiently established the commission of the crime and both the accused-appellants' culpability. He positively identified in and out of court accused-appellants Vicente and Devincio as two of his abductors. As the kidnap victim, a private individual, Cordero's positive identification of both accused-appellants – as two of several men who abducted him from the gate of his house, who brought him to a hut somewhere in the south, who chained him to a bed, who essentially deprived him of liberty without lawful cause for four days, and, which deprivation of his liberty was for the purpose of extorting ransom from his family – collectively establish the crime of *kidnapping for ransom* as the actions of both the accused-appellants were certain and clear, and their intent was explicit and made known to Cordero himself.

***Identification of the Accused-Appellants.***

This Court cannot sustain both accused-appellants' arguments casting doubt on Cordero's positive identification of their participation in the commission of the crime. As oft-explained, when the credibility of a witness is in issue, the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect. This holds truer if such findings are affirmed by the appellate court. Without any clear showing that the trial court and the appellate court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance, the rule should not be disturbed.<sup>18</sup>

Herein, there is nothing farfetched or incredible in Cordero's testimony. Both accused-appellants failed to show that it was physically impossible for Cordero to recognize them, as in fact, Cordero had the unhindered view of his captors' faces before he was even blindfolded. Therefore, Cordero's eyewitness account deserves full faith and credit.

But accused-appellant Devincio avers that the length of time, which has elapsed from the time Cordero was released, up to the time he identified his abductors would have already affected his memory, such that the possibility of error in his identification of the abductors could not be discounted. He also insists that Cordero's "subsequent identification of [him] in open court should be disregarded since the initial identification was seriously flawed, *i.e.*, it was characterized by suggestiveness."<sup>19</sup>

On the other hand, accused-appellant Vicente argues that although denial is an inherently weak defense, it assumes importance and acquires commensurate strength when the prosecution's evidence, particularly as to

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<sup>18</sup> *People v. Basao*, 697 Phil. 193, 208-209 (2012), citing *Decasa v. Court of Appeals*, 554 Phil. 160, 180 (2007) and *Nueva España v. People*, 499 Phil. 547, 556 (2005).

<sup>19</sup> CA rollo, pp. 257-258.

the identity of the accused as the author of the crime, is feeble, doubtful, inconclusive, or unreliable. He says that Cordero's identification of his abductors was questionable due to the circumstances during his abduction and detention, *i.e.*, it was dark when he was abducted, he was instructed to go down on the floor of the vehicle and not to look at his kidnappers, he was blindfolded, and his eyeglasses were removed.<sup>20</sup>

With the foregoing, both accused-appellants claim that the RTC erred in relying on Cordero's identification of them as two of his abductors as it was doubtful and unreliable.

This Court disagrees.

The trial court and the Court of Appeals correctly found the out-of-court identification made by Cordero to have satisfied the totality of circumstances test.

*People v. Teehankee, Jr.*<sup>21</sup> is instructive on the rules and test for a valid out-of-court identification:

Out-of-court identification is conducted by the police in various ways. It is done thru show-ups where the suspect alone is brought face to face with the witness for identification. It is done thru mug shots where photographs are shown to the witness to identify the suspect. It is also done thru line-ups where a witness identifies the suspect from a group of persons lined up for the purpose. Since corruption of out-of-court identification contaminates the integrity of in-court identification during the trial of the case, courts have fashioned out rules to assure its fairness and its compliance with the requirements of constitutional due process. In resolving the admissibility of and relying on out-of-court identification of suspects, courts have adopted the totality of circumstances test where they consider the following factors, *viz.*: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure. (Citation omitted.)

Cordero was able to see the faces of the men who abducted him from his house due to the light emanating from the pedestrian gate. He was also able to describe how these men approached him, the kind of firearms they were carrying, how the men acted where they passed, where he was taken, and even the sounds he heard. Cordero's testimonies were replete with detailed descriptions of how he was abducted and who abducted him. To top it all, he was confident that he could identify his abductors, as he did at the Criminal Investigation and Detection Group (CIDG), Camp Pantaleon Garcia, Imus, Cavite,<sup>22</sup> and in open court.

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<sup>20</sup> Id. at 364-366.

<sup>21</sup> 319 Phil. 128, 180 (1995).

<sup>22</sup> CA *rollo*, p. 154; TSN, June 11, 2002, p. 16.

This Court notes with approval the observation of the RTC, *viz.*:

Cordero gave a detailed narration of his abduction that fateful night of April 20, 1999. We observed his demeanor, his reactions to questions asked of him. He was a careful witness, truthful and candid. At times, we noted that he was in tears at the painful recollection of the horror he went through. His story was supported by the evidence submitted.<sup>23</sup>

And as the Court of Appeals said, “Cordero was endeavoring to remember faces and incidents and etch these in his memory.”<sup>24</sup> In *People v. Martinez*<sup>25</sup> we held:

Common human experience tells us that when extraordinary circumstances take place, it is natural for persons to remember many of the important details. This Court has held that the most natural reaction of victims of criminal violence is to strive to see the features and faces of their assailants and observe the manner in which the crime is committed. x x x. All too often, the face of the assailant and his body movements create a lasting impression on the victim’s mind and cannot thus be easily erased from his memory.

Cordero positively identified both accused-appellants Devincio and Vicente as two of his kidnappers. He saw both accused-appellants’ faces before he was blindfolded. Thus, it cannot be said that the length of time between the crime and the identification of the accused-appellants, which was only 26 days, had any effect on Cordero’s memory, to render his positive identification flawed.

Accused-appellant Devincio’s contention that Cordero’s out-of-court identification was marked by suggestiveness must similarly fail for his failure to support it by solid evidence. The only reason he gave for such argument was Cordero’s knowledge that the persons who were being investigated in connection with a robbery case were included in the police or photographic line-up. However, that is not enough to strike down Cordero’s identification for being tainted. The Office of the Solicitor General (OSG) was on point when it quoted this Court’s ruling in *People v. Villena*<sup>26</sup> as follows:

Eyewitness identification is often decisive of the conviction or acquittal of an accused. Identification of an accused through mug shots is one of the established procedures in pinning down criminals. However, ***to avoid charges of impermissible suggestion, there should be nothing in the photograph that would focus attention on a single person.*** x x x. (Citation omitted.)

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<sup>23</sup> Id. at 41.

<sup>24</sup> *Rollo*, p. 13.

<sup>25</sup> 469 Phil. 558, 570-571 (2004).

<sup>26</sup> 439 Phil. 509, 524-525 (2002); *CA rollo*, p. 310.

As the OSG averred, the photographs shown to Cordero contained nothing to suggest whom he should pick and identify as his abductors.<sup>27</sup> Cordero testified as follows:

Cordero	They asked me to see a lineup and I said I was still very afraid of them so they showed me different photographs and asked if I co[u]ld identify who my abductors were and from a series of photos, I was able to identify Vicente Lugnasin, Celso Lugnasin, Elmer Madrid, Guerrero and I could not yet identify de Chaves but I saw him there walking around. <sup>28</sup>
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But assuming for the sake of argument that Cordero's out-of-court identification was improper, it will have no bearing on the conviction of the accused-appellants. We have ruled as follows:

[I]t is settled that an out-of-court identification does not necessarily foreclose the admissibility of an independent in-court identification and that, even assuming that an out-of-court identification was tainted with irregularity, the subsequent identification in court cured any flaw that may have attended it. x x x.<sup>29</sup> (Citation omitted.)

Cordero's in-court identification was made with certainty when he pointed to both accused-appellants in court when he was asked to identify them from among the people inside the courtroom.

It is apparent in the case at bar that Cordero was able to categorically, candidly, and positively identify both accused-appellants as two of his abductors both outside and inside the court. Thus, his identification of the accused is worthy of credence and weight. This Court, in *People v. Cenahonon*<sup>30</sup> said:

An affirmative testimony merits greater weight than a negative one, especially when the former comes from a credible witness. Categorical and positive identification of an accused, without any showing of ill motive on the part of the witness testifying on the matter, prevails over alibi and denial, which are negative and self-serving evidence undeserving of real weight in law unless substantiated by clear and convincing evidence. (Citation omitted.)

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<sup>27</sup> CA rollo, p. 310.

<sup>28</sup> Id. at 154; TSN, June 11, 2002, p. 16.

<sup>29</sup> *People v. Sabangan*, G.R. No. 191722, December 11, 2013, 712 SCRA 522, 548.

<sup>30</sup> 554 Phil. 415, 430 (2007).

***As to the Alleged Illegality of  
Accused-appellant Devincio  
Guerrero's Warrantless Arrest and  
the Violation of His Rights Under  
Republic Act No. 7438.***

Accused-appellant Devincio insists that his warrantless arrest was illegal for not falling under the permissible warrantless arrests enumerated in Section 5, Rule 113 of the Rules of Court.<sup>31</sup> This being the case, accused-appellant Devincio says, the RTC had no jurisdiction to render judgement over his person. He also claims that there was no showing that he was informed of his Constitutional rights at the time of his arrest and his rights under Sections 2 and 3 of Republic Act No. 7438 during investigation.<sup>32</sup>

As the Court of Appeals has already pointed out, that accused-appellant Devincio raised none of these issues anytime during the course of his trial. These issues were raised for the first time on appeal before the Court of Appeals. We affirm the ruling of the Court of Appeals and quote below *Miclat, Jr. v. People*<sup>33</sup> on this Court's treatment of an accused's belated allegation of the illegality of his warrantless arrest:

At the outset, it is apparent that petitioner raised no objection to the irregularity of his arrest before his arraignment. Considering this and his active participation in the trial of the case, jurisprudence dictates that petitioner is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest. An accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment. Any objection involving a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.

In the present case, at the time of petitioner's arraignment, there was no objection raised as to the irregularity of his arrest. Thereafter, he actively participated in the proceedings before the trial court. In effect, he is deemed to have waived any perceived defect in his arrest and effectively submitted himself to the jurisdiction of the court trying his case. At any rate, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error. It will not even negate the validity of the conviction of the accused. (Citations omitted.)

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<sup>31</sup> Sec. 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

<sup>32</sup> CA *rollo*, pp. 260-263.

<sup>33</sup> 672 Phil. 191, 203 (2011).

The foregoing ruling squarely applies to accused-appellants Devincio and Vicente who failed to raise their allegations before their arraignment. They actively participated in the trial and posited their defenses without mentioning the alleged illegality of their warrantless arrests. They are deemed to have waived their right to question their arrests.

As regards accused-appellant Devincio's argument that his rights under Republic Act No. 7438 were violated, we likewise uphold the following ruling of the Court of Appeals:

With respect to appellant Devincio's argument that his rights under RA 7438 were violated while he was under custodial investigation, aside from his bare-faced claim, he has offered no evidence to sustain such claim; and appellant Devincio (or appellant Vicente, for that matter) has not executed an extrajudicial confession or admission for, as stated in *People vs. Buluran and Valenzuela*:

There is no violation of the constitutional rights of the accused during custodial investigation since neither one executed an extrajudicial confession or admission. In fact, the records show that appellant Cielito Buluran opted to remain silent during custodial investigation. Any allegation of violation of rights during custodial investigation is relevant and material only to cases in which an extrajudicial admission or confession extracted from the accused becomes the basis of their conviction.<sup>34</sup> (Citation omitted.)

### ***Damages Awarded.***

The RTC awarded Cordero Fifty Thousand Pesos (₱50,000.00) as moral damages. However, pursuant to prevailing jurisprudence, the Court finds it proper to modify such award as follows:

1. ₱100,000.00 as civil indemnity;
2. ₱100,000.00 as moral damages; and
3. ₱100,000.00 as exemplary damages to set an example for the public good.<sup>35</sup>

“The award of exemplary damages is justified, the lowering of the penalty to *reclusion perpetua* in view of the prohibition of the imposition of the death penalty notwithstanding, it not being dependent on the actual imposition of the death penalty but on the fact that a qualifying circumstance warranting the imposition of the death penalty attended the kidnapping.”<sup>36</sup>

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<sup>34</sup> *Rollo*, p. 15.

<sup>35</sup> *People v. Con-ui*, G.R. No. 205442, December 11, 2013, 712 SCRA 764, 774.

<sup>36</sup> *People v. Pepino*, 636 Phil. 297, 312 (2010).

The accused-appellants shall be jointly and severally liable for these amounts awarded in favor of Cordero. In addition, these amounts shall accrue interest at the rate of six percent (6%) per annum, to earn from the date of the finality of this Court's Decision until fully paid.<sup>37</sup>

**WHEREFORE**, the Decision of the Court of Appeals dated January 23, 2013 in CA-G.R. CR.-H.C. No. 02971 finding accused-appellants Vicente Lugnasin and Devincio Guerrero **GUILTY** beyond reasonable doubt of the crime of kidnapping for ransom under Article 267 of the Revised Penal Code, as amended by Section 8 of Republic Act No. 7659, and sentencing them to suffer the penalty of *reclusion perpetua* without eligibility of parole is **AFFIRMED with modification**. Accused-appellants Vicente Lugnasin and Devincio Guerrero are ordered to pay Nicassius Cordero the following:

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

The foregoing amounts shall accrue interest at the rate of six percent (6%) per annum, to earn from the date of the finality of this Decision until fully paid.

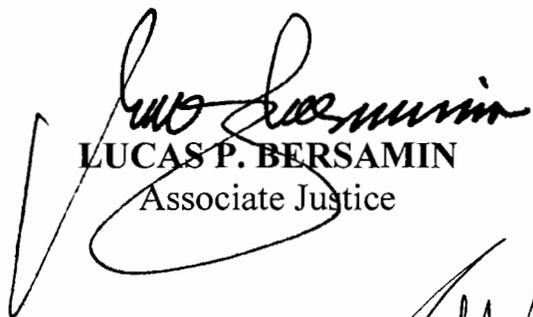
**SO ORDERED.**

  
TERESITA J. LEONARDO-DE CASTRO  
Associate Justice

WE CONCUR:

  
MARIA LOURDES P. A. SERENO  
Chief Justice  
Chairperson

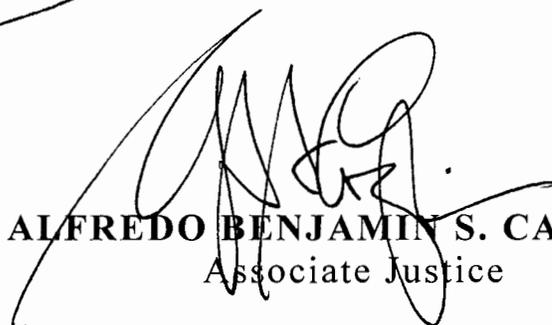
<sup>37</sup> *People v. Con-ui*, supra note 35 at 775.



**LUCAS P. BERSAMIN**  
Associate Justice



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



**ALFREDO BENJAMIN S. CAGUIOA**  
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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice