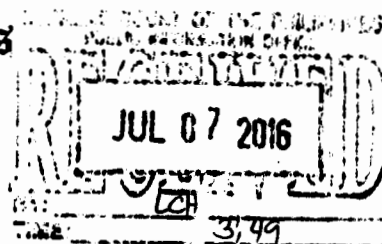




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-appellee,

G.R. No. 194235

Present:

- versus -

JAY GREGORIO y AMAR @
"JAY," ROLANDO ESTRELLA y
RAYMUNDO @ "BONG,"
DANILO BERGONIA y ALELENG
@ "DANNY," EFREN GASCON y
DELOS SANTOS @ "EFREN,"
RICARDO SALAZAR y GO @
"ERIC," AND JOHN DOE,
Accused-appellants.

SERENO,* CJ.,
LEONARDO-DE CASTRO,** J.,
Acting Chairperson,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, JJ.

Promulgated:

JUN 08 2016

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DECISION

LEONARDO-DE CASTRO, J.:

Before Us on appeal is the Decision¹ dated May 27, 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01776, which affirmed with modification the Decision² dated October 10, 2005 of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 12 in Criminal Case Nos. 2867-M-2002, 2868-M-2002, 2869-M-2002, 2870-M-2002. The RTC ruled in Criminal Case No. 2867-M-2002 that: (a) accused-appellants Jay Gregorio y Amar (Jay), Rolando Estrella y Raymundo (Rolando), and Ricardo Salazar y Go (Ricardo) were guilty beyond reasonable doubt as principals of the crime of kidnapping for ransom under Article 267 of the Revised Penal Code, as amended by Republic Act No. 7659;³ and (b) accused-appellants Danilo Bergonia y Aleleng (Danilo) and Efren Gascon y delos Santos (Efren) were guilty beyond reasonable doubt as accomplices for the same crime of kidnapping for ransom. In Criminal Case Nos. 2868-M-2002, 2869-M-2002, and 2870-M-2002, which were jointly tried and resolved with Criminal Case No. 2867-M-2002, the RTC acquitted accused-

* On leave.

** Per Special Order No. 2354 dated June 2, 2016.

¹ Rollo, pp. 2-27; penned by Associate Justice Franchito N. Diamante with Associate Justices Josefina Guevara-Salonga and Francisco P. Acosta concurring.

² CA rollo, pp. 16-33; penned by Judge Crisanto C. Concepcion.

³ An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, As Amended, Other Special Penal Laws, And For Other Purposes.

appellants Jay, Rolando, and Efren of the charges for violation of Presidential Decree No. 1866, as amended, or illegal possession of firearms, and ordered the dismissal of said cases. The appellate court modified the penalties imposed upon accused-appellants and damages awarded to the victim Jimmy Ting y Sy (Jimmy).

I THE ANTECEDENTS

The Information⁴ dated October 21, 2002, filed before the RTC, charged the five accused-appellants, together with a John Doe, with kidnapping for ransom under Article 267 of the Revised Penal Code, as amended, allegedly committed as follows:

That between the period October 8 to 14, 2002 in Meycauayan, and Guiguinto both in Bulacan, Dingras, Laoag and Badoc, all in Ilocos Norte, and within the jurisdiction of this Honorable Court the above-named accused, conspiring, confederating and mutually helping one [an]other, with threats and intimidation, with the use of firearms did then and there, willfully, unlawfully and feloniously take, carry away and deprive JIMMY TING y SY, male, of his liberty against his will for the purpose of extorting money as in fact a demand for money in the amount of Fifty Million Pesos Philippine Currency (₱50,000,000.00) was made as a condition for his release that the amount of One Million Seven Hundred Eighty Thousand Pesos (₱1,780,000.00) ransom money was actually paid.

The case was docketed as Criminal Case No. 2867-M-2002.

Three other Informations, all dated October 21, 2002, were filed and docketed before the RTC as Criminal Case Nos. 2868-M-2002, 2869-M-2002, and 2870-M-2002, separately charging accused-appellants Jay, Rolando, and Efren, respectively, with violation of Presidential Decree No. 1866, for purportedly carrying outside their residences and having in their possession, without lawful authority to carry and possess, the following: (a) accused-appellant Jay, one caliber .45 pistol colt with SN#121854 and one magazine with 14 live ammunition; (b) accused-appellant Rolando, one caliber .45 pistol colt Mark IV with SN#1757394 and one magazine loaded with ammunition; and (c) accused-appellant Efren, one caliber .38 paltik revolver and 16 live ammunition.

All aforementioned criminal cases were tried together.

During their arraignment on February 27, 2003, accused-appellants pleaded not guilty to the charges against them.⁵ Thereafter, trial ensued.

⁴ Records, pp. 3-4.

⁵ Id. at 142-146.

Version of the Prosecution

The prosecution presented as witnesses Jimmy, the kidnap victim; Lucina Ting (Lucina), Jimmy's mother; Girlie Ting (Girlie), Jimmy's sister; Marlon delos Santos (Marlon), Jimmy's cousin; Lilibeth Corpuz (Lilibeth), Branch Manager of International Exchange Bank (IEB), EDSA Caloocan; Atty. Melchor S. Latina (Latina), Director of Legal Services, Globe Telecom; and Police Superintendent (P/Supt.) Isagani Nerez (Nerez) and Police Senior Inspector (P/Sr. Insp.) Robert Lingbawan (Lingbawan) of Police Anti-Crime Emergency Response (PACER), Camp Crame, Quezon City.

As gathered from their collective testimonies, on October 8, 2002, Tuesday, Jimmy, Vice-President and Chief Executive Officer of Styrotech Corporation (Styrotech), left the office in Meycauayan, Bulacan, at around 7:00 p.m. Jimmy was on his way home in Malabon City with Girlie on board a Honda CRV driven by their cousin, Michelle Sitosta (Michelle), when said vehicle had a flat tire. Jimmy immediately called for assistance from their maintenance personnel, Bhong Pulga (Bhong) and Johnny, who arrived a few minutes later. While Jimmy was watching Johnny change the flat tire at the left rear portion of the vehicle, four men approached Jimmy from behind and asked his name. One of the men poked Jimmy with a gun. Upon seeing the four men with a gun, Girlie grabbed Michelle and they ran away out of fear. The four men represented themselves as agents of the National Bureau of Investigation (NBI) and accused Jimmy of possessing illegal/prohibited drugs, saying "*May drugs ka, sumama ka sa amin.*"⁶ As Jimmy was being ushered towards the road, a maroon Tamaraw FX pulled over. The armed man hit Jimmy's head with the gun and pushed Jimmy inside the Tamaraw FX.

In the meantime, Girlie and Michelle sought help from a nearby house, which was about 200 meters away from their Honda CRV. A good samaritan accompanied Girlie and Michelle to the nearest *barangay* station and lent his cellular phone to Girlie so that she may inform her mother, Lucina, about the incident. When Girlie and Michelle went back to their vehicle, Jimmy was already gone.

Inside the Tamaraw FX, the kidnappers took Jimmy's cellular phone and wallet, tied his hands, and blindfolded him. The kidnappers told Jimmy that they were members of the New People's Army (NPA) and they were taking him to their Commander. Fifteen minutes after exiting a toll gate at the North Diversion Road, the Tamaraw FX stopped. Jimmy sensed that some of the kidnappers alighted from the vehicle. Somebody boarded the Tamaraw FX, sat beside Jimmy, and introduced himself as the Commander. Jimmy would later identify accused-appellant Jay as the Commander. The Tamaraw FX again sped off five minutes later and entered the North

⁶ TSN, April 3, 2003, p. 10.

Diversion Road. Along the way, accused-appellant Jay asked Jimmy questions about the ownership of Styrotech and the financial status of his family. The kidnapers continued to threaten Jimmy saying, "*Parang mahahatulan ka kapag hindi ka nakipag-cooperate, papatayin ka namin, so huwag kang papalag.*"⁷

Using Jimmy's cellular phone, the kidnapers initially tried to contact Lucina at her residence but she was not home. The kidnapers next called Jimmy's father. Jimmy heard the driver of the Tamaraw FX, who he subsequently identified as accused-appellant Rolando, utter, "*Magandang gabi, Mr. Ting, nasa amin ang anak mong si Jimmy Ting ... Nasaan ka? ... Nasa Taiwan ka? Umuwi ka na.*" The kidnapers were finally able to reach Lucina at around 10:00 p.m., and accused-appellant Rolando said to her, "*Magandang gabi Mrs., nasa amin si Jimmy ... Maghanda kayo ng pera ... Tatawag na lang uli kami.*" The kidnapers demanded ₱50,000,000.00 from Lucina for Jimmy's release. When Lucina pleaded that she did not have such an amount, the kidnapers ordered her to raise the same.⁸

After a long drive, the kidnapers made a stop-over to buy food. They gave Jimmy a hamburger and mineral water. The Commander temporarily removed Jimmy's blindfold so that he could eat his food, which gave Jimmy the chance to see his kidnapers' faces, except John Doe's.⁹

Thirty minutes later, the kidnapers put back Jimmy's blindfold. The group travelled for two to three hours more until Jimmy felt that the Tamaraw FX was negotiating a rough road. After another 20-minute drive, the Tamaraw FX stopped at an unknown destination. It was already around 5:00 a.m. to 6:00 a.m. of the following day, October 9, 2002, Wednesday. The kidnapers removed Jimmy's blindfold, untied his hands, and led him inside a house where Jimmy saw the owner of the house and three children sleeping on the floor. The owner of the house woke the children up and ordered them to leave. The kidnapers instructed Jimmy to sit and rest. Shortly thereafter, four of the six kidnapers went back to Manila, leaving behind two of them, namely, accused-appellants Ricardo and Efren,¹⁰ to guard Jimmy. Jimmy fell asleep on a wooden bench out of exhaustion. Jimmy spent the rest of the day eating, watching television, and sleeping. The door and windows of the house were kept closed. Whenever Jimmy needed to answer the call of nature, he had to stand on a chair and urinate through a window.

On October 10, 2002, Jimmy had breakfast with accused-appellants Ricardo and Efren. Throughout the day, Jimmy struck up short conversations with accused-appellant Efren about the latter's life in the

⁷ Id. at 18.

⁸ Id. at 20-24.

⁹ This John Doe was one of the kidnapers who pushed Jimmy inside the Tamaraw FX, sat at the front passenger side of the Tamaraw FX and who was one of the four kidnapers who left for Manila in the morning of October 9, 2002 (TSN April 3, 2003, pp. 21-23).

¹⁰ TSN, April 3, 2003, pp. 32-33.

province and as a member of the NPA. Accused-appellants Ricardo and Efren had opened the windows of the house, affording Jimmy the opportunity to observe the surrounding area. As Jimmy walked around the house, he saw a trophy with the inscription: Dingras, Ilocos, which gave him an idea of his location. Around 3:00 p.m. of the same day, accused-appellants Ricardo and Efren and the owner of the house started drinking beer, but they soon stopped after accused-appellant Jay called and caught them having a drinking session. Accused-appellants Ricardo and Efren threatened Jimmy that the members of the NPA operating in the area were constantly watching them.

In the early afternoon of October 11, 2002, Friday, accused-appellant Danilo arrived at the house and handed Jimmy a cellular phone. Accused-appellants Efren and Danilo instructed Jimmy to call and describe his situation to Lucina. Upon Jimmy's entreaty that he did not want his mother to worry about him, accused-appellants Efren and Danilo permitted Jimmy to merely tell Lucina to cooperate with the kidnappers. Accused-appellant Efren told Jimmy later in the afternoon that accused-appellant Danilo actually arrived there to execute Jimmy, but accused-appellant Efren would try to convince accused-appellant Danilo to spare Jimmy's life. That night, accused-appellant Danilo approached and told Jimmy that he would no longer kill him.

On October 12, 2002, Saturday, Jimmy learned that accused-appellant Jay would be arriving with two companions. Jimmy felt terrified because he believed that accused-appellant Jay was coming to personally kill him. To avoid accused-appellant Jay, accused-appellant Efren decided to transfer Jimmy to his own house. Accused-appellant Efren and Jimmy travelled by foot for 10 minutes, then rode a tricycle for another five to 10 minutes to accused-appellant Efren's house.

Accused-appellant Efren directed Jimmy to pretend to be his boss. Jimmy met accused-appellant Efren's wife, daughter, and parents. Accused-appellant Efren and Jimmy stayed at the house for only about an hour, then they took a tricycle and headed for the highway. Accused-appellant Efren and Jimmy lingered around the vicinity of the highway for about another hour. After being informed by accused-appellant Danilo that accused-appellant Jay was already gone and it was safe to go back, accused-appellant Efren and Jimmy returned to the first house. Accused-appellant Ricardo was also no longer at the house. Still, accused-appellants Efren and Danilo and Jimmy did not stay long at said house. The three of them went back to accused-appellant Efren's house where they spent the rest of the day.

On October 13, 2002, Sunday, accused-appellant Efren told Jimmy that they would bring him home but they would have to leave during the night to avoid being seen by the NPA. At around 5:30 p.m., accused-appellants Efren and Danilo and Jimmy left for Laoag City, on board accused-appellant Efren's tricycle. Jimmy, believing that they were

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constantly being monitored by the NPA, persuaded accused-appellants Efren and Danilo that they should hire a private vehicle instead of taking a public bus. Accused-appellant Efren hired a Mitsubishi Lancer from a certain Elmer Valenzuela (Elmer) for ₱1,500.00.¹¹ Inside the Mitsubishi Lancer were Elmer, the driver/owner of the vehicle; Fernando Gascon (Fernando), accused-appellant Efren's brother and Elmer's substitute driver;¹² accused-appellants Efren and Danilo; and Jimmy.

Meanwhile, in Pasig City, Lucina had been in constant communication with the kidnappers since Jimmy's abduction on October 8, 2002, negotiating the amount of ransom for her son's release. Per the kidnappers' instructions, Lucina deposited ₱50,000.00 on October 10, 2002 and another ₱50,000.00 on October 14, 2002 to Jimmy's savings account with IEB. Lilibeth, IEB Branch Manager, confirmed that the said amounts were deposited with the bank but were later withdrawn through the automated teller machine (ATM). Subsequently, the kidnappers agreed to accept ₱1,680,000.00 as ransom and ordered that the said amount be delivered to them on October 14, 2002, at around 8:00 a.m., at the Shell Gas Station along the Expressway in Malolos, Bulacan. Lucina, suffering from severe nervousness, asked the kidnappers if her nephew, Marlon, could bring the ransom to them. The kidnappers acceded to Lucina's request.

Simultaneously, PACER was actively conducting an investigation of the kidnapping incident and formed a Response Team and Manhunt Team headed by P/Supt. Nerez and P/Sr. Insp. Lingbawan, respectively. Based on information gathered, the PACER Response Team proceeded to Ilocos Norte and coordinated with the local police. On October 14, 2002, Monday, the PACER Response Team established a checkpoint in Badoc, along the main highway traversing Ilocos Norte to Ilocos Sur. At around 8:00 a.m. of said day, the PACER Response Team flagged down a Mitsubishi Lancer with plate number UJH 480. P/Supt. Nerez recognized Jimmy, who was seated behind the driver, and ordered Jimmy to get out and the rest of the passengers to remain inside the car. P/Supt. Nerez led Jimmy away from the Mitsubishi Lancer as members of the PACER Response Team arrested Elmer, Fernando, and accused-appellants Efren and Danilo.¹³ A .38 caliber pistol was recovered from accused-appellant Efren.

After his rescue by the PACER Response Team, Jimmy had the opportunity to talk to his mother, Lucina. Jimmy then informed P/Supt. Nerez that there might still be a chance to catch the other kidnappers as Jimmy's family was on its way to meet the kidnappers for the ransom payout. P/Supt. Nerez immediately relayed the information to P/Sr. Insp. Lingbawan.

¹¹ TSN, May 15, 2003, p. 9.

¹² TSN, October 14, 2003, pp. 16-17.

¹³ Elmer Valenzuela and Fernando Gascon were not included as suspects as they were later released or discharged.



As instructed, Marlon proceeded on October 14, 2002 to the Shell Gas Station along the Expressway in Malolos, Bulacan, with the PACER Manhunt Team discreetly following behind him. Marlon initially parked his vehicle in front of Lutong Bahay, but was directed by the kidnapers to transfer to a parking space in front of Burger King. Marlon noticed a maroon Tamaraw FX parked behind him. Moments later, a man alighted from the Tamaraw FX, walked towards Marlon's vehicle, and opened the front door at the passenger's side. As Marlon handed the man the ransom, he got the chance to see the latter's face, and he would subsequently identify the man as accused-appellant Ricardo.¹⁴ After accused-appellant Ricardo returned to the Tamaraw FX, Marlon received a call from the kidnapers, who apologized to him for the inconvenience and told him that he could already leave. Thus, Marlon left the place ahead of the kidnapers in the Tamaraw FX.

P/Sr. Insp. Lingbawan witnessed accused-appellant Ricardo approach Marlon's vehicle, receive a brown bag containing the ransom from Marlon, and board a maroon Tamaraw FX with plate number TTE 334. After the payout, the PACER Manhunt Team trailed the Tamaraw FX. At around 3:00 a.m. on October 15, 2002, the Tamaraw FX parked at a Shell Gas Station in Carmen, Pangasinan. At this point, P/Sr. Insp. Lingbawan received by radio a command from P/Supt. Nerez to already arrest the persons on board the Tamaraw FX. The PACER Manhunt Team arrested accused-appellants Jay, Rolando, and Ricardo and recovered only a portion of the ransom amounting to ₱600,000.00. Two .45 caliber pistols were confiscated from accused-appellants Jay and Rolando. At the PACER Headquarters in Camp Crame, Quezon City, that same day, Jimmy personally saw and identified all five accused-appellants as his kidnapers. Jimmy also executed a *Sinumpaang Salaysay*, recounting in detail his kidnapping. According to Jimmy, there was a sixth kidnapper who was not among those caught and present at the court room during the trial.

Version of the Defense

Testifying for the defense were accused-appellants Rolando, Ricardo, Efren, and Danilo. The following narrative was put together from their respective testimonies:

Jojo Salazar (Jojo), accused-appellant Ricardo's brother and the "John Doe" in the Information, was escorting Jimmy, a rich Very Important Person (VIP), for a vacation somewhere in the northern Philippines. For this purpose, Jojo hired accused-appellants Jay, Ricardo, Efren, and Danilo to assist him, and accused-appellant Rolando to transport all of them to Ilocos on October 8, 2002.

¹⁴ TSN, September 4, 2003, p. 8.

At around 4:00 p.m. on October 8, 2002, accused-appellants Jay, Ricardo, Efren, and Danilo assembled at Jojo's house in Guiguinto, Bulacan. When accused-appellant Rolando arrived with his Tamaraw FX, Jojo and accused-appellants Ricardo, Efren, and Danilo boarded the vehicle and they proceeded to Meycauayan, Bulacan to fetch Jimmy. After picking up Jimmy in Meycauayan, the group went back to Jojo's house in Guiguinto to also pick up accused-appellant Jay. The group then proceeded to Ilocos.

Upon arriving in Dingras, Ilocos Norte, Jimmy, Jojo, and accused-appellants Jay, Ricardo, and Efren alighted from the Tamaraw FX while accused-appellants Rolando and Danilo remained in the vehicle. Afterwards, Jojo and accused-appellant Jay got on the Tamaraw FX again and together with accused-appellants Rolando and Danilo, returned to Bulacan.

In Ilocos Norte, Jimmy stayed at accused-appellant Efren's house for approximately one week. There, Jimmy spent his vacation roaming around the other towns in Dingras, swimming in a nearby river, and playing with accused-appellant Efren's children. Accused-appellant Danilo went back to Dingras within that week to deliver Jimmy's allowance from Lucina.

On October 14, 2002, Jimmy already wanted to return to Manila and asked accused-appellant Efren to hire a vehicle. Accused-appellant Efren's brother, Fernando, recommended Elmer, who owned a Mitsubishi Lancer. On board the Mitsubishi Lancer were Elmer, as driver; Fernando, as substitute driver; accused-appellants Efren and Danilo; and Jimmy. On route to Manila, the group passed a checkpoint in Ilocos. The people manning the checkpoint identified accused-appellants Efren and Danilo as kidnappers and arrested them.

That same day, accused-appellants Jay, Rolando, and Ricardo were on board the Tamaraw FX, waiting for Jimmy and his companions at the Shell Gas Station in Pangasinan when their exits were blocked by vehicles that parked in front of them and along the highway. The men who alighted from said vehicles were armed with long rifles which they aimed at accused-appellants Jay, Rolando, and Ricardo. Two men banged on the driver's door of the Tamaraw FX and when accused-appellant Rolando opened the door, the men pulled accused-appellants Jay, Rolando, and Ricardo out of the Tamaraw FX, and then blindfolded, handcuffed, mauled, and robbed them.

Accused-appellant Ricardo denied ever meeting Marlon and receiving ransom from the latter.

Ruling of the RTC

The RTC promulgated a Decision on October 10, 2005 finding accused-appellants Jay, Rolando, and Ricardo guilty as principals and accused-appellants Efren and Danilo guilty as accomplices of the crime of

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kidnapping for ransom. The RTC though acquitted accused-appellants Jay, Rolando, and Efren of the offense of illegal possession of firearms. The dispositive portion of the RTC judgment reads:

WHEREFORE, finding herein accused Rolando Estrella y Raymundo, Jay Gregorio y Amar and Ricardo Salazar y Go, guilty as principals beyond reasonable doubt of the crime of kidnapping for ransom as charged, they and each of them are hereby sentenced to suffer the capital punishment of death, the Court strongly recommending to the Chief Executive, thru the Department of Justice, the commutation of this penalty meted out on them to life imprisonment only, pursuant to Art. 5 of the Revised Penal Code.

Finding also herein accused Efren Gascon y delos Santos and Danilo Bergonia y Aleleng guilty merely as accomplices beyond reasonable doubt of the same crime as charged, they and each of them are hereby sentenced to suffer the penalty of reclusion perpetua, without any circumstance, aggravating or mitigating, found attendant in its commission. Being detention prisoners they and each of them shall be credited with the full time during which they had undergone preventive imprisonment, pursuant to the provisions of Art. 29 of the Revised Penal Code.

All the above-named five (5) accused are likewise sentenced to indemnify the private offended party and his parents in the amount of ₱100,000.00 as moral damages subject to the corresponding filing fees as a first lien, and to pay the costs of the proceedings all in proportionate shares among the five (5) of them.

On ground of reasonable doubt accused Rolando Estrella, Jay Gregorio and Efren Gascon are hereby acquitted of the offense of illegal possession of firearms and ammunitions or violations of PD 1866 as charged in Criminal Cases Nos. 2868-M-2002, 2869-M-2002, and 2870-M-2002, which cases are hereby dismissed.¹⁵

Ruling of the Court of Appeals

Given the imposition of the death penalty on three of the five accused-appellants, the kidnapping-for-ransom case was elevated before the Court of Appeals for automatic review, where it was docketed as CA-G.R. CR.-H.C. No. 01776. On May 27, 2010, the appellate court rendered a Decision affirming with modification the RTC judgment. According to the Court of Appeals, there was conspiracy among all five accused-appellants, thus, they should all be equally liable as principals for the crime of kidnapping for ransom. The appellate court imposed the penalty of *reclusion perpetua* on accused-appellants taking into account the enactment in 2006 of Republic Act No. 9346, otherwise known as An Act Prohibiting the Imposition of Death Penalty in the Philippines; and ordered accused-appellants to pay Jimmy the additional sum of ₱100,000.00 as exemplary damages. The Court of Appeals decreed:

¹⁵ CA rollo, pp. 32-33.

WHEREFORE, for the reasons stated, the appealed judgment finding accused-appellants guilty beyond reasonable doubt for the crime of kidnapping for ransom is hereby **AFFIRMED with MODIFICATION** that they shall all suffer the penalty of *reclusion perpetua* and to indemnify the private offended party in solidum ₱100,000.00, as moral damages, and ₱100,000.00, as exemplary damages.

With costs.¹⁶

In a Resolution issued in July 2010, the Court of Appeals gave due course to accused-appellants' Notice of Appeal and directed that the entire records of the case be elevated to us with dispatch.

The Present Appeal

We issued on January 10, 2011 a Resolution¹⁷ directing the parties to file their respective supplemental pleadings. The plaintiff-appellee and accused-appellants, save for accused-appellant Efren, filed their respective Manifestations,¹⁸ stating that they have no intention of filing any supplemental pleading. Accused-appellant Efren filed his Supplemental Brief.¹⁹

Accused-appellants raise in their brief a lone assignment of error, *viz.*:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF KIDNAPPING FOR RANSOM.²⁰

Accused-appellants contend that they were made to believe they were merely escorting Jimmy, a VIP, during his vacation in Ilocos Norte; that Jojo orchestrated the kidnapping to get money and left the unwitting accused-appellants to suffer the consequences; that Jimmy identified accused-appellants as his kidnapers because of accused-appellants' presence in the place where Jimmy was held captive; that the failure of the police officers to recover the missing ₱1,000,000.00 ransom indicates someone, other than accused-appellants, is guilty of kidnapping Jimmy; and that accused-appellants would not have been so lenient and would have guarded Jimmy with their lives if it was really their intention to secure a ransom for Jimmy's release. Accused-appellants question the credibility of the prosecution's witnesses as said witnesses' testimonies were incredible, being contrary to common observation or experience. Accused-appellants stress that any doubt should be resolved in favor of the accused based on the principle that it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence.

¹⁶ *Rollo*, pp. 26-27.

¹⁷ *Id.* at 35-36.

¹⁸ Office of the Solicitor General's Manifestation (*rollo*, pp. 55-59); Accused-appellants' Manifestation (In Lieu of Supplemental Brief) (*rollo*, pp. 63-66).

¹⁹ *Rollo*, pp. 67-81.

²⁰ *CA rollo*, p. 45.

In his Supplemental Brief, accused-appellant Efren similarly assigns a single error on the part of the Court of Appeals:

THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT BY FINDING THE ACCUSED EFREN D. GASCON GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF KIDNAPPING WITH RANSOM AND MODIFYING HIS PARTICIPATION FROM AN ACCOMPLICE TO A PRINCIPAL.²¹

Accused-appellant Efren maintains that Jojo was the real culprit who planned Jimmy's abduction and who was able to get away with the ransom. Accused-appellant Efren asserts that he was made to believe he was escorting or accompanying a VIP to Dingras, Ilocos Norte for a vacation, and in good faith, he only dutifully performed his assigned task. In keeping with Filipino custom and tradition, accused-appellant Efren offered his humble abode to Jimmy as a visitor and treated Jimmy as a member of the family. Accused-appellant Efren calls attention to several points in the prosecution's version of events that were allegedly contrary to human nature and experience and negate Jimmy's kidnapping, or at least, accused-appellant Efren's knowledge of the same, to wit: (a) if Jimmy was really a kidnap victim, accused-appellant Efren would not have brought him home at the risk of the safety of accused-appellant Efren's family; (b) Jimmy had freedom of mobility and money at his disposal while he was at accused-appellant Efren's home; (c) accused-appellant Efren's home was surrounded by neighboring houses and accessible to public transport; (d) Jimmy was allowed to choose which vehicle to hire to go home and to transact freely with the car owner; and (e) Marlon, who delivered the ransom, did not even know how much money he was carrying. Raising even more doubts are the facts that none of the persons present during the supposed kidnapping, namely, Girlie, Michelle, or Bhong, testified before the RTC to corroborate Jimmy's testimony; and that there were conflicting reports on the amounts of ransom allegedly paid and recovered from accused-appellants. Lastly, accused-appellant Efren maintains that given the reasonable doubt on his participation in the kidnapping for ransom, then there is also no legal basis for the Court of Appeals to modify accused-appellant Efren's participation in the commission of said crime from accomplice to principal.

II RULING OF THE COURT

The appeal has no merit.

Article 267 of the Revised Penal Code, as amended, defines and prescribes the penalty for the crime of kidnapping:

Art. 267. *Kidnapping and serious illegal detention.* - Any private individual who shall kidnap or detain another, or in any other manner

²¹ Rollo, p. 67.

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.

In prosecuting a case involving the crime of kidnapping for ransom, the following elements must be established: (i) the accused was a private person; (ii) he kidnapped or detained or in any manner deprived another of his or her liberty; (iii) the kidnapping or detention was illegal; and (iv) the victim was kidnapped or detained for ransom.²²

The RTC, affirmed by the Court of Appeals, found that the prosecution was able to prove beyond reasonable doubt the essential elements of the crime of kidnapping for ransom, giving weight and credence to the prosecution witnesses' testimonies.

After evaluating the evidence presented by both sides during trial, the RTC adjudged:

[I]n the face of the clear and categorical word of Jimmy that he was abducted by the herein accused thru force and intimidation, without any reason to lie when he said that they held him captive for one week in a strange barrio in Ilocos he had never gone to before, the defense of said accused that [Jimmy] went with them voluntarily for a vacation in that place not at all fit for such leisure, must necessarily fall by its own weight of improbabilities. And the word of [Jimmy's] mother Lucina Ting and his cousin Marlon delos Santos no doubt has shown that the accused herein kidnapped [Jimmy] for ransom which was actually delivered to them for his release. The Court, however, entertains its doubt if the one-million-peso part of it that strangely was not recovered by the police upon their surprise capture, has redounded to their benefit. Even the ₱100,000.00 deposited by Mrs. [Lucina] Ting to the ATM account of Jimmy during his captivity was shown withdrawn not necessarily by them without the help

²² *People v. Lugnasin*, G.R. No. 208404, February 24, 2016.

of Jimmy who never said that he was made to withdraw it or tell them how to do so from his account. In fact, the ransom that drove them to kidnap Jimmy all turned out for naught, as the smaller portion of it in the amount of ₱680,00.00 (or ₱679,000.00 as so accounted by the police) was successfully recovered and necessarily returned to his parents.

The law is indeed hard, but even in the case of the herein five (5) accused who are not that hardened but even seemingly amateurish in perpetrating their crime without unnecessary maltreatment to their victim, it is still the law on kidnapping for ransom. Art. 267 of the Revised Penal Code, as well as its amending Republic Act No. 7659, provides, that, "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" x x x. The kidnapers found guilty as principal cannot avoid the imposition of this supreme penalty. Like what the Supreme Court has done, however, in the case of People vs. Chua Huy, et al., 87 Phil. 258, those who acted as guards of Jimmy Ting must be held only as accomplices.²³

The Court of Appeals, after reviewing the evidence on record, concluded, thus:

We have meticulously reviewed the records and we are convinced beyond cavil that the prosecution adduced proof beyond reasonable doubt that the accused-appellants conspired to kidnap Jimmy Ting for the purpose of extracting money from his family and that herein accused-appellants are all perpetrators thereof.

Jimmy positively identified the accused-appellants as the culprits. The trial court found his testimony credible. It is doctrinal that findings of trial courts on the credibility of witnesses deserve a high degree of respect and will not be disturbed on appeal absent a clear showing that the trial court had overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could reverse a judgment of conviction. In fact, in some instances, such findings are even accorded finality. This is so because the assignment of value to a witness' testimony is essentially the domain of the trial court, not to mention that it is the trial judge who has the direct opportunity to observe the demeanor of a witness on the stand which opportunity provides him unique facility in determining whether or not to accord credence to the testimony or whether the witness is telling the truth or not. It is evident from the testimony of Jimmy Ting before the trial court that indeed, the kidnapping or detention did take place and that he was held against his will from October 8-14, 2002. He was able to recount his ordeal, replete with details that he could not have simply concocted.

Moreover, the kidnapping of the victim was really committed for the purpose of extracting ransom. It is apparent in the testimony of Jimmy Ting, who was quite emphatic in identifying the accused and narrating the circumstances surrounding the demand for ransom money.

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CA rollo, pp. 29-31.

- Q: You said they were conversing with each other, would you still recall what language or dialect were they conversing?
- A: They are conversing in Tagalog. Some of the conversations I can remember is that they were telling me that “Parang mahahatulan ka kapag hindi ka nakipag-cooperate, papatayin ka namin, so huwag kang papalag.” Those are some of the statements that I heard.
- Q: Aside from these conversations when you were cruising North Diversion Road, what other things happened inside?
- A: Then the commander on the right started to ask the phone number of my parents.
- Q: Was he able to get the phone number of your parents from you?
- A: Yes, ma’am.
- Q: It was the commander who asked you?
- A: Yes, ma’am.
- Q: After getting the number of your parents, what did he do?
- A: First, they called our household and unfortunately my parents was (sic) not yet home. Then, second, they called my Dad thru his cellphone.
- Q: First call was in your house?
- A: Yes, ma’am.
- Q: How did you know that it was your house that was...?
- A: Because I gave them my household telephone number.
- Q: Whose cellphone was used in calling your house?
- A: My cellphone.
- Q: Who made the call?
- A: I can hear that the commander on my right started to dial the number, then probably after it rings (sic) I just heard he just passed it on (sic) the front side, the voices coming from the driver’s side.
- Q: After the phone was passed to the driver’s side, was there any conversation after that?
- A: Yes, ma’am. The driver said “Nandiyan ba si Mrs. Ting?” Because I told the commander to look for my Mom because probably she is at home. Because at that time my father was in Taiwan.
- Q: Aside from what you heard, “Nandiyan ba si Mrs. Ting?,” what else did you hear?

- A: I heard from the driver that “Tatawag na lang kami uli” because I assumed that my mother is not home, so the driver just said “Tatawag na lang kami uli.”
- Q: After that, what happened?
- A: After that the commander again asked me (sic) the cellphone number of my Dad. So at that time I can only remember the cellphone of my Dad. I cannot remember the cellphone of my Mom.
- Q: After asking your father’s cellphone number, was he able to get it from you?
- A: Yes, ma’am.
- Q: What did he do with the number?
- A: He dialed the number and again he passed the phone to the front at the driver’s side.
- Q: How did you know?
- A: Because just the same from the start when they dialed at our household I can hear the tones of the phone, dialing at the right side. Then again, I can hear him saying that “Eto na.”
- Q: When he passed it to the driver, what happened next?
- A: I heard that the driver said “Magandang gabi Mr. Ting, nasa amin ang anak mong si Jimmy Ting.”
- Q: That was the only words that you heard?
- A: After that I just heard the driver said “Nasaan ka?”, then he also said that “Nasa Taiwan ka? Umuwi ka na.”
- Q: After saying that, what happened next?
- A: After that the conversation was cut. Then the commander started to ask my mother’s number.
- Q: You said earlier that you gave the household number, this time what kind of number was he asking for?
- A: My mother’s number because at that time I cannot remember. So I told the commander just look at the phone book of my phone.
- Q: Was he able to find your mother’s number in your cellphone?
- A: Yes, sir.
- Q: Was he able to use that number?
- A: Yes, ma’am.
- Q: Was he able to call your mother?
- A: Yes, ma’am.
- Q: What transpired between their conversation?



A: Again the same thing the commander dialed the number, then he forwarded the phone again to the driver. The conversation I heard was “Magandang gabi Mrs. nasa amin si Jimmy”, then I just heard “Maghanda kayo ng pera”, worth fifty million (P50M) ‘yong pinahahanda.

Q: After hearing that, what else transpired?

A: After hearing that they just cut off the conversation. I just remember that he said “Tatawag na lang kami uli”, then the conversation was cut.

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The statements of Jimmy Ting was (sic) corroborated by his mother Lucina Ting who testified:

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Q: While on your way home, what happened, if any?

A: While on my way home I received a call from my daughter Girlie and (sic) told me that her brother Jimmy was abducted by an (sic) armed men.

Q: What did you do upon learning that your son was abducted by armed men?

A: I was shocked. I don't know what to do. I called my husband and told him what happened.

Q: What did your husband tell you upon learning that your son was abducted?

A: Because at that time he was in Taiwan. He was not here. He told me that he will call up his friends to assist me and help me.

Q: What else did he tell you?

A: He said we have to wait for the kidnappers to call me.

Q: Did the kidnapper contact you or call you?

A: Yes, ma'am.

Q: Where did they contact you?

A: At the same day about 10:00 o'clock in the evening.

Q: What did they use in contacting you? In calling you?

A: They used the cellphone of my son.

Q: How did you know that it was the cellphone of your son?

A: It appears in my cellphone and telephone number.

Q: The one who called you to your cellphone, was it a female?

A: He is a male, ma'am.



- Q: What did that male person tell you?
A: They told me that they have my son and they are demanding us ₱50,000,000.00 for the release of my son.
- Q: What was your reply to the demand of ₱50,000,000?
A: I don't have that big money. At that moment I have ₱90,000.00 on my hand and I offered it to him.
- Q: Did the one who call (sic) you accept the ₱90,000.00 available?
A: No, ma'am.
- Q: What did he tell you?
A: They just told me to raise the money and they will call up the next day.
- Q: Did he call the next day?
A: Yes, ma'am.
- Q: What did he tell you this time?
A: They are asking me if I prepared the money, ₱50,000,000.00.
- Q: What was your reply?
A: I don't have that big money. I only have at that time ₱300,000.00.
- Q: What was the reaction of the one who called you to that ₱300,000.00?
A: They are insisting for the ₱50,000,000.00 ransom.
- Q: What did he tell you?
A: He told me to find the money or to raise money, ₱50,000,000.00.
- Q: Did the one who called you the other day call you again? The next day?
A: Yes, the same person.
- Q: What was, how many times did that person call you?
A: Always everyday, from October 8 to October 14.
- Q: What was the tenor of your conversation, or what was the subject all about?
A: Always asking me the money, the ransom money.
- Q: In the amount of - ?
A: ₱50,000,000.00.
- Q: Were you able to raise that ₱50,000,00.00?
A: No, ma'am.
- Q: How much were you able to raise?



- A: I almost raised around ₱1,680,000.00.
- Q: When you told the one who called you that you were only able to raise the amount of ₱1,680,000.00, what did he tell you?
- A: They told me to make ready the money and they will call up again, and will give instruction for the pay off.
- Q: When was that?
- A: That was on October 14.
- Q: Were you able to give that amount of ₱1,680,000.00 to the kidnapper?
- A: Yes, ma'am.
- Q: Were you the one who actually delivered that amount?
- A: No, ma'am.
- Q: Why?
- A: At that time I was nervous and I cannot drive. I told the kidnapper if possible I let my nephew Marlon to bring the money.
- Q: Could you tell the full name of Marlon?
- A: Marlon delos Santos ma'am.
- Q: Did the kidnapper accede to your request that it will be Marlon, your nephew, who will deliver the amount?
- A: Yes, ma'am.
- Q: What did you do after talking with that person or the one negotiating?
- A: I told him that Marlon delos Santos will be the one to bring the money and the kidnappers told me that they will call up again for the final instruction.
- Q: How much all in all were you able to give to the kidnappers for the release of your son?
- A: ₱1,780,000.00, ma'am.
- Q: And you said earlier that on October 14 you were only able to raise ₱1.680M, where is that difference of ₱100,000.00?
- A: On October 10, they called up and told me to deposit ₱50,000.00 on the ITM (sic) of my son and another one, ₱50,000.00, on October 14 for the ITM (sic) of my son.
- Q: Were you able to deposit ₱50,000.00 on October 10 to the ITM (sic) account of Jimmy Ting?
- A: Yes, ma'am.



Q: How about the other ₱50,000.00 on October 14, were you able to deposit it?

A: Yes, ma'am.

Q: Do you have any proof that indeed you deposited the total amount of ₱100,000.00?

A: I asked the bank to give me the ATM Statement of account of Jimmy Ting.

Q: When did you secure a copy of that bank statement?

A: After the rescue of my son, ma'am.

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Based on the foregoing statements, it was clearly established that efforts have been made to raise and deliver the ransom. The elements of kidnapping as embodied under Article 267 of the Revised Penal Code, having been sufficiently proven, and the appellants, being private individuals, having been clearly identified by the kidnap victim, this Court affirms the finding of appellants' guilt of the crime of kidnapping for ransom.²⁴ (Citations omitted.)

Accused-appellants question the credibility of the prosecution witnesses. However, the familiar and well-entrenched doctrine is that the assessment of the credibility of witnesses lies within the area and competence of the trier of facts, in this case, the trial court and, to a certain extent, the Court of Appeals. This doctrine is based on the time-honored rule that the matter of assigning values to declarations on the witness stand is best and most commonly performed by the trial judge who, unlike appellate magistrates, is in the best position to assess the credibility of the witnesses who appeared before his/her sala as he/she had personally heard them and observed their deportment and manner of testifying during the trial.²⁵ We further elucidated in *People v. Eduarte*²⁶ that:

Basic is the rule that factual findings of trial courts, including their assessment of the witnesses' credibility, are entitled to great weight and respect by this Court, particularly when the Court of Appeals affirms the findings.

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Factual findings of the trial court are entitled to respect and are not to be disturbed on appeal, unless some facts and circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case. In the case under consideration, we find that the trial court did not overlook, misapprehend, or misapply any fact or value for us to overturn the findings of the trial court. Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court. (Citations omitted.)

²⁴ *Rollo*, pp. 16-22.

²⁵ *Magno v. People*, 516 Phil. 72, 81 (2006).

²⁶ 603 Phil. 504, 512-513 (2009).

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We apply the foregoing general rule to the instant case absent any compelling reason to deviate from the factual findings of the RTC, as affirmed by the Court of Appeals, especially the credibility and probative weight accorded to the prosecution witnesses' testimonies. Neither the RTC nor the Court of Appeals overlooked, misinterpreted, or misapplied a material fact that would have changed the outcome of the case. To the contrary, the prosecution witnesses' testimonies presented a cohesive, detailed, and convincing account of Jimmy's kidnapping for ransom. At least two prosecution witnesses corroborated one another on every turn of events from October 8 to October 15, 2002: from Jimmy's actual abduction, to the ransom negotiation, to the ransom payout, and to Jimmy's rescue and accused-appellants' apprehension by the PACER teams.

That the PACER Manhunt Team was unable to recover from accused-appellants part of the ransom amounting to ₱1,000,000.00 is immaterial, it being sufficient that accused-appellants' motive for kidnapping Jimmy, *i.e.*, the collection of ransom, was duly established. We reiterate our pronouncements in *People v. Bisda*²⁷ on the qualifying circumstance of extorting ransom from a kidnap victim or his/her family:

The purpose of the offender in extorting ransom is a qualifying circumstance which may be proved by his words and overt acts before, during and after the kidnapping and detention of the victim. Neither actual demand for nor actual payment of ransom is necessary for the crime to be committed. Ransom as employed in the law is so used in its common or ordinary sense; meaning, a sum of money or other thing of value, price, or consideration paid or demanded for redemption of a kidnapped or detained person, a payment that releases from captivity. It may include benefits not necessarily pecuniary which may accrue to the kidnapper as a condition for the release of the victim. (Citations omitted.)

It is clear in the present case that accused-appellants kidnapped Jimmy so that they could collect ransom in exchange for Jimmy's release. Jimmy, while blindfolded on board the Tamaraw FX, overheard accused-appellants demanding ransom from his parents. Lucina negotiated with accused-appellants to bring down the amount of ransom. Accused-appellants gave instructions on how the ransom payout was to be done. Marlon delivered the ransom per accused-appellants' instructions. Accused-appellants Jay, Rolando, and Ricardo were actually present at the time and place of payout. Members of the PACER Manhunt Team witnessed the ransom payout take place between Marlon and accused-appellant Ricardo. Hence, regardless of the actual amount of ransom subsequently agreed upon, delivered, and/or recovered, it had been sufficiently established that accused-appellants' motive for kidnapping Jimmy was to extort ransom from Jimmy's family.

There is likewise no cogent basis for us to overturn the finding by the Court of Appeals of conspiracy among all five accused-appellants and

²⁷ 454 Phil. 194, 234-235 (2003).

holding them all equally liable as principals for the crime of kidnapping for ransom.

Our following explication on conspiracy in *Mangangey v. Sandiganbayan*²⁸ is significant in the case at bar:

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Direct proof of previous agreement to commit a crime is not necessary. Conspiracy may be shown through circumstantial evidence, deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused themselves when such lead to a joint purpose and design, concerted action, and community of interest. Conspiracy must be proven as convincingly as the criminal act itself – like any element of the offense charged, conspiracy must be established by proof beyond reasonable doubt. For a co-conspirator to be liable for the acts of the others, there must be intentional participation in the conspiracy with a view to further a common design. Except for the mastermind, it is necessary that a co-conspirator should have performed some overt act – actual commission of the crime itself, active participation as a direct or indirect contribution in the execution of the crime, or moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators.

In this case, the ascertained facts abovementioned and the encashment of the contract payment check obtained through the falsified certificate of inspection prove the commission of the crime. Wandag's guilt has been proven with moral certainty. As co-conspirators of Wandag, petitioners are equally guilty, for in a conspiracy, every act of one of the conspirators in furtherance of a common design or purpose of such a conspiracy is the act of all. (Citations omitted.)

We quote with approval the justification of the Court of Appeals for its finding of conspiracy:

However, We do not agree with the trial court that [accused-appellants] Danilo Bergonia y Aleleng and Efren Gascon y delos Santos are liable only as accomplices for they merely acted as guards. If We are to examine closely the statements of the victim, at the time of this abduction, there were six persons inside the vehicle including the victim himself. After they exited a toll gate, the vehicle stopped and another man joined them on board the vehicle. The day following his rescue, Jimmy Ting was able to identify five of the six persons who were responsible for his abduction at the PACER Office. Only one was not around, Jojo Salazar, who was referred to as John Doe in this case. This only goes to show that they all conspired to kidnap the victim. Hence, they are all equally liable as principals in the commission thereof. We do not subscribe to the tale of the [accused-appellants] that they merely associated with one Jojo Salazar and that they were made to believe that they would only be escorting a very important person who is on his way to Ilocos for a vacation. Such postulations are merely feeble attempts to escape liability. For one, if indeed [accused-appellant] Efren Gascon had

²⁸ 569 Phil. 383, 399-400 (2008).

no idea that Jimmy Ting was being held against his will, why would he tell the latter that he is going to help him escape?

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Undoubtedly, in perpetrating the kidnapping for ransom, conspiracy existed among herein accused-appellants. Viewed in its totality, the individual participation of each of them pointed to a joint purpose and criminal design. Jojo Salazar held the victim at gunpoint while the latter was waiting for the mechanics to finish fixing the flat tire of his car and forced him to ride a Tamaraw FX.

[Accused-appellant] Efren Gascon and Jojo Salazar sandwiched him in the car and transported him to a house where he was detained for six (6) days. [Accused-appellant] Rolando Estrella negotiated with the victim's mother for the ransom payment. Further, the other named [accused-appellants] set out to the designated place of ransom payment. These acts were complementary to one another and were geared toward the attainment of a common ultimate objective. That objective was to extort a ransom of ₱50 million (which was later reduced to ₱1.780 million through bargaining by the victim's mother) in exchange for the victim's freedom.²⁹ (Citations omitted.)

Based on the prosecution's evidence, each of the accused-appellants, plus Jojo, had intentional, direct, and substantial participation in Jimmy's kidnapping for ransom. Jimmy's abduction, his being taken to and holed up in a house in Ilocos Norte under guard, the ransom demand and negotiation, and finally, the ransom payout, which all happened in a span of six days, took planning and coordination among accused-appellants and Jojo. Accused-appellant Efren, in particular, was among the four men who abducted Jimmy in Meycauayan, Bulacan on October 8, 2002. Accused-appellant Efren also kept guard over Jimmy for six days in Dingras, Ilocos Norte. Therefore, accused-appellant Efren could not be a mere accomplice as his presence at the scene/s of the crime was definitely more than just to give moral support; his presence and company were indispensable and essential to the perpetration of the kidnapping for ransom.³⁰

Accused-appellants' denial and attempt to put the entire blame for Jimmy's kidnapping with ransom on Jojo, who remains at large, deserve our scant consideration. Accused-appellants' claim that they were merely recruited to transport and escort Jimmy on his vacation in Ilocos is illogical, implausible, and specious, nothing more than a desperate attempt to provide a legitimate excuse for their presence during the commission of the crime.

It bears to stress that Jimmy twice identified the five accused-appellants except Jojo who was at large as his kidnapers, at Camp Crame right after his rescue and before the RTC during trial.

²⁹ *Rollo*, pp. 22-25.

³⁰ *Cf. People v. Gambao*, 718 Phil. 507 (2013), wherein one of the accused-appellants, Thian Perpenian, was declared a mere accomplice in the kidnapping for ransom as she only arrived at the place where the kidnapped victim was being kept after the actual abduction, chose to keep silent about the kidnapping, and even stayed the night.

In addition, when they took the witness stand, prosecution witnesses Girlie clearly recognized accused-appellant Efren as one of Jimmy's abductors on the night of October 8, 2002,³¹ and Marlon categorically pinpointed accused-appellant Ricardo as the person who received the ransom from him.³²

The prosecution witnesses' positive identification of accused-appellants as Jimmy's kidnappers rendered accused-appellants' defense unavailing. It is well-settled that greater weight is given to the positive identification of the accused by the prosecution witnesses than to the accused's denial and explanation concerning the commission of the crime.³³

Moreover, accused-appellants utterly failed to allege, much less, prove, any ill or ulterior motive on the part of Jimmy and the other prosecution witnesses to fabricate a story and to falsely charge accused-appellants with a very serious crime. Where there is no evidence to show any dubious or improper motive why a prosecution witness should bear false witness against the accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.³⁴

Since accused-appellants' guilt for the crime of kidnapping for ransom had been established beyond reasonable doubt, they should be meted the penalty of death under Article 267 of the Revised Penal Code, as amended. However, Republic Act No. 9346³⁵ already prohibited the imposition of the death penalty. Consequently, the Court of Appeals correctly sentenced accused-appellants to *reclusion perpetua* in lieu of death, without eligibility for parole.³⁶

In accordance with existing jurisprudence, accused-appellants are jointly and severally liable to pay Jimmy ₱100,000.00, as civil indemnity; ₱100,000.00, as moral damages; and ₱100,000.00, as exemplary damages, all with interest at the rate of six percent (6%) per *annum* from the date of finality of this judgment until fully paid.³⁷

WHEREFORE, premises considered, the Decision dated May 27, 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01776, is **AFFIRMED with MODIFICATION**. Accused-appellants Jay Gregorio y Amar, Rolando Estrella y Raymundo, Ricardo Salazar y Go, Danilo Bergonia y Aleleng, and Efren Gascon y delos Santos are found **GUILTY** beyond reasonable doubt of the crime of kidnapping for ransom, for which

³¹ TSN, August 2, 2005, p. 12.

³² TSN, September 4, 2003, p. 8.

³³ *People v. Taneo*, 348 Phil. 277, 297 (1998).

³⁴ *Ureta v. People*, 436 Phil. 148, 160 (2002).

³⁵ Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

³⁶ *People v. Lugnasin*, supra note 22.

³⁷ Id.

they are sentenced to suffer the penalty of *reclusion perpetua*, without eligibility of parole, and ordered to jointly and severally pay private complainant Jimmy Ting the following:

1. ₱100,000.00 as civil indemnity,
2. ₱100,000.00 as moral damages, and
3. ₱100,000.00 as exemplary damages.

All monetary awards shall earn six percent (6%) interest per *annum* from the finality of this Decision until fully paid.

SO ORDERED.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

WE CONCUR:

On leave
MARIA LOURDES P. A. SERENO
Chief Justice

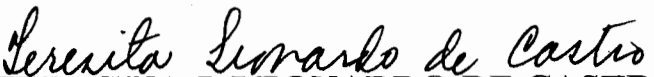
Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

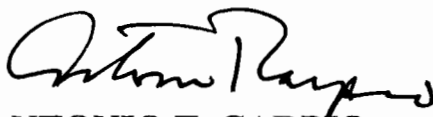
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Acting Chief Justice