

THIRD DIVISION

[G.R. No. 178300, March 17, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO REYES Y PAJE, ALVIN ARNALDO Y AVENA AND
JOSELITO FLORES Y VICTORIO, ACCUSED-APPELLANTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision,^[1] dated 14 August 2006, and Resolution,^[2] dated 18 October 2006, of the Court of Appeals in CA-G.R. CR-H.C. No. 02301 affirming with modifications the Decision,^[3] dated 26 February 2002, of the Regional Trial Court (RTC), Branch 12, Malolos, Bulacan, in Criminal Case No. 1611-M-99 finding herein accused-appellants Domingo Reyes y Paje (Reyes), Alvin Arnaldo y Avena (Arnaldo) and Joselito Flores y Victorio (Flores) guilty of the special complex crime of kidnapping for ransom with homicide and imposing upon each of them the capital punishment of death.

The facts culled from the records are as follows:

On 11 August 1999, an Information^[4] was filed before the RTC charging appellants with the special complex crime of kidnapping for ransom with homicide. The accusatory portion of the information reads:

The undersigned State Prosecutor of the Department of Justice hereby accuses Domingo Reyes y Paje, Alvin Arnaldo y Avena and Joselito Flores y Victorio of the crime of kidnapping for ransom with homicide defined and penalized under Article 267 of the Revised Penal Code, as amended, committed as follows:

That on or about 11:00 p.m. on July 16, 1999, at Sitio Lambakin, barangay Sto. Cristo, San Jose del Monte, Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another and grouping themselves together with Juanito Pataray y Cayaban, Federico Pataray y Cabayan and Rommel Libarnes y Acejo, who are still at large, did then and there willfully, unlawfully and feloniously, by means of force and intimidation and with use of firearms, carry away and deprive Robert Yao, Yao San, Chua Ong Ping Sim, Raymond Yao, Ronald Matthew Yao, Lennie Yao, Charlene Yao, Jona Abagatnan ang Josephine Ortea against their will and consent on board their Mazda MVP van for the purpose of extorting money in the amount of Five Million Pesos (P5,000,000.00), that during the detention of Chua Ong Ping Sim and Raymong Yao, said accused with intent to kill, willfully and unlawfully strangled Chua Ong Ping Sim and

Raymond Yao to death to the damage and prejudice of their heirs in such amount as may be awarded to them by this Honorable Court.

During their arraignment,^[5] appellants, assisted by a *counsel de oficio*, pleaded "Not guilty" to the charge. Trial on the merits thereafter followed.

The prosecution presented as witnesses Jona Abagatnan (Abagatnan), Robert Yao (Robert), Yao San, Police Officer 3 (PO3) Alex Alberto, PO3 Roberto Jabien, Atty. Florimond Rous (Atty. Rous) and Atty. Carlo Uminga (Atty. Uminga). Their testimonies, taken together, attest to the following:

The Yao family is composed of Yao San (father), Chua Ong Ping Sim (mother), Robert and Raymond (children), Lenny (daughter-in-law, wife of Robert), Matthew and Charlene (grandchildren), and Jona Abagatnan and Josephine Ortea (housemaids). The Yao family owns and operates a poultry farm in Barangay Santo Cristo, San Jose del Monte, Bulacan.

On 16 July 1999, at about 11:00 p.m., the Yao family, on board a Mazda MVP van, arrived at the their poultry farm in Barangay Sto. Cristo, San Jose del Monte, Bulacan. Yao San alighted from the van to open the gate of the farm. At this juncture, appellant Reyes and a certain Juanito Pataray (Pataray) approached, poked their guns at Yao San, and dragged him inside the van. Appellant Reyes and Pataray also boarded the van. Thereupon, appellants Arnaldo and Flores, with two male companions, all armed with guns, arrived and immediately boarded the van. Appellant Flores took the driver's seat and drove the van. Appellants Reyes and Arnaldo and their cohorts then blindfolded each member of the Yao family inside the van with packaging tape.^[6]

After about 30 minutes of traveling on the road, the van stopped. Per order of appellants and their cohorts, Chua Ong Ping Sim, Robert, Raymond and Jona Abagatnan (Abagatnan) stepped out of the van with appellants Reyes and Arnaldo, Pataray and one of their male companions.^[7] Appellant Flores, with the other male companion, drove the van with the remaining members of the Yao family inside the vehicle.^[8]

Later, the van stopped again. Appellant Flores and his male companion told Yao San to produce the amount of five million pesos (P5,000,000.00) as ransom in exchange for the release of Chua Ong Ping Sim, Robert, Raymond and Abagatnan. Thereafter, appellant Flores and his male companion left the van and fled; while Yao San, Lenny, Matthew, Charlene and Josephine remained inside the van. Upon sensing that the kidnappers had already left, Yao San drove the van towards the poultry farm and sought the help of relatives.^[9]

Meanwhile, Chua Ong Ping Sim, Robert, Raymond and Abagatnan were taken on foot by appellants Reyes and Arnaldo, Pataray and one male companion to a safe-house situated in the mountainous part of San Jose Del Monte, Bulacan where they spent the whole night.^[10]

On the morning of the following day, at around 4:00 a.m., appellants and their cohorts tried to contact Yao San regarding the ransom demanded, but the latter could not be reached. Thus, appellants instructed Abagatnan to look for Yao San in

the poultry farm. Appellants Reyes and Arnaldo and one male companion escorted Abagatnan in proceeding to the poultry farm. Upon arriving therein, Abagatnan searched for Yao San, but the latter could not be found. Appellants Reyes and Arnaldo told Abagatnan to remind Yao San about the ransom demanded. Thereafter, appellants Reyes and Arnaldo and their male companion left Abagatnan in the poultry farm and went back to the safe-house.^[11]

In the safe-house, appellants told Robert that they would release him so he could help Abagatnan in locating Yao San. Robert and appellants left the safe-house, and after 30 minutes of trekking, appellants abandoned Robert. Robert then ran towards the poultry farm. Upon arriving at the poultry farm, Robert found Yao San and informed him about the ransom demanded by the appellants. Robert also told Yao San that Chua Ong Ping Sim and Raymond were still held by appellants and their cohorts.^[12]

On 18 July 1999, appellants called Yao San through a cellular phone and demanded the ransom of P5 million for Chua Ong Ping Sim and Raymond. Yao San acceded to appellants' demand. Appellants allowed Yao San to talk with Chua Ong Ping Sim.^[13]

On the morning of 19 July 1999, appellants again called Yao San *via* a cellular phone and threatened to kill Chua Ong Ping Sim and Raymond because of newspaper and radio reports regarding the incident. Yao San clarified to appellants that he did not report the incident to the police and also pleaded with them to spare the life of Chua Ong Ping Sim and Raymond. Appellants then instructed Yao San to appear and bring with him the ransom of P5 million at 3:00 p.m. in the Usan dumpsite, Litex Road, Fairview, Quezon City. Yao San arrived at the designated place of the pay-off at 4:00 p.m., but none of the appellants or their cohorts showed up. Yao San waited for appellant's call, but none came. Thus, Yao San left.^[14]

On 23 July 1999, the corpses of Chua Ong Ping Sim and Raymond were found at the La Mesa Dam, Novaliches, Quezon City.^[15] Both died of asphyxia by strangulation.^[16]

On 26 July 1999, appellant Arnaldo surrendered to the Presidential Anti-Organized Crime Task Force (PAOCTF) at Camp Crame, Quezon City. Thereupon, appellant Arnaldo, with the assistance of Atty. Uminga, executed a written extra-judicial confession narrating his participation in the incident. Appellant Arnaldo identified appellants Reyes and Flores, Pataray and a certain Tata and Akey as his co-participants in the incident. Appellant Arnaldo also described the physical features of his cohorts and revealed their whereabouts.^[17]

Subsequently, appellant Reyes was arrested in Sto. Cristo, San Jose del Monte, Bulacan. Thereafter, appellants Arnaldo and Reyes were identified in a police line-up by Yao San, Robert and Abagatnan as their kidnappers.^[18]

On 10 August 1999, agents of the PAOCTF arrested appellant Flores in Balayan, Batangas. Afterwards, appellant Flores, with the assistance of Atty. Rous, executed a written extra-judicial confession detailing his participation in the incident. Appellant Flores identified appellants Reyes and Arnaldo, Pataray and a certain Tata and Akey as his co-participants in the incident. Appellant Flores was subsequently identified in

a police line-up by Yao San, Robert and Abagatnan as one of their kidnappers.^[19]

The prosecution adduced documentary evidence to bolster the aforesaid allegations, to wit: (1) *Sinumpaang Salaysay* of Abagatnan (Exhibit A);^[20] (2) *Karagdagang Sinumpaang Salaysay* of Abagatnan, Robert and Yao San (Exhibit B);^[21] (3) sketch made by Abagatnan (Exhibit C);^[22] (4) death certificates of Chua Ong Ping Sim and Raymond (Exhibits D & E);^[23] (5) *Sinumpaang Salaysay* of Robert (Exhibit F);^[24] (6) *Sinumpaang Salaysay* of Yao San (Exhibit H);^[25] (7) joint affidavit of Police Senior Inspector Loreto P. Delelis and PO3 Roberto Jabien (Exhibit I);^[26] (8) joint affidavit of PO3 Alex Alberto and PO3 Leonito Fermin (Exhibit J);^[27] (9) written extra-judicial confession of appellant Flores (Exhibit K);^[28] (10) written extra-judicial confession of appellant Arnaldo (Exhibit L);^[29] and (11) sketch made by appellant Arnaldo (Exhibit M).^[30]

For its part, the defense presented the testimonies of appellants, Marina Reyes, Irene Flores Celestino, Wilfredo Celestino, Jr., Rachel C. Ramos, and Isidro Arnaldo. Appellants denied any liability and interposed alibis and the defense of frame-up. Their testimonies, as corroborated by their witnesses, are as follows:

Appellant Arnaldo testified that he was an "asset" of the PAOCTF. He narrated that on 25 July 1999, while he was at the tricycle terminal of Brgy. Sto. Cristo, San Jose del Monte, Bulacan, a police officer named Liwanag of the PAOCTF approached and invited him to go to Camp Crame to shed light on a kidnapping case allegedly committed by a certain Brgy. Captain Ramos and by members of the Aguirre and Bautista families. He accepted the invitation. Subsequently, he proceeded to Camp Crame and met therein Colonel Cesar Mancao III (Colonel Mancao) of the PAOCTF. Colonel Mancao told him that the PAOCTF would arrest Brgy. Capt. Ramos and certain persons named Gerry Bautista and Dadie Bautista. Colonel Mancao instructed him to identify said persons as responsible for the kidnapping of the Yao family. He refused to do so because he feared Brgy. Capt. Ramos. The day after, Colonel Mancao called appellant Arnaldo to his office. Upon arriving thereat, the latter saw Yao San. Yao San promised him that if their kidnappers would be apprehended through his cooperation, he would give him P500,000.00. He accepted Yao San's offer under the condition that he would identify a different set of suspects. Later, Colonel Mancao gave him P30,000.00.^[31]

Subsequently, he pointed to appellants Reyes and Flores as his cohorts in kidnapping the Yao family. He implicated appellants Reyes and Flores to get even with them, since the two had previously mauled him after he sold their fighting cocks and failed to give them the proceeds of the sale.^[32]

He denied having met with Atty. Uminga. He was not assisted by the latter when he was forced by the PAOCTF to make a written extra-judicial confession on the kidnapping of the Yao family. Further, he claimed that while he was under the custody of PAOCTF, a certain Major Paulino utilized him as a drug pusher. Upon failing to remit the proceeds of the drug sale, he was beaten up by PAOCTF agents and thereafter included as accused with appellants Reyes and Flores for the kidnapping of the Yao family.^[33]

On the other hand, appellant Reyes testified that he slept in his house with his family from 6:00 p.m. of 16 July 1999 until the morning of the next day; that on the early morning of 26 July 1999, five policemen barged into his house and arrested him; that the policemen told him that he was a suspect in the kidnapping of the Yao family; that he was mauled by the policemen outside his house; that the policemen forcibly brought him to Camp Crame, where he was subsequently tortured; that he knew the Yao family because he worked as a carpenter in the family's poultry farm at Brgy. Sto. Cristo, San Jose del Monte, Bulacan; that he had no involvement in the kidnapping of the family; and that appellant Arnaldo implicated him in the kidnapping of the family because appellant Arnaldo held a grudge against him.^[34]

For his part, appellant Flores testified that he stayed in his sister's house at Antipolo City from 12 July 1999 up to 30 July 1999; that he went to her house on 12 July 1999 because it was the birthday of her child; that he worked as a construction worker during his stay in his sister's house; that he was arrested in Batangas and thereafter brought to Camp Crame, where he was beaten up by policemen for refusing to admit involvement in the kidnapping of the Yao family; that after three days of beating, he was forced to sign a document which he later found out to be a written extra-judicial confession; that he never met nor did he know Atty. Rous; that he knew the Yao family because he lived near the family's poultry farm, and he used to work therein as a welder; that he had no participation in the kidnapping of the family; and that appellant Arnaldo implicated him in the kidnapping of the family because he and appellant Reyes had mauled appellant Arnaldo several years ago.^[35]

The defense proffered documentary and object evidence to buttress their foregoing claims, to wit: (1) prayer booklet of appellant Arnaldo (Exhibit 1 for appellant Arnaldo);^[36] (2) calling card of Colonel Mancao (Exhibit 2 for appellant Arnaldo);^[37] and (3) pictures allegedly showing appellant Flores working as a carpenter in Antipolo City (Exhibits 1 & 2 for appellant Flores).^[38]

After trial, the RTC rendered a Decision dated 26 February 2002 convicting appellants of the special complex crime of kidnapping for ransom with homicide and sentencing each of them to suffer the supreme penalty of death. Appellants were also ordered to pay jointly and severally the Yao family P150,000.00 as civil indemnity, P500,000.00 as moral damages and the costs of the proceedings. The dispositive portion of the RTC Decision reads:

WHEREFORE, finding herein three (3) accused DOMINGO REYES y PAJE, ALVIN ARNALDO y AVENA, and JOSELITO FLORES y VICTORIO guilty as principals beyond reasonable doubt of the crime of KIDNAPPING FOR RANSOM WITH (DOUBLE) HOMICIDE as charged, they are hereby sentenced each to suffer the supreme penalty of DEATH as mandated by law, to jointly and severally indemnify the heirs of deceased Chua Ong Ping Sim and Raymond Yao in the amount of One Hundred Fifty Thousand Pesos (P150,000.00), and all the private offended parties or victims, including the heirs of the deceased, in the amount of Five Hundred Thousand Pesos (P500,000.00) as moral damages, subject to the corresponding filing fee as a first lien, and to pay the costs of the proceedings.^[39]