

FIRST DIVISION

[G.R. No. 188601, June 29, 2010]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHNNY BAUTISTA Y BAUTISTA AND JERRY MORALES Y URSAL, ACCUSED. JOHNNY BAUTISTA Y BAUTISTA, ACCUSED-APPELLANT.

DECISION

VELASCO JR., J.:

The Case

This is an appeal from the March 18, 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01694 entitled *People of the Philippines v. Johnny Bautista y Bautista and Jerry Morales y Ursal (accused-appellants), Roberto Yap-Obeles, Luis Miranda, John Doe @ "Roy" and John Doe @ "Centes" (accused)*, which affirmed the July 1, 2002 Decision in Criminal Case No. 00-2082 of the Regional Trial Court (RTC), Branch 116 in Pasay City.^[2]

Accused-appellant Johnny Bautista y Bautista (Bautista) stands convicted of the crime of Kidnapping for Ransom, as defined and penalized under Article 267 of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 7659, for which he was sentenced to suffer the penalty of *reclusion perpetua*.

The Facts

The charge against the accused-appellant stemmed from the following Information:

That on or about November 12, 2000, in the City of Pasay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then private individuals, conspiring and confederating with each other, and mutually helping one another, together with others whose real names and/or whereabouts are still unknown, did then and there willfully, unlawfully and feloniously, for the purpose of extorting ransom from one Fritzie So and her parents/family, or of killing said Fritzie so if the desired amount of money could not be given, kidnap, and carry away, detain and deprive the said Fritzie So of her liberty without authority of law, against her will and consent.

Contrary to law.^[3]

On December 21, 2000, accused-appellant Bautista, Roberto Yap-Obeles (Yap-Obeles), Celso Palapar (Palapar), and Jerry Morales (Morales), with the assistance of

their counsel *de parte*, were arraigned and pleaded "not guilty" to the charge against them.^[4] Pre-trial was then considered closed and termination.

Prior to trial on the merits, however, all of the accused separately petitioned the trial court for bail for their provisional liberty.^[5] During the course of the initial hearing of the separate petitions for bail, it was mutually agreed by the parties that whatever evidence the prosecution adduces in support of its opposition will be considered to form part of its evidence in chief in the case, without prejudice to the presentation of other evidence as additional proof during the trial of the case on its merits. After presentation of evidence, the trial court resolved to deny the petitions for bail filed by the accused for lack of merit, except that of accused Yap-Obeles who was granted bail for his temporary liberty in the amount of PhP 300,000.^[6]

Likewise before trial on the merits, the prosecution sought the discharge of accused Palapar as a state witness which, after due hearing and despite the opposition of his co-accused, was granted by the trial court through a Resolution dated July 3, 2001.^[7]

Trial on the merits finally commenced on March 27, 2001.

During the trial, the prosecution offered the testimonies of Fritzie So (Fritzie), Dexter So (Dexter), P/Sr. Insp. Fernando Ortega (P/Sr. Insp. Ortega), Atty. Florimond Rous (Atty. Rous) and Palapar. On the other hand, the defense presented as its witnesses Yap-Obeles, Morales, and Bautista, the accused-appellant.

Version of the Prosecution

A summary of the facts according to the prosecution is as follows:

On November 12, 2000, at around 12 noon to 1 o'clock in the afternoon, Fritzie was inside their store located at 2485 Taft Avenue, Pasay City. She was with her brothers Dexter and Kingsley So, and her mother, Lolita So, when they noticed a grey Toyota Corolla car and a black Mitsubishi Adventure going around their place. The cars were driven by men later identified as Palapar and Yap-Obeles, respectively.^[8]

Yap-Obeles, a doctor by profession and a businessman, had been known to the So family for 10 years. He had also been a tenant for six months at the So family's apartment located at the back of the family's hardware store.^[9]

After a while, Fritzie noticed that the Toyota Corolla stopped in front of the store while the Mitsubishi Adventure parked some two meters away. Three (3) armed men then alighted from the Toyota Corolla and entered the store. Two (2) of the armed men, later identified as Morales and accused Luis Miranda, poked their guns at Fritzie's brothers and mother and warned them not to report the incident to the police. The remaining armed man, later identified as alias "Centes," forcibly took and carried Fritzie from the store and forced her to board the Toyota Corolla. The car then sped towards the direction of Baclaran, followed by the Mitsubishi Adventure.^[10]

On board the vehicle, Fritzie noticed that aside from her, there were five (5) other persons inside the car: Palapar, the driver, Morales, and three (3) other unidentified

men. Fritzie was seated between Morales and an unidentified man. During the ride, Fritzie was blindfolded and the blindfold was not removed until they reached the safe house.^[11]

Meanwhile, after Fritzie was abducted from the store, Dexter called up the Criminal Investigation Division (CID) of the Pasay City Police Station to report the incident but was advised to go directly to the police headquarters. At around 1:45 in the afternoon, or 15 minutes after Fritzie's abduction was reported to the police, Mrs. Lolita So received a telephone call from the armed men who informed her that they had Fritzie. Dexter also received similar calls from the kidnappers.^[12]

At 2:00 in the afternoon of November 12, 2000, Dexter went to the CID of the Pasay City Police where he was referred to the Presidential Anti-Organized Crime Task Force (PAOCTF) and he was able to talk to Colonel Michael Ray Aquino (Col. Aquino) through the telephone. Col. Aquino told Dexter that his men would arrive at their house later that evening to coordinate with him.^[13]

When Dexter returned home from the office of the CID, he received a call from the kidnappers who demanded PhP 8 million for the release of Fritzie. Dexter told the caller that he and his family could not raise such amount although they would try their best to look for such amount. The caller replied that Dexter better do something as he would call back and if they fail to raise the amount, Dexter would find the corpse or dead body of his sister in Pampanga. This threat made Dexter and his mother so afraid that they could not sleep or eat thereafter.^[14]

When the abductors arrived at their destination in San Nicolas, Bacoor, Cavite, Fritzie was told to alight and later brought inside a room. When the blindfold was removed, she noticed that the persons who abducted her were the same ones attending to the safe house. She identified them as Palapar, Yap-Obeles, a certain alias "Roy" and alias "Centes," Luis Miranda, Morales, and accused-appellant Bautista.

Fritzie was kept inside one of the rooms in the safe house. She was allowed to go and use the comfort room for her personal need. But while at the safe house, she noticed that all of her abductors tried to hide their faces from her but, nonetheless, she recognized and remembered one of them as accused-appellant Bautista.^[15]

Later that night, one of the abductors, identified by Fritzie as the accused alias "Roy," entered her room and angrily told her that her family reported her abduction to the *barangay* authorities and did not make any arrangements for the payment of the ransom money. Roy then told Fritzie that they would just kill her. Because of such threat, she became so afraid that she cried for a long time for fear that she would really be killed.^[16]

After several negotiations, Dexter was able to bargain for the payment of PhP 1 million ransom for the release of his sister. He agreed to meet with the kidnappers at the Magallanes Supermarket along the South Expressway at 4:00 in the afternoon on November 14, 2000. The kidnappers instructed him to lower down the windshields of his car, not to report the meeting to the police, and to bring the exact amount of ransom money in a travelling bag; otherwise, something will happen to his sister. Subsequently, the kidnappers changed the location and instead instructed

him to bring the money to the Magallanes Bridge, not the Magallanes Supermarket, particularly at the broken post situated beside a billboard of Guess on top of the same bridge.^[17]

When Dexter arrived at the place designated by the kidnappers, he threw the money bag along the street near the bridge, after which the kidnapper called him in his cellphone and Dexter was told to pick up the bag and throw it on the road underneath the bridge. As instructed, Dexter dropped the bag and he suddenly saw someone catch the bag. He later identified accused-appellant Bautista as the person who caught the bag.^[18]

After delivering the ransom money, Dexter went home. Thereupon, he received a call from the kidnapper telling him that the money was complete and that his sister, Fritzie, would be released after an hour. The kidnappers gave Fritzie PhP 1,000 for taxi fare and at around 8:30 in the evening of November 14, 2000, she finally arrived home.^[19]

That night, alias "Roy" received a phone call from Yap-Obeles instructing him to go to his (Yap-Obeles) warehouse in Paco, Manila. Roy answered that he would instead send Palapar. Upon Roy's instructions, Palapar went to the warehouse and found Yap-Obeles, accused-appellant, and accused-appellant's sister, Doris, who is also Yap-Obeles' wife, waiting for him. Yap-Obeles and Doris gave Palapar PhP 300,000 wrapped in a yellow plastic bag, with instructions to deliver it to Roy as his share in the ransom money. Palapar did as told and was in turn given PhP 7,000 by Roy as payment for his services as the driver of the group.^[20]

On November 15, 2000, two teams were designated by Col. Cesar Mancao of the PAOCTF to investigate the kidnapping of Fritzie. One team was headed by P/Sr. Insp. Ortega and the other by P/Col. Tucay. The following day, at about 4:00 in the morning, Col. Mancao conducted a briefing of the teams informing them that the PAOCTF was able to trace a call made by Palapar to a certain Marilyn Pena, a reported neighbor of Palapar.^[21] The teams were then sent to scout the area and found a person fitting the description of Palapar. Palapar informed P/Col. Tucay that he would cooperate with the task force in the apprehension of the persons involved in the kidnapping.

Palapar disclosed that the plan to kidnap Fritzie was hatched in a meeting among the group which, among others, included Yap-Obeles and Bautista.^[22] Further, he narrated that on November 10, 2000, he, Luis Miranda, and Roy even went to the hardware store of the victim to familiarize themselves with the appearance of Fritzie and with the vicinity of the hardware store.^[23] He pointed to Yap-Obeles as the mastermind and financier of the kidnapping and also mentioned the names and whereabouts of the other persons involved in the kidnapping.

Relying on this information, the teams proceeded to Pier 4, North Harbor to search for a certain person, who was subsequently identified as Morales. They proceeded to a house pointed to by Palapar as the residence of Morales, but the person who opened the door of the house was not Morales. Instead, this person pointed to the whereabouts of Morales, and he (Morales) was subsequently invited by the team of PAOCTF officers to give his side on his alleged involvement in the kidnapping

incident.^[24]

Next, the teams proceeded to locate a certain Yap-Obeles at 321 Southway Mansion in Manila and likewise invited him to go to Camp Crame. As a last stop, the team of P/Sr. Insp. Ortega dropped by the warehouse of Yap-Obeles at Paco, Manila to retrieve the motor vehicle and the red scooter involved in the kidnapping incident. At the warehouse, they met Yap-Obeles' wife, Doris Bautista, and asked her permission to bring both the scooter and the Mitsubishi Adventure to their office. Doris Bautista agreed and both vehicles were turned over to the Legal Investigation Division after said team arrived at the PAOCTF office in Camp Crame.^[25]

The police then went after Roy, who was able to escape.^[26] Bautista, on the other hand, was persuaded by his younger brother to surrender.^[27]

The following day, the police called up Dexter saying that certain persons surrendered and others were arrested. He was requested to go to Camp Crame to identify the suspects. Upon arriving at Camp Crame, Dexter was shown a police line up and he identified two persons: first, accused-appellant Bautista as the one who received the money; and second, Yap-Obeles as the driver of the black Mitsubishi Adventure who followed the Toyota Corolla car that carried away his sister.^[28]

Version of the Defense

Bautista's defense, on the other hand, was confined to an alibi, to wit:

In the evening of November 11, 2000, accused-appellant and his live-in partner, Janet Arida (Janet), left Manila on board a gray Honda City to attend the town fiesta in Gumaca which was scheduled on November 12, 2000. He stayed at Janet's house in Barangay Progreso, Gumaca, Quezon the entire day and only left for Manila the following day, November 13, 2000 at around 4:00 in the morning. He then reported for work the next day, November 14, 2000, at the Almighty Trading Corporation in Paco, Manila, a corporation owned by the family of Yap-Obeles, the husband of his younger sister, Doris.^[29]

He denied knowledge of any of the accused, except Yap-Obeles, because of his marriage to his sister. But, he admitted that he fled to Bicol when he learned that Yap-Obeles was arrested fearing that he might be implicated as he was an employee of Yap-Obeles. Further, he admitted that he rented a vehicle for Yap-Obeles at a rent-a-car company and the said vehicle was delivered on November 10 or 11, 2000. Yap-Obeles allegedly provided the rent money.^[30]

But contrary to his initial testimony, the accused-appellant subsequently admitted knowing Palapar as early as second week of October 2000 when the latter went to the warehouse where accused-appellant was working. With the help of his younger brother and a certain Police Inspector Moya, accused-appellant eventually surrendered.^[31]

His alibi was corroborated by the mother of his live-in partner, Ludivina Arida. She testified that accused-appellant was indeed with her daughter on November 12, 2000 attending the fiesta, and that he left early in the morning of November 13,