

## SECOND DIVISION

[ G.R. No. 218915, February 19, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
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  
LAGUNSAD @ 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, ANTINIO BATUCAN Y ABANILLA  
@ TOYEK AND ALIAS TOTO, ACCUSED,**

**HECTOR CORNISTA Y REOTUTAR AND ALVIN LABRA Y  
CORNISTA, ACCUSED-APPELLANTS.**

### D E C I S I O N

**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 Comista y Reotutar ("**Hector**") and Alvin Labra y Comista ("**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 P5,000,000.00, wherein P440,000.00 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>

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 Llena (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>

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 P5,000,000.00 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 P5,000,000.00.<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 P70,000.00 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 P370,000.00. 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 P470,000.00. She was then instructed to separately wrap the amounts of P150,000.00 and P320,000.00 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 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>

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 P16,000.00. 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>

### **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, Bathán, 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 Comista 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 P200,000.00 as actual damages for the wake and coffin; P50,000.00 each as moral damages; P50,000.00 each by way of exemplary damages; P75,000.00 as civil indemnity for the death of the