



**Republic of the Philippines  
Supreme Court  
Manila**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 203961**

Present:

- versus -

**LEONARDO-DE CASTRO,\***  
Acting Chairperson,  
**PERALTA,\*\***  
**BERSAMIN,**  
**PEREZ, and**  
**PERLAS-BERNABE, JJ.**

**RODERICK LICAYAN, ROBERTO  
LARA AND ROGELIO "NOEL"  
DELOS REYES,**  
Accused-Appellants.

Promulgated:

JUL 29 2015

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**DECISION**

**LEONARDO-DE CASTRO, J.:**

On August 15, 2001, this Court affirmed the Decision of the Regional Trial Court (RTC) of Marikina City convicting two of herein accused-appellants, Roderick Licayan (Licayan) and Roberto Lara (Lara), of the crime of Kidnapping for Ransom and sentencing them to death. The dispositive portion of this Court's August 15, 2001 Decision states:

WHEREFORE, the decision of the Regional Trial Court, Branch 272, Marikina City finding accused-appellant RODERICK LICAYAN and ROBERTO LARA guilty beyond reasonable doubt of the crime of Kidnapping for Ransom and sentencing each of them to death is AFFIRMED with MODIFICATION that each of the accused-appellants is ORDERED to pay ₱50,000.00 as moral damages to each of the complainants. The award of ₱20,000.00 as actual damages made in favor of complainant Joseph Co is deleted. Costs against accused-appellants.

In accordance with Section 25 of R.A. 7659, amending Art. 83 of the Revised Penal Code, upon the finality of this decision, let the records of this case be forthwith forwarded to the President of the Philippines for the possible exercise of the pardoning power.<sup>1</sup>

The Motion for Reconsideration of Licayan and Lara was denied by this Court in a Resolution dated October 9, 2001. The Decision became final

\* Per Special Order No. 2102 dated July 13, 2015.  
\*\* Per Special Order No. 2103 dated July 13, 2015.  
1 *People v. Licayan*, 415 Phil. 459, 476 (2001).

*LMN*

and executory on November 9, 2001. On November 18, 2003, the trial court issued a Writ of Execution ordering the execution of Licayan and Lara on January 30, 2004 at 3:00 p.m.

Before the date of Licayan and Lara's scheduled execution, and with the torrent of initiatives sparked by the passionate national debate on the morality of capital punishment, two of their co-accused in the original Information were arrested. On January 9, 2004, Pedro Mabansag (Mabansag), a double arm amputee and suspected mastermind of the kidnapping of Joseph Tomas Co and Linda Manaysay, was arrested at Sitio Lanipga, Barangay Magsaysay, Escalante City. On January 12, 2004, Rogelio Delos Reyes (Delos Reyes) was arrested at Barangay Bayang Marihatag, Agusan del Sur.

In light of these arrests, the Public Attorney's Office (PAO) filed with this Court on January 15, 2004 (which was 15 days before the scheduled execution of Licayan and Lara) an Urgent Motion to Reopen the Case with Leave of Court. Pending resolution of the Urgent Motion, this Court, by a vote of 7-6, issued a Resolution on January 26, 2004 ordering the temporary suspension of the execution of Licayan and Lara for a period of 30 calendar days.<sup>2</sup> On February 17, 2004, this Court, voting 8-6, issued a Resolution, the dispositive portion of which states:

IN VIEW OF THE FOREGOING, the Court resolves to GRANT *pro hac vice* the Urgent Motion to Re-Open the Case with Leave of Court. Accordingly, the execution of the Decision of this Court dated August 15, 2001 is suspended. The records of the case are hereby REMANDED to the lower court for further reception of evidence pursuant to Section 2 (b), Rule 121 of the Rules of Court, together with the trial of accused Rogelio delos Reyes and Pedro Mabansag. In accordance with Section 6(b) and (c), Rule 121 of the Rules of Court, **insofar as the accused Roberto Lara and Roderick Licayan is concerned, the evidence already taken shall stand and the additional evidence as the trial court may, in the interest of justice, allow to be introduced shall be taken and considered with the evidence already in record.** Towards this end, the Court directs Hon. Reuben P. dela Cruz, Presiding Judge of the Regional Trial Court, Marikina City, Branch 272, to hear the case of the accused Roberto Lara and Roderick Licayan, and thereafter report to this Court with deliberate dispatch.

Let copies of this Resolution be personally served on the Office of the President and the Director of the Bureau of Corrections.<sup>3</sup>

On April 19, 2005, Mabansag and Delos Reyes were finally arraigned and pleaded not guilty to the crimes charged in the Informations under which their co-accused Lara and Licayan were previously indicted. We quote the material portions of said Informations here:

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<sup>2</sup> Records, p. 391.

<sup>3</sup> Id. at 392.

**Crim. Case No. 98-2605-MK**

That on or about August 10, 1998 at around 1:45 a.m., the above-named accused, conspiring, confederating and mutually helping one another, armed with a handgun and with evident premeditation, did then and there willfully, unlawfully and feloniously with the use of force and intimidation kidnap JOSEPH TOMAS CO and LINDA MANAYSAY for the purpose of extorting ransom in the amount of P10 million at Goodies Pares Mami House located at Loyola cor. Constancia St., Sampaloc, Manila, owned and managed by the aforementioned victim Co and thereafter took them with the use of Toyota Tamaraw FX likewise owned by Co as getaway vehicle to a house in Daang Bakal, Parang, Marikina and within the jurisdiction of this Honorable Court where they were kept under detention against their will until they were able to escape the following day at around 4:30 in the afternoon on August 11, 1998.<sup>4</sup>

**Crim. Case No. 98-2606-MK**

That on or about August 10 and 11, 1998 at Daang Bakal, Parang, Marikina City and within the jurisdiction of this Honorable Court, the above-named accused, armed with a handgun and with intent to gain, conspiring, confederating and mutually helping each other, by means of force and intimidation, did then and there willfully, unlawfully and feloniously take and divested (sic) JOSEPH TOMAS CO and LINDA MANAYSAY of the following personal properties after forcibly taking them as hostages for ransom, to wit:

1. Wallet of Co containing his driver's license, original copy of official receipt (OR), certificate of registration (CR) of his two (2) L-300 vans;
2. Bank time deposit certificate at Metrobank, Valenzuela Branch;
3. Casio G-Shock watch;
4. Necklace and earrings of Manaysay; and
5. ₱10,000.00 cash

to the damage and prejudice of said victims as owners thereof against their will.<sup>5</sup>

Lara, Licayan, Mabansag and Delos Reyes had five other co-accused in said Informations, namely Alex Placio, Jojo Sajorgo, Allan Placio, Dodong Adolfo and Benjie Mabansag, all of whom remain at-large.

On November 15, 2005, Mabansag died while detained at the Marikina City Jail. The trial against Licayan, Lara and Delos Reyes proceeded. On February 17, 2009, the RTC of Marikina City rendered its Decision finding Licayan, Lara and Delos Reyes guilty of the crime of

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<sup>4</sup> Id. at 1.

<sup>5</sup> Id. at 7-8.

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Kidnapping for Ransom under Article 267 of the Revised Penal Code. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused RODERICK LICAYAN, ROBERTO LARA and ROGELIO 'NOEL' DELOS REYES in Criminal Case No. 98-2605-MK, GUILTY beyond reasonable doubt of the crime of KIDNAPPING FOR RANSOM as defined and penalized under Article 267 of the Revised Penal Code and hereby sentences them to *reclusion perpetua* and each of them is also ordered to pay the amount of ₱50,000.00 as moral damages to each of the complainants.

The period during which the herein accused were in detention during the pendency of this case shall be credited to them in full provided that they agree to abide by and comply with the rules of the City Jail of Marikina.

However, in Criminal Case No. 98-2606-MK of the crime of ROBBERY, for lack of sufficient evidence presented by the Prosecution to prove the guilt of the said accused beyond reasonable doubt, judgment is hereby rendered ACQUITTING them of the said offense charged in the Information.

These two (2) cases against the other accused, ALEX PLACIO @ "Tata Pandak," JOJO SAJORGO, ALLAN PLACIO, DODONG ADOLFO and BENJIE MABANSAG who remain at-large up to the present are ordered archived and let an (sic) alias warrants of arrests be issued.<sup>6</sup>

The RTC Decision was appealed to the Court of Appeals, which, on July 4, 2012, affirmed the conviction of Licayan, Lara and Delos Reyes *in toto*.<sup>7</sup> Licayan, Lara and Delos Reyes filed a Notice of Appeal,<sup>8</sup> thus allowing this Court another hard look into the events surrounding the captivity of Joseph Tomas Co and Linda Manaysay on August 10-11, 1998.

In this Court's February 17, 2004 Resolution granting accused-appellants' Motion to Reopen the Case, we held that insofar as the accused Lara and Licayan are concerned, the evidence already taken shall stand, although additional evidence may be introduced to be taken and considered with the evidence already in record. This Court summarized said evidence in its August 15, 2001 Decision, thus:

Complainant Joseph Tomas Co owns a restaurant called Goodies Pares Mami House with branches in Valenzuela, Cubao, and Sampaloc. Co's regular routine was for him and the other complainant, Linda Manaysay, the restaurant's cashier and accounting officer, to make the rounds of the three branches for inspection and collection of left-over food and cash sales. The rounds would normally begin late in the evening and last until early in the morning of the next day.

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<sup>6</sup> CA *rollo*, pp. 394-395.

<sup>7</sup> *Rollo*, pp. 2-42.

<sup>8</sup> CA *rollo*, p. 500.

The **prosecution evidence** shows that on August 9, 1998, complainants went to the Goodies Valenzuela branch where they stayed until midnight. From there, they proceeded to the Cubao branch where they stayed until about 12:45 a.m., August 10, 1998. Their last stop was at the Sampaloc branch which they visited at 1:30 a.m.

While Co was at the Sampaloc branch, supervising the loading of left-over food into the back of his Tamaraw FX service vehicle, three men approached him from behind. When Co saw the men, he asked what they wanted. The men were armed with two caliber .45 pistols and a .38 revolver. None of the men wore any mask.

Co told the men that if they wanted money, they could get it from the store. The men refused to get money from the store. Without any warning, one of the men's guns went off. When Manaysay heard the shot, she came out and asked the men what they wanted. She told them that they could get money from the store, but they refused to do so. Instead, complainants were made to board the rear of the Tamaraw FX. Two of the men's companions were already seated in the front seat. The man in the driver's seat asked Co for the key to the vehicle. The three other men also boarded the vehicle with the complainants. **Co identified accused-appellant Roderick Licayan as one of his five abductors.**

Co said their hands were tied and their eyes taped, and that they were made to wear caps over their heads as the vehicle reached Quezon Avenue in Quezon City. After 45 minutes, Co said he felt the vehicle stop. The rear door was opened and he heard the voices of people approaching the vehicle.

Complainants were brought inside a room of a house made of light materials and which had no ceiling. They were made to sit on the floor. Then, they were transferred to another room where the covers of their eyes were removed and their feet were tied. **Manaysay testified that she saw accused-appellants in the house after the masking tape was removed from their eyes.** Co's wallet which contained P5,000.00 in cash and his watch and Manaysay's necklace and earrings were taken from them. **A person was left to guard them inside the room, whom both complainants identified as accused-appellant Roberto Lara.**

After about two hours, Manaysay told Co that she wanted to urinate. Hence, Co asked their guard if Manaysay could go outside to do it. The guard left and came back with a half-gallon container which he gave Manaysay to urinate in.

Co tried talking to the guard<sup>9</sup> and pleaded with him to let them go. But the guard replied that he was just following orders. Co offered him some money which he had, but the guard did not accept the money and instead threw it away.

[On August 11, 1998, at around 4:30 p.m., Licayan<sup>10</sup> who was guarding them at that time] fell asleep and Co and Manaysay somehow managed to escape without being noticed by the look-out outside their room. After running for several meters, complainants took refuge in a

<sup>9</sup> This guard was still Lara. (TSN, June 2, 1999, p. 64.)  
<sup>10</sup> Id. at 108-110.

house. An old woman living in the house allowed them to use the telephone from which Co was able to call the Marikina Police Headquarters. The woman told them that they were in Kaolin St., Twinriver Subdivision, Parang, Marikina. Two police officers from the Marikina police arrived, followed by a police SWAT team. Complainants' case was later turned over to the Presidential Anti-Organized Crime Task Force (PAOCTF) for investigation.

On August 11, 1998, at around 6:30 p.m., members of the PAOCTF raided the safehouse at Daang Bakal, Parang, Marikina where Co and Manaysay had been held captive. A man seen running away was arrested by SPO3 Ismael Fajardo Jr. Upon being questioned, the man identified himself as accused-appellant Roberto Lara. SPO3 Fajardo identified accused-appellant Lara from photographs shown to him in court as the man he arrested. Lara pointed to accused-appellant Licayan as one of his companions and told the PAOCTF members that Lara was hiding in his (Lara's) uncle's house at the back of the San Mateo Rizal Municipal Hall. The PAOCTF members thereafter proceeded to the house and were able to arrest accused-appellant Licayan.

Lara and Licayan were thereafter brought to the PAOCTF headquarters in Camp Crame where they were identified by Co and Manaysay in a line-up consisting of Lara, Licayan, and eight PAOCTF members.

Benjamin Co, complainant Joseph Tomas Co's brother, testified that he was twice called in his office by unidentified persons who demanded P10 million for the release of complainants. The kidnappers were of course frustrated as complainants were able to escape.

**Accused-appellants' defense** is alibi. Accused-appellant Licayan claimed that on August 11, 1998, at around 7:00 p.m., he was at home in Sta. Cecilia Village, San Mateo Rizal, having dinner with Nicolas Salvivia, a dump truck driver; that on the next day, August 12, 1998, he was arrested by members of the PAOCTF while he was having drinks with Salvivia and Salvivia's father at the latter's residence in Sta. Cecilia Village; and that when he was arrested, he was not informed of the charges against him. He said he only learned that he was arrested for the kidnapping of complainants after he had been brought to Camp Crame.

In Camp Crame, he and his co-accused were handcuffed and made to stand in a police-line up. They were not assisted by counsel. The complainants pointed to him and Lara as part of the group who kidnapped complainants. Licayan claimed he only saw complainant Co for the first time when he (Licayan) was brought to Camp Crame.

On the other hand, accused-appellant Lara, a construction worker, testified that from 7:00 a.m. to 5:00 p.m. of August 10, 1998, he was in his place of work in Antipolo. At 7:00 a.m. of August 11, 1999, he went home to Novaliches, stopping by the house of his uncle, Pedro Mabansag, in Parang, Marikina. Mabansag had driven Lara's family out of his house and Lara had gone there to get his child's belongings. However, before he could do so, he was arrested by the Marikina Police at Greenheights.

Lara wanted to ask his cousin Nicolas Salvivia for help. The police beat him up and told him that they would go to Salvivia's house.

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He was made to board a van where his head was covered with a plastic bag and he was again beaten up. The police found Salvivia and Licayan in Salvivia's house and ordered the two to drop to the ground. The police poked a gun to Lara's head and told him to identify his companions, otherwise he would be killed. Thus, according to Lara, he pointed to Licayan.

Lara claimed that at Camp Crame, after he and Licayan were identified by complainants in a police line-up, they were forced to sign a statement. They were not informed of their right to remain silent and to be assisted by counsel. Lara denied that Atty. Confesor B. Sansano, who appeared to have assisted him in making his statement, actually assisted him.<sup>11</sup>

In subsequent proceedings, the prosecution presented as rebuttal witness **Confessor Sansano**, the lawyer whom Lara had claimed did not really assist him. Sansano testified that as IBP governor and chairman, he gave free legal assistance to all persons who could not afford the services of a lawyer. On August 12, 1998, Police Chief Inspector Trampe brought Lara to Sansano's office at the Justice Hall of Quezon City. Sansano required the police agents to step out of the room when he personally interviewed Lara for 10 minutes. He apprised Lara of his constitutional rights. He was assured that Lara will tell the truth, and that Lara was not harmed. He even examined the upper torso of Lara and found no signs of maltreatment. He was present throughout the investigation held in his office, until Lara affixed his signature in the sworn statement. On cross-examination, Sansano admitted that he cannot remember the number of persons brought to him by Trampe for legal assistance. He testified that he warned Lara about the implication of the statement that he will give to the police.<sup>12</sup>

During the second trial, Prosecutor Nestor Gapuzan stated that the prosecution is adopting the direct testimony given by the prosecution witnesses during the first trial. Co, however, was recalled for additional direct examination on the alleged participation of Delos Reyes.

**Joseph Tomas Co** testified that Delos Reyes was one of the five men who abducted him and Manaysay. Delos Reyes was the person who sat at the middle portion of the Tamaraw FX at the back of the driver, while Co and Manaysay were forced to sit in the rear portion of the Tamaraw FX with two of their abductors, who later tied their hands. Co identified Delos Reyes in court. He was not sure whether Licayan was one of the five men who abducted them. Delos Reyes, while seated at the middle portion of the Tamaraw FX, faced Co and demanded from him with a forceful voice, "*Nasaan ang susi?*" and "*Akina ang susi.*" He did not notice any hint of Manileño or regional accent in the voice of Delos Reyes and was not aware of said accents. He did not immediately give the key to Delos Reyes, but the latter repeated "*Akina ang susi.*" The man beside him pointed a gun at him,

<sup>11</sup> *People v. Licayan*, supra note 1 at 465-469.

<sup>12</sup> TSN, August 9, 1999, pp. 3-39.

so he gave the key to Delos Reyes, who then handed the key to the man seated at the driver's seat.<sup>13</sup>

During the time Co and Manaysay were detained in the safehouse, Co identified Licayan and Lara on different occasions but was not able to see Delos Reyes.<sup>14</sup> He reiterated that he tried to bribe Lara to get the remaining money inside his pocket but Lara said that he could not do it because he will be killed. Co explained that he did not identify Licayan and Lara by their feet. Even before he pointed to their feet, he had already identified them by their faces which he was positive about and he was just even more assured of their identities when he saw their feet.<sup>15</sup>

The defense presented *Radio Veritas* reporter Corazon Zony Esguerra, New Bilibid Prison Chaplain Msgr. Roberto Olaguer, Lara's co-worker Abelardo Ramirez, Lara's employer Florencia Lavarro Salvador, and accused-appellant Delos Reyes. Licayan was likewise recalled to the witness stand.

*Radio Veritas* reporter **Zony Esguerra** testified that she was able to interview Mabansag at the airport after he was arrested. Mabansag told her that his nephew, Lara, had nothing to do with the incident. Esguerra also interviewed Delos Reyes at the PACER Office in Camp Crame around two hours after he arrived from the airport. Delos Reyes told her that "*talaga wala akong kasalanan pinilit lang nila akong tagabantay sa victim.*" According to Delos Reyes, the real culprits are "*Tata Placio and Allan Placio.*"<sup>16</sup>

New Bilibid Prison Chaplain **Msgr. Roberto Olaguer**, knowing that Licayan and Lara were scheduled for execution in January 2004, told them before Christmas in December 2003 that he will personally attend to their case more intensely. When he learned from Lara that his relatives did not know the schedule of his execution, he told Lara that he will personally inform his parents. On January 6, 2004, Lara finally gave Msgr. Olaguer the address of his parents, but warned him about his uncle Pedro Mabansag: there was a warrant for the arrest of Mabansag at the Marikina Police Station. It occurred to Msgr. Olaguer that if Mabansag would be arrested, the execution of Lara and Licayan may be postponed. He immediately called Mayor Marides Fernando of Marikina City and told her about the possibility of helping him get a copy of the warrant. He was able to secure a copy of the warrant at around 8:00 p.m. of January 7, 2004. He called the station manager of *Radio Veritas*, who told him to go to the station as he will contact the chief of the PAO. He asked PAO Chief Atty. Acosta if there is a possibility that the lives of Lara and Licayan would be saved if Mabansag is

<sup>13</sup> TSN, September 18, 2006, pp. 7-48.

<sup>14</sup> Id. at 53.

<sup>15</sup> Id. at 75-84.

<sup>16</sup> TSN, December 5, 2006, pp. 4-33.



arrested, and she told him about the possibility of reopening the case and suspending the execution.<sup>17</sup>

Before going to Bacolod, he told Lara about having secured the warrant. Lara warned him that even though his uncle “*Putol*” (Mabansag) had both arms amputated, he can still drive a car, fire a shotgun, and ride a horse. He relayed this warning to Col. Avenido, who organized two to three teams to arrest Mabansag.<sup>18</sup>

In Bacolod on January 8, 2004, Msgr. Olaguer, Col. Avenido and his group of around 20 men went to the house of Lara’s mother, and told her that her son will be executed on January 30, 2004. He invited her to go to Manila and offered to shoulder her travel costs. She told him that *BOMBO Radyo* and ABS-CBN already offered to pay for her expenses. During this time, the police were searching the area and conducting interviews. The police told him that they have to go to a certain sugar plantation to look for Mabansag. They arrived at the sugar plantation at 2:00 p.m. The people at the plantation, however, were not cooperative and appeared to be afraid of Mabansag, except for a little child who gave them a lead. Msgr. Olaguer was regularly updated as regards the search for Mabansag. At around 2:00 a.m. the following day, January 9, 2004, Col. Inocentes Capuno called him and said that they were able to apprehend Mabansag.<sup>19</sup>

At the police station, Msgr. Olaguer introduced himself to Mabansag. They were allowed to talk in private, wherein Msgr. Olaguer told Mabansag that his nephew, Lara, will be executed by lethal injection on January 30, 2004. Mabansag cried and said many things in Ilonggo. Msgr. Olaguer asked his companion to translate what Mabansag was saying. He understood Mabansag saying “*inosente man si Tungkoy*,” referring to Lara. When he informed Mabansag about Licayan, Mabansag was so surprised and told him that he had not seen Licayan for a long time. Mabansag said that he knew that he was one of the accused in the case, but he was innocent. Mabansag denied that the house where the kidnap victims were brought was his, but clarified that it was his daughter’s house. The kidnappers offered money if he could lend the house to them. He accepted because he needed money at that time. Mabansag told him that he somehow participated in the safekeeping of the victims.<sup>20</sup>

Upon their arrival in the airport in Manila, they were brought to the VIP room. When Mabansag was interviewed by reporter Gus Abelgas, Msgr. Olaguer was surprised to hear Mabansag say that he did not know anything about the kidnapping. Mabansag also said that he was being

<sup>17</sup> TSN, January 29, 2007, pp. 13-18.

<sup>18</sup> Id. at 20.

<sup>19</sup> Id. at 20-23.

<sup>20</sup> Id. at 23-29.

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threatened by the police and the media people in Bacolod by telling him “*Ikaw ang ipapalit kay Roberto Lara.*”<sup>21</sup>

On cross-examination, Msgr. Olaguer testified that Lara told him exactly “*Kung pupunta po kayo sa Nanay ko, mag-ingat po kayo sa tiyo ko. Yung uncle ko, putol po ang dalawang kamay niyan pero kaya pa na bumaril.*” Lara further told him that Mabansag was one of the masterminds in the kidnapping of Co and Manaysay. Msgr. Olaguer observed that the people at the sugar plantation in Bacolod seemed to be afraid of Mabansag as they told him that Mabansag had a close connection with the rebels who were somehow controlling the sugar plantation.<sup>22</sup>

**Abelardo Ramirez** testified that he had known Lara for five years since 1995 because they were neighbors at Daang Bakal, Bagong Silang, Parang, Marikina. Lara’s house was two houses away from his. Everytime he gets a job, he gets Lara as his co-worker. Lara worked as a “*piyon,*” who mixes cement.<sup>23</sup>

On August 10, 1998, he was in his house in Daang Bakal at 6:00 a.m., waiting for Lara. At 7:00 a.m., Lara arrived. They took two jeepney rides to their place of work in Antipolo where they were constructing a residential house. They arrived at the construction site at 8:00 a.m. and worked there until 5:00 p.m. They parted ways on Kaolin Street because Lara said he would go to his grandparent’s house in Novaliches. Ramirez arrived home at 6:30 p.m.<sup>24</sup>

On August 11, 1998, Lara arrived at Ramirez’s house past 8:00 a.m. They proceeded to the same construction site where they worked until 5:00 p.m. They left the site at 6:00 p.m. and they parted ways at Kaolin.<sup>25</sup>

On August 21, 1998, Ramirez secured a certification from their employer Florencia Lavarro Salvador to prove that during the kidnapping, Lara was with him. He placed the certification in a small brown envelope and kept it for five years. He retrieved the certification in 2003 when he saw on television that Lara will be executed.<sup>26</sup>

**Florencia Lavarro Salvador** testified that Ramirez, whom she calls “Mang Bado,” recommended Lara to work in the construction of her house. On August 9, 1998, she supervised the work of Ramirez and Lara, who both arrived at 7:00 a.m. and worked from 8:00 a.m. to 5:00 p.m. On August 10, 1998, Ramirez and Lara arrived at 7:30 a.m., worked from 8:00 a.m. to 5:00 p.m., and left at around 5:30 p.m. On August 11, 1998, Ramirez and Lara arrived past 8:00 a.m., worked until 5:00 p.m., and left at around 6:00 p.m.

<sup>21</sup> Id. at 28-29.

<sup>22</sup> Id. at 31-33.

<sup>23</sup> TSN, February 27, 2007, pp. 1-5.

<sup>24</sup> Id. at 5-8.

<sup>25</sup> Id. at 8-9.

<sup>26</sup> Id. at 11-19.

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On August 12, 1998, Ramirez told her that Lara was arrested, and requested for a certification to prove the whereabouts of Lara during the kidnapping incident. Salvador executed such certification.<sup>27</sup>

PAO lawyer **Howard Areza** testified that he assisted in the execution of the *Sinumpaang Salaysay* of Delos Reyes and Mabansag. The latter was already deceased at the time of Atty. Areza's testimony. Since Mabansag had no arms, he stamped his right toe on the document.<sup>28</sup>

Atty. Areza confirmed Mabansag's answers in Questions 17 and 18 of the *Sinumpaang Salaysay* wherein he narrated that a TV reporter interviewed him upon arrival at the airport in Manila. He said in the interview that Lara is not liable ("*walang kasalanan*") because Lara was working in a construction in Cavite and Antipolo. Atty. Areza also confirmed Mabansag's answers in Question 30 and 31 wherein he stated that he drove away ("*pinalayas*") Joy, Lara's wife, from Daang Bakal one week before August 10, 1998. Mabansag did not know whether Joy and Lara lived in Novaliches after he drove Joy away.<sup>29</sup>

Atty. Areza likewise confirmed Delos Reyes's answers in Questions 36 and 37 of the *Sinumpaang Salaysay* wherein he stated that, on August 10, 1998, he saw Mabansag in the safehouse. According to a certain *Tata Alex Placio*, Mabansag was the financier of the operation as he was the owner of the house. Atty. Areza also confirmed the answers of Delos Reyes in Questions 15, 16, 18 and 20 that Delos Reyes was interviewed by reporter *Zony Esguerra* when he was in the PACER Office. He stated in said interview that Lara is not liable ("*walang kasalanan*"). Delos Reyes also stated that he guarded the victims and did not report the matter to the police because of his fear of *Tata Alex Placio*, *Allan Placio*, *Jojo Sajorgo* and *Benjie*.<sup>30</sup>

Recalled to the witness stand, **Roderick Licayan** testified that, in the police line-up, he was at first identified by Co by pointing at his and Lara's feet. Co did not mention any specific identifying mark on their feet. Licayan heard Co say that whenever anybody enters the room in the safehouse, he looks at their feet. Licayan cannot recall how many of his companions in the line-up were wearing shoes and how many were wearing slippers. Licayan testified that a police officer in civilian clothes instructed Co to point to his face. It took a few minutes before the victims pointed to their faces. Co identified him and Lara from among several persons (more than five; not sure if 10) who were in the line-up.<sup>31</sup>

<sup>27</sup> TSN, March 19, 2007, pp. 4-11.

<sup>28</sup> TSN, March 26, 2007, pp. 3-4.

<sup>29</sup> Id. at 7-8.

<sup>30</sup> Id. at 8-11.

<sup>31</sup> TSN, November 28, 2007, pp. 9-14.

*mtw*

At the time he and Lara were arrested, Licayan already knew Delos Reyes because the latter was his townmate. Delos Reyes was not in the police line-up.<sup>32</sup>

Accused-appellant **Rogelio “Noel” delos Reyes** was arrested on January 12, 2004 in Barangay Bayang Marihatag, Surigao del Sur, and was taken to Camp Crame where he was detained. Delos Reyes confirmed the radio interview he had with Zony Esguerra, and that he said therein that he was forced to guard the victims (“*pinilit na magbantay*”) by Tata Placio, which the latter did by pointing a gun at him.<sup>33</sup>

Delos Reyes testified that on August 10, 1998, he went to the house of Mabansag to accompany a friend who wanted to buy a fighting cock. He had previously met Mabansag at the “*manukan*” sometime that same year, 1998. Delos Reyes stated that he met Tata and Alex for the first time in Mabansag’s house. The sale of the two fighting cocks was done outside Mabansag’s house but, **with Mabansag’s permission**, he entered said house to drink water. Inside the house, Tata and Jojo pointed a gun at him. He then saw a man and a woman seated near the kitchen. The couple saw him through the curtain. Mabansag told him, “Noel, *magmadali ka lumabas, may mangungupahan na mag-asawa.*” Tata, however, said “*Dito ka lang, huwag kang aalis.*” Delos Reyes answered that he will leave and that he does not want to stay any longer.<sup>34</sup>

The court noted at this point of Delos Reyes’s testimony that he mentioned Tata as if he knew him prior to the time he entered the house. Delos Reyes then admitted that he already knew Tata and Jojo two months before the incident and that his earlier statement that he did not know Tata and Jojo when he entered the house was not true.<sup>35</sup>

Delos Reyes **did not ask Tata and Jojo why they were pointing a gun at him.**<sup>36</sup> He saw the hands of the woman were tied, and suspected that Tata and Jojo were engaged in bad activities. He stayed in the place from 3:00 p.m. to 4:00 p.m. He did not help the victims because he was afraid that Allan, Jojo, Tata and Benjie might shoot him. After leaving the place, he stayed in the house of his godmother, Emelita Alcober, in Concepcion for two weeks.<sup>37</sup>

Delos Reyes knows both Licayan and Lara. He visited Lara in his residence every Sunday. Licayan was his neighbor in the province. Delos Reyes affirmed his statement in the *Sinumpaang Salaysay* that Licayan and Lara were not liable (“*walang kasalanan*”). Lara was not in the safehouse, while Licayan just happened to pass by. When Delos Reyes entered

<sup>32</sup> Id. at 19.

<sup>33</sup> TSN. August 5, 2008, pp. 1-10.

<sup>34</sup> Id. at 11-17.

<sup>35</sup> Id. at 17-18.

<sup>36</sup> Id. at 18-19.

<sup>37</sup> Id. at 19-21.

Mabansag's house, Mabansag told him that there were kidnap victims inside.<sup>38</sup>

During cross-examination, Delos Reyes stated that the friend he accompanied to buy fighting cocks was named Luisito. He did not know Luisito's surname because he had known him for only two weeks. He had known *Tata* for around two months because *Tata* accompanied Mabansag when the latter went to Delos Reyes's residence three times to bring fighting cocks to sell. Delos Reyes learned from a neighbor about Mabansag's trade of selling fighting cocks. Mabansag usually brings the fighting cocks to Delos Reyes, at the latter's godmother's house. Delos Reyes did not know why this changed on August 10, 1998, when Mabansag told him to get the fighting cocks at the latter's house. When Delos Reyes entered the safehouse, his companion, Luisito, had already left to drive a tricycle; Delos Reyes will just give Luisito the fighting cocks they bought at a later time. Answering a query from the court, Delos Reyes affirmed that after he and Luisito arrived at the place, Luisito immediately left.<sup>39</sup>

Delos Reyes **asked permission from Benjie Mabansag** to go inside the house. He **did not ask permission from Pedro Mabansag** to go inside the house since he had already gone to the place four times.<sup>40</sup> When asked by the court for clarification, Delos Reyes said he **did not ask for permission from Benjie.**<sup>41</sup> He **asked *Tata* why he was pointing a gun at him,** to which *Tata* replied that he should stay and that *Tata* will kill him if he reports the matter to the police.<sup>42</sup>

When Delos Reyes went near the kitchen, he saw a man and a woman. He noticed that the woman's hands were tied, but it did not occur to him that their captivity was the matter that *Tata* warned him not to tell the police. Delos Reyes did not consider it unusual to see a woman's hands tied.<sup>43</sup> Despite what was happening, he stayed in the house for one hour and merely sat on the floor near the door where the man and the woman were kept. He was also allowed to leave after one hour. He did not notice the persons inside the room except for the man and the woman. Even after *Tata* pointed a gun at him and he saw a woman tied, it did not occur to him after he left the place that something was wrong.<sup>44</sup>

In the appeal now before the Court, accused-appellant Delos Reyes reiterates his defense that the exempting circumstance of uncontrollable fear was present in his case while accused-appellants Licayan and Lara seek to overturn their conviction on the basis of the newly discovered evidence presented during their retrial.

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<sup>38</sup> Id. at 21-23.

<sup>39</sup> TSN, September 2, 2008, pp. 1-9.

<sup>40</sup> Id. at 11.

<sup>41</sup> Id. at 12.

<sup>42</sup> Id. at 16.

<sup>43</sup> Id. at 17.

<sup>44</sup> Id. at 18-25.

*mjr*

**Whether or not the exempting circumstance of uncontrollable fear should be considered in favor of Delos Reyes**

Delos Reyes, who was still at-large during the first trial, was found guilty at the conclusion of the retrial. The trial court held:

With respect to accused DELOS REYES, he did not refute the testimony of MR. CO that he was one (1) of his abductors who [was] seated at the middle portion of the Tamaraw FX and who demanded from him the key of said vehicle. Instead he admitted going to the house of Pedro Mabansag on August 10, 1998 accompanying a friend who would buy a fighting cock. According to DELOS REYES, after he asked permission from Pedro Mabansag, he entered his house to drink water, but he was met by a certain "TATA" and "JOJO" and they pointed a gun at him and he was told not to leave. He claimed that Tata Placio and his companion after poking a gun at him threatened him that they would kill him if he reports the matter to the police. He admitted that he saw two (2) persons inside the house near the kitchen and the woman was hand tied. After he arrived at the said safehouse at 3:00 p.m., of August 10, 1998, he was allowed to leave at 4:00 p.m., of said date. And after he left the safehouse, he admitted that he feels not anymore being threatened by the group of Tata Placio, but still he did not report what he witnessed in the house of Pedro Mabansag to the police authorities.

Said accused also claimed that when "TATA" and "JOJO" poked a gun at him and was told not to leave and not to report to the police, he acted under the "compulsion of an irresistible force, hence, one of the exempting circumstances under Article 12, paragraph 5 of the Revised Penal Code. The Court begs to disagree. DELOS REYES testified that even before August 10, 1998, he knows already TATA and JOJO because they went to the house of his Ninang together with Pedro Mabansag for three (3) times. Since they all know each other, then the court cannot comprehend why TATA and JOJO still need to poke a gun at DELOS REYES and threatened him. This is only a last ditch effort of said accused to deny any participation in the conspiracy in kidnapping the two (2) victims. As could clearly be gleaned from the testimony, DELOS REYES made inconsistent and improbable statements. The Court also observed the demeanor of said accused when he testified and he is obviously lying [through] his teeth. Manifest falsehood and discrepancies in the witnesses' testimony seriously impair their probative value and cast serious doubts on their credibility.<sup>45</sup>

The Court of Appeals affirmed these findings, adding that the testimony of Delos Reyes was self-serving and could not stand on its own to prove the elements of the exempting circumstance relied upon.<sup>46</sup> Before this Court, Delos Reyes again pursues that he is exempt from criminal liability based on Article 12 of the Revised Penal Code, which provides:

<sup>45</sup> RTC Decision, p. 48; CA *rollo*, p. 392.

<sup>46</sup> *Rollo*, pp. 35-39.

Art. 12. Circumstances which exempt from criminal liability. —  
The following are exempt from criminal liability:

x x x x

5. Any person who act under the compulsion of irresistible force.

Delos Reyes claims exemption from criminal liability under Article 12, paragraph 5 of the Revised Penal Code, because he allegedly acted under the compulsion of an irresistible force, specifically the fact that a co-accused, who is still at-large up to this date, pointed a gun at him. Delos Reyes has been invoking practically the same defense even before the trial: in his *Radio Veritas* interview by reporter Zony Esguerra, he insisted that “*wala akong kasalanan*” and that he was merely forced to guard the victims.<sup>47</sup>

In *People v. Dansal*,<sup>48</sup> this Court held that a person invoking the exempting circumstance of compulsion due to irresistible force admits in effect the commission of a punishable act, and must therefore prove the exempting circumstance by clear and convincing evidence. Specifically:

He must show that the irresistible force reduced him to a mere instrument that acted not only without will but also against his will. The compulsion must be of such character as to leave the accused no opportunity to defend himself or to escape.

The duress, force, fear or intimidation must be present, imminent and impending; and it must be of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done. A threat of future injury is not enough. A speculative, fanciful or remote fear, even fear of future injury, is insufficient.<sup>49</sup>

The appellate court did not err when it relied on the doctrine that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various *indicia* available but not reflected on the record. It is the trial judge that can capture the truth from the “forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch.”<sup>50</sup> In the case at bar, the trial court even expressly stated that it observed the demeanor of Delos Reyes when he testified and found that he is obviously lying through his teeth.<sup>51</sup> This is in contrast to the testimony of Co which the trial court described as very clear, positive and straightforward.<sup>52</sup>

Even without the advantage of being able to observe the demeanor of Delos Reyes, however, a mere examination of the transcript of his testimony

<sup>47</sup> Exhibit “5-D.”

<sup>48</sup> 341 Phil. 549 (1997).

<sup>49</sup> Id. at 566-567.

<sup>50</sup> *People v. Ramirez*, 409 Phil. 238, 245 (2001).

<sup>51</sup> CA *rollo*, p. 392.

<sup>52</sup> Id. at 381.

convinces us of the hesitation and untruthfulness of his testimony. Delos Reyes kept on changing details and correcting himself even without inducement from opposing counsel. The content of the testimony was itself incredible. This Court finds it hard to believe that a person who accidentally discovers kidnap victims would be held at gunpoint by the kidnapers to guard said victims; or that a mastermind of a kidnapping syndicate, instead of conducting his fighting cock selling activities in the regular meeting place, would invite a recent affiliate to the place where he is holding prisoners; or that Delos Reyes did not find it unusual to see a woman with her hands tied.

In all, we find no reason to doubt that Delos Reyes was part of the plan to abduct and detain Co and Manaysay.

**Whether or not Licayan and Lara should be acquitted based on purportedly newly discovered evidence**

The *pro hac vice* resolution of this Court on January 15, 2004 allows this Court an unusual, though not unprecedented,<sup>53</sup> task to revisit our own final and executory Decision. It should be stressed that a new trial based on newly discovered evidence may only be granted by the court on motion of the accused, or *motu proprio* with the consent of the accused “(a)t any time before a judgment of conviction becomes final.”<sup>54</sup> Furthermore, the affidavits of Mabansag and Delos Reyes cannot be considered newly discovered in that the affiants are the movants’ co-accused who were already identified as such during the trial.<sup>55</sup> Nevertheless, the Court, alluding to its power to suspend its own rules or to except a particular case from its operations whenever the purposes of justice require it,<sup>56</sup> and noting the support of the Office of the Solicitor General to Licayan and Lara’s motion, voted 8-6 to order the suspension of the Rules of Court itself and remand the case to the trial court for further reception of evidence.<sup>57</sup>

On June 24, 2006, more than two years after the *pro hac vice* Resolution of this Court, Republic Act No. 9346<sup>58</sup> was approved, irrevocably sparing Licayan and Lara from the severest and most permanent of penalties. In the meantime, both the RTC and the Court of Appeals were unmoved by the new evidence presented for the accused-appellants. Thus, for the second time, Licayan and Lara were convicted by the trial court and their appeals denied by the Court of Appeals.

<sup>53</sup> See *Echegaray v. Secretary of Justice*, 361 Phil. 73 (1999).

<sup>54</sup> RULES OF COURT, Rule 121, Section 1.

<sup>55</sup> Records, p. 391.

<sup>56</sup> *Abrajano v. Court of Appeals*, 397 Phil. 76, 93 (2000).

<sup>57</sup> Records, p. 392.

<sup>58</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

*mtw*



To put things in perspective, the *pro hac vice* Resolution expressly granted the effects of Rule 121, Section 6(b) of the Rules of Court, which provides:

SEC. 6. *Effects of granting a new trial or reconsideration.* — The effects of granting a new trial or reconsideration are the following:

X X X X

(b) When a new trial is granted on the ground of newly-discovered evidence, the evidence already adduced shall stand and the newly-discovered and such other evidence as the court may, in the interest of justice, allow to be introduced shall be taken and considered together with the evidence already in the record.

In general, the “new” evidence adduced in the second trial consists in (1) allegations that the identification of Licayan and Lara by Co and Manaysay was unreliable; (2) testimonies and affidavits of the recently apprehended Mabansag and Delos Reyes, both of whom allege that Licayan and Lara were not involved in the crime; and (3) testimonies purporting to establish that Lara was at work in Antipolo during the kidnapping incident.

While the second trial was meant to give Licayan and Lara the opportunity to present newly-discovered evidence that were not available during the first trial, the focus of their defense was to show that the identification made by the victims was unreliable. Licayan was recalled to the witness stand to testify that in the police line-up, he was identified by Co by pointing at his and Lara’s feet. Licayan emphasizes that Co did not mention any specific identifying mark on their feet, and that he heard Co say that whenever anybody enters the room in the safehouse, he looks at their feet. Likewise, when Co was recalled to the witness stand to testify as regards the participation of Delos Reyes in the crime, the cross-examination concentrated on trying to establish that Co was not certain about the identity of Licayan and Lara. This Court observes that the defense was not successful in doing so as borne out by the following portions of the transcript:

ATTY AREZA

Q But the reason why you were pointing to the feet of the accused was to assure yourself about the footwear they were wearing, that was the reason you were pointing to their feet and not to their faces?

A I was positive with their faces, sir. The feet I was more assured of their identities when I saw their feet.

COURT

Q You already identified them through their faces?

A Yes, your honor.

*MM*

Q You told the investigator?

A Yes, your honor.

Q As a support to their identification you pointed to their feet?

A Can I say something Your Honor. On the second day, there was a time that they would come and enter the room with their faces covered, but there are times that they would forget to cover their faces so I was able to identify them, that is the reason why I took an extra effort in remembering their feet and what they were wearing. Your Honor.

ATTY AREZA:

Q What you are trying to say is that you are 100% sure of their identities and you were more assured by looking at their feet?

PROSECUTOR GAPUZAN:

Misleading. There was no testimony that the witness...

COURT

Witness may answer.

A I am sure with their faces. I was able to talk to them face to face, sir. I was more assured when I saw their feet, sir.<sup>59</sup>

Even though Co was able to positively identify Licayan and Lara through their faces, prudence requires that he at least check on the other details from his captivity to identify his abductors. His certainty is not negated by his meticulousity.

The defense brings up several instances of supposed inconsistencies in Co's testimony, apparently to prove that Co's memory was unreliable: (1) that Co was uncertain as to whether or not Licayan was among the armed men who abducted them; (2) that Co was inconsistent as to who asked for the keys to his Tamaraw FX, which was used to transport them; (3) that Co inaccurately described in his affidavit what Mabansag looks like and omitted that he was a double arm amputee; (4) that Co saw a family picture of Lara in the safehouse which might have been the basis of his identification of Lara; and (5) that Co corrected himself about whether there was light in the room where he and Manaysay were held captive.

We have, on numerous occasions, held that discrepancies in testimonies concerning minor details and not actually touching upon the central fact of the crime do not impair their credibility. Instead of weakening the testimonies, these inconsistencies tend to strengthen their credibility, because they discount the possibility of their being rehearsed.<sup>60</sup>

<sup>59</sup> TSN, September 18, 2006, pp. 82-84.

<sup>60</sup> *People v. Bagaua*, 442 Phil. 245, 255 (2002).

*mk*

While Co may have been uncertain as to whether Licayan was among the armed men who abducted him and Manaysay, he nevertheless positively identified Licayan as the person with medium built, fair complexion and thin hairline whom he talked with regarding the ransom, and who fell asleep in the afternoon of August 11, 1998, allowing them to escape.<sup>61</sup> Manaysay also identified Licayan as one of the persons she saw upon arriving at the safehouse,<sup>62</sup> as the person who removed the masking tape from her eyes,<sup>63</sup> and the person guarding them who fell asleep, allowing them to escape.<sup>64</sup>

Co and Manaysay had no reason to lie. We find it hard to believe that Co and Manaysay, the victims of a heinous crime, would use the picture of Lara at the safehouse and make up the following statements just to pin an innocent person for an offense he did not commit. Co identified Lara as the short, tiny black man who guarded them shortly after they arrived at the safehouse and brought the plastic container for Manaysay,<sup>65</sup> the guard with whom he tried to plead with for their lives but who told them that he was just following orders, and refused the money that Manaysay managed to keep to herself during their captivity.<sup>66</sup> Manaysay identified Lara as one of the persons she saw upon arriving at the safehouse,<sup>67</sup> and as the one who guarded them shortly after they arrived at the safehouse, who gave her a plastic container, and with whom Co pleaded with to help them escape.<sup>68</sup>

It bears to stress that both Co and Manaysay had several opportunities to see the faces of Lara and Licayan. Co and Manaysay each identified Lara and Licayan *in both the police line-up and the trial proper in open court*. In the line-up, they were chosen from a group of 10 persons, the other members of which have appearances that do not offer any clue that differentiate them from Lara and Licayan.<sup>69</sup>

As regards Co's allegedly faulty identification of Mabansag in his affidavit,<sup>70</sup> wherein he described Mabansag as "*matangkad at medyo matanda na ang tawag nila ay Putol*"<sup>71</sup> it was clear that Co was merely being asked to describe in general the persons he saw during his captivity: "*Doon sa bahay na sinabi mong pinagdalan sa inyo mayroon ka bang napansin na ibang tao doon maliban sa limang tao na tumangay sa inyo?*"<sup>72</sup> We examined Mabansag's picture in the records<sup>73</sup> and observe that even in said picture, Mabansag's allegedly short stature and his being an amputee was not immediately apparent because of what appears to be a jacket he was

<sup>61</sup> TSN, June 2, 1999, pp. 109-110.

<sup>62</sup> TSN, June 7, 1999, p. 32.

<sup>63</sup> Id. at 34.

<sup>64</sup> Id. at 61.

<sup>65</sup> TSN, June 2, 1999, pp. 46-56.

<sup>66</sup> Id. at 61-65.

<sup>67</sup> TSN, June 7, 1999, p. 32.

<sup>68</sup> Id. at 36-44.

<sup>69</sup> Folder of Documentary Exhibits, Folder 2, pp. 6-19.

<sup>70</sup> Id. at 2-3.

<sup>71</sup> Id. at 2.

<sup>72</sup> Id.

<sup>73</sup> Id. at 26.

AMR

wearing. If he was wearing similar clothes at the time Co saw him, it is very possible that he simply did not notice Mabansag's handicap.

The new evidence alluded to by this Court in its *pro hac vice* resolution to grant a new trial was supposed to be the testimonies of the then recently captured Mabansag and Delos Reyes, who both denied that Licayan and Lara participated in the crime. The statements of Mabansag and Delos Reyes, however, would have been given more weight had they personally admitted their own involvement in the crime. As testified by Msgr. Olaguer, witness for the defense, Mabansag stated in his interview with Gus Abelgas that he (Mabansag) does not know anything about the kidnapping.<sup>74</sup> We cannot give weight to his denial that Licayan and Lara participated in the crime if he, himself, claims that he does not know anything about the kidnapping. On the other hand, Delos Reyes swears that he was merely forced at gunpoint to guard the victims, and was at the scene of the crime only from 3:00 p.m. to 4:00 p.m. of August 10, 1998.<sup>75</sup> Delos Reyes claims that Lara was not in the safehouse, while Licayan just happened to pass by.<sup>76</sup> Co and Manaysay, however, placed Lara at the scene of the crime in the early morning of August 10, 1998,<sup>77</sup> making the testimony as regards his absence from 3:00 p.m. to 4:00 p.m. of same day irrelevant. Licayan, on the other hand, denies having been in the safehouse on August 10 and 11, 1999, and claims that he was at home in San Mateo, Rizal.<sup>78</sup> The testimony of Delos Reyes that Licayan passed by the safehouse sometime from 3:00 p.m. to 4:00 p.m. was therefore even unintentionally inculcating as to Licayan.

Finally, with respect to Lara's witnesses, namely co-worker Abelardo Ramirez and employer Florencia Lavarro Salvador, their combined testimonies account for Lara's whereabouts during the following dates and times:

August 9, 1998 (Sunday) – from 7:00 a.m. to 5:00 p.m.

August 10, 1998 (Monday) – from 7:00 a.m. to 5:00 p.m.

August 11, 1998 (Tuesday) – from 8:00 a.m. to 6:00 p.m.

Co<sup>79</sup> and Manaysay,<sup>80</sup> however, testified that Lara was at the scene of the crime during the early morning of August 10, 1998, which was shortly after they were abducted at 1:30 a.m. of the same day. We have repeatedly held that for alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed; he must also demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission.<sup>81</sup> Ramirez's house, where he was

<sup>74</sup> TSN, January 29, 2007, pp. 28-29.

<sup>75</sup> TSN, August 5, 2008, pp. 1-10; 19-21.

<sup>76</sup> Id. at 21-23.

<sup>77</sup> TSN, June 2, 1999, pp. 46-56; TSN, June 7, 1999, p. 32.

<sup>78</sup> TSN, June 23, 1999, pp. 37-40.

<sup>79</sup> TSN, June 2, 1999, pp. 46-56.

<sup>80</sup> TSN, June 7, 1999, p. 32.

<sup>81</sup> *People v. Enriquez, Jr.*, G.R. No. 158797, July 29, 2005, 465 SCRA 407, 417.

*mm*

fetched by Lara at 7:00 a.m. on August 10, 1998 is at Daang Bakal, Bagong Silang, Parang, Marikina – the very same area where the safehouse was located. It was certainly not physically impossible for Lara to have been at the scene of the crime at around 2:00 a.m. of August 10, 1998 and still be able to arrive at Ramirez's house within the same vicinity at 7:00 a.m. Furthermore, on both August 10 and 11, Ramirez testified that he and Lara parted ways on Kaolin Street, which was the very same street Co and Manaysay ran to when they escaped from the safehouse.<sup>82</sup>

In sum, the new evidence presented by Licayan and Lara not only failed to prove that either of them was in another place during their alleged participation in the kidnapping of Co and Manaysay, but likewise failed to discredit the positive identification made by both Co and Manaysay.

**Criminal and Civil Liability for  
Delos Reyes, Licayan and Lara**

The guilt of Delos Reyes, Licayan and Lara for the crime of Kidnapping for Ransom, having been proven beyond reasonable doubt, would have warranted the imposition of the death penalty under Article 267 of the Revised Penal Code. With the passage, however, of Republic Act No. 9346, the imposition of the death penalty has been prohibited. The RTC thus correctly imposed the penalty of *reclusion perpetua* on Delos Reyes, Licayan and Lara.

Nevertheless, we have to modify the amount of damages to be awarded to conform to recent jurisprudence. In the similar case of *People v. Gamba*<sup>83</sup> for Kidnapping for Ransom, the Court set the minimum indemnity and damages where facts warranted the imposition of the death penalty if not for prohibition thereof by Republic Act No. 9346, to wit: (1) ₱100,000.00 as civil indemnity; (2) ₱100,000.00 as moral damages which the victim is assumed to have suffered and thus needs no proof; and (3) ₱100,000.00 as exemplary damages to set an example for the public good.

Licayan, Lara and Delos Reyes are jointly and severally liable for these amounts awarded in favor of each of the victims. These amounts shall accrue interest at the rate of six percent (6%) per annum from the date of the finality of the Court's Resolution until fully paid.

**WHEREFORE**, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03797 dated July 4, 2012, which affirmed *in toto* the disposition of the Regional Trial Court of Marikina in Criminal Case No. 98-2605-MK and 98-2606-MK dated February 17, 2009, is hereby **AFFIRMED** with the following **MODIFICATIONS**:

<sup>82</sup> TSN, June 2, 1999, p. 118.

<sup>83</sup> G.R. No. 172707, October 1, 2013, 706 SCRA 508, 533.


*mm*

(1) Roderick Licayan, Roberto Lara and Rogelio Delos Reyes are hereby sentenced to suffer the penalty of *reclusion perpetua*. They are also ordered to jointly and severally indemnify each of the victims in the following amounts:


- (a) ₱100,000.00 as civil indemnity;
- (b) ₱100,000.00 as moral damages; and
- (c) ₱100,000.00 as exemplary damages,

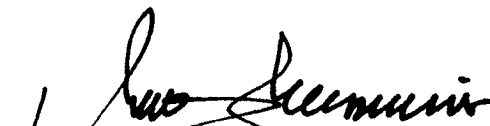
(2) All of these amounts shall earn interest at the rate of six percent (6%) per annum from the date of the finality of the Court's Resolution until fully paid.


**SO ORDERED.**

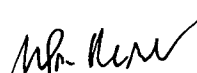
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson, First Division

WE CONCUR:

  
**DIOSDADO M. PERALTA**  
Associate Justice


  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
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