

## EN BANC

[ G.R. No. 125352, December 17, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICARDO SANTOS Y GONZALES A.K.A "RIC" AND ROMEO VICTORINO Y GONZALES A.K.A "CHU", APPELLANTS.**

### D E C I S I O N

#### PER CURIAM:

Before us on automatic review is the joint Decision<sup>[1]</sup> of the Regional Trial Court of Manila, Branch 35, acquitting the appellants of the crime of robbery in Criminal Cases Nos. 95-142827 and 95-144065 while convicting them of kidnapping for ransom and serious illegal detention in Criminal Cases Nos. 95-142826 and 95-144064 and to suffer the penalty of death.

The separate informations in Criminal Cases Nos. 95-142826 and 95-14406 for kidnapping for ransom and serious illegal detention defined and penalized under Article 267 of the Revised Penal Code, as amended by RA 7659, against herein appellants Ricardo Santos y Gonzales a.k.a. "Ric" and Romeo Victorino y Gonzales a.k.a. "Chu" identically read:

That on or about 9:30 in the morning of April 6, 1995, in Manila, Philippines, and within the jurisdiction of this Honorable Court, accused RICARDO G. SANTOS a.k.a. RIC and twelve (12) other John Does whose real and (sic) identities and whereabouts are unknown being a private individuals (sic), did then and there, willfully, unlawfully and feloniously, kidnap and deprive of their liberty, JIMMY UY and his female companions JENNIE UY and KATHLEEN PUA SUBIA against their will, for the purpose of extorting ransom from the latter's parents and immediately thereafter said accused, did then and there willfully, unlawfully and feloniously detain and deprive them of their freedom and liberty up to and until about 3:00 o'clock in the afternoon of the same day insofar as JIMMY UY is concerned and up to and until about 10:00 o'clock in the morning of April 8, 1995 insofar as JENNIE UY and KATHLEEN PUA SUBIA are concerned after receiving the ransom money in the amount of One Million Five Hundred Thousand Pesos (P1,500,000.00), to the damage and prejudice of the parents of JENNIE UY and KATHLEEN PUA SUBIA in said amount and such other amounts as may be awarded to them under the provisions of the Civil Code.

CONTRARY TO LAW.

Upon arraignment, both accused, assisted by counsel, entered separate plea of "not guilty" to the charges of kidnapping for ransom and serious illegal detention. Considering that the criminal cases arose from the same incident and the

prosecution would be presenting the same evidence, joint trial on the merits was conducted upon agreement of the parties.

As related by prosecution witnesses,<sup>[2]</sup> it appears that, on April 6, 1995 at about 9:30 in the morning, Kathleen Subia, together with her cousin, Jimmy Uy and his wife, Jennie, were traversing Juan Luna St. in Tondo, Manila on board a Nissan Sentra car being driven by Jimmy. Jennie was sitting beside her husband in the front seat while Kathleen was in the back seat directly behind Jimmy. Upon reaching the intersection of Juan Luna and Tayuman Streets, a black pick-up vehicle with plate no. ACW 186 suddenly bumped their car from behind. This "accident" turned out to be a ruse. As soon as Jimmy alighted to check the damage, three men, two of whom were armed with handguns, also alighted from the pick-up vehicle. One of the armed men, Romeo Victorino, pushed Jimmy back into the car and took the driver's seat. The second man occupied the right front seat with Jimmy in the middle while the third positioned himself between Kathleen and Jennie at the back.

From the intersection of Juan Luna and Tayuman Streets, Victorino drove toward Caloocan City. When the car stopped at a traffic light somewhere in Caloocan City, the black pick-up vehicle pulled abreast and rolled down its left window. As the man seated to the right of Jimmy rolled down the car's right front window, someone from the pick-up vehicle instructed his cohorts to keep their captives bowed down and their eyes closed. The man who gave the instruction from the black pick-up was later identified by the three victims as herein appellant Ricardo Santos.

Victorino then proceeded to Valenzuela before entering the North Diversion Road. Along the way, the three victims were stripped of their personal valuables worth P138,000.

At around 1:00 in the afternoon, the car stopped in an isolated ricefield somewhere in San Miguel, Bulacan. The abductors led the three victims to a semi-concrete house where they were blindfolded. Soon thereafter, the apparent leader of the abductors spoke to Kathleen demanding P50M from her father. Informed that her father would be unable to raise the amount, the man left them to discuss among themselves before releasing Jimmy to convey his demand to Kathleen's father.

Jimmy hailed a taxi and proceeded to the house of his father-in-law after the abductors dropped him off along Quezon Boulevard in Quezon City. He informed Kathleen's father, Ernesto Subia, of their abduction via long distance call to Isabela. The following day, April 7, 1995, Ernesto travelled all the way to Manila, to negotiate with the kidnappers. After haggling on the phone, the kidnappers finally settled for P1 .5M for the safe release of their hostages. It was Jimmy who delivered the ransom money at around 10:15 in the evening of the same day somewhere along North Diversion Road. He did not recognize the bagman due to extreme darkness in the area.

On April 8, 1995, Kathleen and Jennie were released by their abductors at 8:30 in the morning somewhere in Arayat, Pampanga. Both were blindfolded before leaving the safehouse but later on required to wear dark eyeglasses. The leader reminded Kathleen to redeem their personal valuables for P2M. Further instructions would be conveyed to her on April 10, 1995 by phone.

Meanwhile, the family of Kathleen reported the kidnapping incident to General Jewel Canson of the Philippine National Police (PNP). Hence, the agents of the PNP Capitol Command (CAPCOM) and the Presidential Anti-Crime Commission (PACC) were able

to monitor a number of phone calls from their abductors since April 10, 1995. On May 4, 1995, the unidentified leader of the kidnappers called up Kathleen to instruct her driver and a maid to deliver the amount of P95,000, the amount earlier agreed upon, at a billboard near Kilometer 1 in Valenzuela in the evening of May 5, 1995 for the redemption of their personal valuables. On May 6, 1995, Kathleen, Jimmy Uy and his wife, Jennie, were summoned to the office of the PACC in Camp Crame where Kathleen and Jimmy executed their respective sworn statements.<sup>[3]</sup>

On May 14, 1995, Victorino was arrested in his house in San Miguel, Bulacan for illegal possession of a baby armalite and several rounds of ammunition confiscated by agents of the PACC by virtue of a search warrant<sup>[4]</sup> dated May 11, 1995 issued by Executive Judge Natividad Dizon of the RTC of Malolos, Bulacan. Following the arrest of Victorino, the same team of law enforcers arrested Ricardo Santos on the same day, also for illegal possession of a .45 caliber handgun, a .38 caliber magazine and six rounds of ammunition recovered from his house in Sta. Rosa, Nueva Ecija on the strength of a search warrant<sup>[5]</sup> dated May 11, 1995 issued by Executive Judge Johnson Ballutay of the RTC Cabanatuan City. Santos and Victorino were brought to the office of the PACC in Camp Crame, Quezon City.

On May 15, 1995, the three victims were summoned to the PACC office where they pointed to Victorino in a police line-up as the person who pushed Jimmy back into his car on April 6, 1995 and drove the same until reaching the house where Kathleen and Jennie were subsequently detained. Santos was also picked out by the victims from the police line-up as the person on board the black pick-up vehicle who ordered them to close their eyes and bow their heads.<sup>[6]</sup>

At the trial, the defense interposed alibi.

Romeo Victorino claimed to have left Manila on April 3, 1995 for Sidlakan Saguise, Pres. Garcia, Bohol to attend a town fiesta on April 5 and 6, together with his wife and three children including three other relatives. They returned to Manila only on May 11, 1995 after leaving Bohol on May 9, 1995.<sup>[7]</sup>

For his part, Ricardo Santos stated that he was in the house of Barangay Councilman Renato Batongbakal in Barangay Berang, Sta. Rosa, Nueva Ecija on April 6, 1995 together with six others tending fighting cocks in preparation for the stag derby the following day. He went home at around 11:00 in the morning and remained there the whole afternoon. On April 7, 1995, Santos joined Councilman Batongbakal in the cockpit and stayed with him up to 4:00 in the afternoon. Thereafter, he proceeded to Estela's Refreshment Parlor along Maharlika Highway with a certain Eduardo Gonzales for some refreshments until 9:00 in the evening.<sup>[8]</sup>

After evaluating the evidence, the trial court rejected the defense of alibi and rendered the following judgment:

"WHEREFORE, judgment is rendered:

(1) Pronouncing accused RICARDO SANTOS y GONZALES, a.k.a. "RIC", in Criminal Case No. 95-142826, and accused ROMEO VICTORINO y GONZALES, a.k.a. "CHU", in Criminal Case No. 95-144064, guilty beyond

reasonable doubt of KIDNAPPING FOR RANSOM AND SERIOUS ILLEGAL DETENTION, defined and penalized under Article 257 of the Revised Penal Code, as amended by Section 8 of Republic Act No. 7659, and sentencing both accused to suffer the penalty of DEATH, to be executed as provided by law, and to pay the costs;

The said two accused are ordered to pay, jointly and severally, to Ernesto Subia the sum of p1,500,000 as actual damages, and P500,000.00 to each of the three victims, namely, Kathleen Subia, Jennie Uy and Jimmy Uy, for moral damages, and each of them (the two accused) individually to pay each of the three victims P100,000.00 as exemplary damages. In the execution of the awards for moral and exemplary damages, the corresponding filing fees shall constitute a first lien on this judgment;

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SO ORDERED.

Before us, appellant Romeo Victorino interposes the following assignment of errors:

I

THE COURT A *QUO* ERRED IN HOLDING THAT THE IDENTITY OF THE ACCUSED ROMEO VICTORINO, AS ONE OF THE KIDNAPPERS OF KATHLEEN SUBIA, JIMMY UY, AND HIS WIFE JENNIE, HAS BEEN CLEARLY, POSITIVELY AND CONVINCINGLY ESTABLISHED BY THE TESTIMONIES OF THE ALLEGED THREE (3) VICTIMS, WHO ACTUALLY SAW AND POSITIVELY IDENTIFIED ROMEO VICTORINO AS ONE (1) AMONG THEIR ABDUCTORS.

II

THE COURT A *QUO* ERRED IN DISREGARDING THE DEFENSE OF ALIBI IN FAVOR OF ACCUSED-APPELLANT, ROMEO VICTORINO, WHO HAS INDUBITABLY ESTABLISHED PHYSICAL IMPOSSIBILITY OF HIS PRESENCE AT THE PLACE AND TIME OF THE COMMISSION OF THE CRIME.<sup>[9]</sup>

On the other hand, appellant Ricardo Santos attributes the following errors to the trial court:

I

IN NOT BELIEVING THE TESTIMONY OF ACCUSED-APPELLANT AS CORROBORATED BY THE WITNESSES;

II

IN GIVING CREDENCE TO THE TESTIMONY OF KATHLEEN SUBIA, WITNESS FOR THE PROSECUTION, AND RELYING THEREON AS THE SOLE BASIS FOR RULING THAT ACCUSED RICARDO SANTOS WAS POSITIVELY IDENTIFIED AS A PARTICIPANT IN THE ALLEGED KIDNAPPING;

III

IN GIVING CREDENCE TO THE TESTIMONY OF JENNIE UY AS BEING CORROBORATIVE OF KATHLEEN SUBIA'S TESTIMONY;

IV

IN FINDING THAT THE FACT OF CONSPIRACY WAS PROVEN BEYOND REASONABLE DOUBT, THUS CONVICTING ACCUSED RICARDO SANTOS AS A CO-PRINCIPAL IN THE ALLEGED KIDNAPPING OF THE COMPLAINANTS KATHLEEN SUBIA, JIMMY UY AND JENNIE UY; and

V

IN MAKING CONCLUSIONS WHICH ARE ABSOLUTELY DEVOID OF ANY BASIS AND FOUNDATION, BOTH IN FACT AND IN LAW.<sup>[10]</sup>

In sum, the present appeal hinges on the assessment of credibility of witnesses. In this regard, the doctrinal principles guiding the Court in assessing the credibility of witnesses are: (1) the reviewing court will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that could affect the results of the case; (2) the findings of the trial court respecting the credibility of witnesses are entitled to great respect and even finality as it had the opportunity to examine their demeanor when they testified on the witness stand, and (3) a witness who testifies in a clear, positive and convincing manner and remains consistent on cross-examination is a credible witness.<sup>[11]</sup> Otherwise stated, absent any showing that the trial court's assessment of witnesses' credibility is flawed, this Court is bound by its findings.<sup>[12]</sup>

After a careful and thorough evaluation of the records, this Court finds no cogent reason to deviate from the assessment made by the trial court anent the credibility of the three victims who testified during the trial of these cases.

Kathleen Subia and spouses Jimmy and Jennie Uy, respectively gave clear and detailed narrations of their abduction at the corner of Juan Luna and Tayuman Streets at mid-morning of April 6, 1995. Their testimonies were not only consistent but also corroborative of each other on material points. They positively identified the appellants, Romeo Victorino and Ricardo Santos, as among their abductors.

In particular, Kathleen identified Romeo Victorino as the person who forced her cousin Jimmy to board their car after checking on the damage to the rear of their