

## FIRST DIVISION

[ G.R. No. 208404, February 24, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
VICENTE LUGNASIN AND DEVINCIO GUERRERO, ACCUSED-  
APPELLANTS.**

### D E C I S I O N

**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 Luginasin, Tito Luginasin, Excelso Luginasin, Elmer Madrid, Rogelio Baldaba and Devincio Guerrero*" wherein accused-appellants Vicente Luginasin (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. Luginasin (Tito), Excelso B. Luginasin (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 *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 P5,000.00 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 Superhighway 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.

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 kidnap[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 kidnapers 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 P50,000.00 as moral damages.

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

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>

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>

### ***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.