

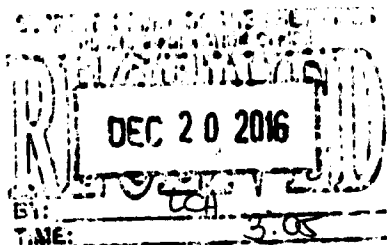
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Wilfredo V. Laptan
WILFREDO V. LAPATAN
Division Clerk of Court
Third Division

DEC 19 2016



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 210434

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
DEL CASTILLO,*
PEREZ, and
REYES, JJ.

CHRISTOPHER ELIZALDE y
SUMAGDON and ALLAN
PLACENTE y BUSIO,
Accused-Appellants.

Promulgated:

December 5, 2016

x-----*Wilfredo V. Laptan*-----x

DECISION

PERALTA, J.:

Before the Court is an appeal from the Decision¹ dated May 31, 2013 of the Court Appeals (CA) in CA-G.R. CR-HC No. 05100, which affirmed the Decision² dated March 4, 2011 of the Regional Trial Court (RTC), Branch 195, Parañaque City, in Criminal Case No. 05-0669 for kidnapping for ransom with homicide.

The antecedent facts are as follows:

On June 3, 2005, an Information³ was filed against accused-appellants Christopher Elizalde y Sumagdon and Allan Placente y Busio, together with their co-accused Arcel Lucban y Lindero, Allan Dela Peña, Alden Diaz, and

* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 22, 2014.

¹ Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Remedios A. Salazar-Fernando and Zenaida T. Galapate-Laguilles concurring; *rollo*, pp. 2-25.

² Penned by Judge Aida Estrella Macapagal; CA *rollo*, pp. 28-43.

³ *Rollo*, p. 3.

alias Erwin, charging them with the special complex crime of kidnapping for ransom with homicide as defined and penalized under Article 267 of the Revised Penal Code (*RPC*) for detaining and depriving, with the use of firearms and threats, Letty Tan y Co of her liberty and against her will, for the purpose of extorting a ₱20,000,000.00 ransom as a condition for her release, by shoving her inside a red Toyota Lite Ace van, then later transferring her to a jeepney where she was eventually found dead with gunshot wounds after an armed encounter with police operatives. The accusatory portion of said Information reads:

That on or about 6:30 in the evening of June 17, 2003 on Dr. A. Santos St., Sucat Road, Paranaque City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually aiding and abetting one another, with the use of firearms, employing force, threat, and intimidation did then and there, wilfully, unlawfully, and feloniously take, carry away, kidnap and deprive Letty Tan y Co of her liberty against her will by shoving her inside a red Toyota Lite Ace van with plate number ULK 341 at gunpoint and thereafter transferred her to a Mazda XLT jitney bearing plate number CRV-299 where said victim was later found with gunshot wounds which caused her death engaging in armed encounter with police operatives in Tarlac City. The abduction of Letty Tan y Co was for the purpose of extorting ransom from her family as in fact a demand for ransom was made as a condition for her release amounting to Twenty Million Pesos (₱20,000,000.00) to the damage and prejudice of the heirs of said Letty Tan y Co in whatever amount may be awarded them under the provisions of the New Civil Code.

Contrary to law.⁴

Only appellants Elizalde and Placente as well as Dela Pena were arrested while the rest remain at-large. Upon arraignment, they all pleaded not guilty to the offense charged.⁵ Thereafter, during trial, the prosecution presented the testimonies of the victim's husband, Antonio Tan, an eyewitness, Mario Ramos, and several police officers, namely, PO3 Nestor Acebuche, Police Inspector Joselito Nelmidia, Dr. Ronaldo B. Mendez, Kagawad Honorio Ramos Lundang, and SPO2 Miguel Acosta.⁶

Antonio testified that at around 6:30 p.m. on June 17, 2003, while he was closing their concrete products store, Nysan Concrete Products, along Dr. A. Santos Avenue, Sucat, Parañaque City, Letty went inside their vehicle that was parked at the right side of the road facing their store. Suddenly, a red Toyota Lite Ace van with plate number ULK 341 arrived. He then saw about seven (7) armed men alight therefrom, three (3) of which pointed their guns at him and told him not to move, while two (2) of the other four (4) dragged Letty into their van. Thereafter, they sped away. Antonio immediately called his children and his brother, Nick. In a series of

⁴ CA rollo, pp. 28-29.

⁵ Rollo, p. 4.

⁶ *Id.* at 4-5.



telephone calls to the store's phone, the kidnappers told them not to report the matter to the authorities and to be ready with ₱20M the following day. Nevertheless, they called the Police Anti-Crime and Emergency Response (PACER) unit of the PNP who met them at the Mandarin Oriental Hotel at around 9:00 p.m. that same day. Through Antonio's cellular phone, they would bargain with the kidnappers, telling them that they did not have the amount, to which the kidnappers replied that they will not see Letty again without it. At noon of the next day, the PACER team informed Antonio and his family about a shootout in Tarlac where three (3) persons were killed. They proceeded to the Tarlac Provincial Hall where they saw Letty's lifeless body with a gunshot below her chin. Antonio identified the other bodies as those who kidnapped his wife and later learned that the others, appellants included, were able to escape.⁷

Sometime in April 2004, however, Antonio saw a news report on TV which showed a picture of a wounded person involved in a shooting incident in Navotas. He instantly recognized said person as appellant Elizalde and called a PACER agent to inform him thereof. Consequently, together with the PACER team, he went to V. Luna Hospital where Elizalde was confined and identified him as one of the men who dragged his wife into the red van.⁸

A few years after, when appellant Placente was arrested in 2007, Antonio identified him as one of the armed persons who poked a gun at him while the others dragged his wife. This was through the cartographic sketches that the PACER team drew at the time of the incident. Antonio also identified Placente, who was apparently also involved in the April 2004 kidnapping, when he was shown several photos of suspects from PACER's gallery. According to Antonio, he easily recognized appellants for they were all not wearing masks at the time of the incident.⁹

Prosecution witness P/Insp. Nelmda, who had been stationed at the Intelligence Unit of the Police Non-Commissioned Office (PNCO) Tarlac City for sixteen (16) years, likewise testified that in the morning of June 18, 2003, he received information that a stolen red Toyota Light Ace van would be passing their area. Two (2) police cars were dispatched. Aboard one (1) of the two (2) cars, Nelmda and his team tailed the red van after seeing it pass through their control point. Upon seeing both police cars, the passengers of the red van alighted and fired at Nelmda and the other police officers. A shootout ensued during which a colorless jeepney passed by and likewise fired at the police. Nelmda recalled being shot at the buttocks by appellant Elizalde, who was riding the jeepney. He further recalled that after



⁷ *Id.* at 5-8.

⁸ *Id.* at 8.

⁹ *Id.* at 8-9.

the shootout, the jeepney passengers eventually dumped said vehicle near a bridge along Sitio Barbon, Tarlac, wherein he saw Letty's lifeless body.¹⁰

P/Insp. Nelmidia's testimony was corroborated by Mario Ramos who narrated that at around noon on June 18, 2003, while he was walking towards Sitio Barbon with his friend to go fishing, he saw a colorless jeepney crisscrossing along the road. After passing through fifteen (15) meters from where they were standing, the jeepney stopped. He then heard three (3) gunshots from inside it. Thereafter, he saw four (4) armed persons alight therefrom to head towards the irrigation area. He recalled appellant Elizalde being the last person to alight the jeepney. When the door of the vehicle opened, he saw the dead body of a fat, fair-skinned Chinese woman with a bullet hole in her head, her clothes ripped apart. When the police officers arrived at the scene, Ramos and his friend left.¹¹

The defense countered by presenting the testimonies of appellants, Technical Sergeant Ortillano, who prepared appellant Elizalde's clinical records, and a certain Nilo Avelina.¹²

Appellant Elizalde denied the charges against him, claiming that he did not know Antonio, Letty or any of his co-accused.¹³ According to him, he went to Manila for the first time on April 15, 2003 from Samar, where he was working in a bakery, to look for his mother. He lived with his cousin in Sta. Cruz, Manila. On the day of the alleged kidnapping on June 17, 2003, Elizalde testified that he was in Blumentritt, Manila, selling boiled peanuts in a pushcart from 7:00 a.m. to 3:00 p.m. Afterwards, he went straight home for fear of getting lost, being in Manila for the first time.¹⁴

Almost a year thereafter, on April 1, 2004, Elizalde narrated that another one of his cousins visited him at home and promised that he would help him find a job. They then boarded a small red vehicle with three (3) other persons he did not know. Elizalde asked his cousin who said persons were and where they were going but his cousin would not tell him. After an hour, he was surprised to hear gunshots. He was hit at the right portion of his chest below the naval and thereafter lost consciousness. When he woke up, he was already at the V. Luna Hospital and learned that he was the only one who had survived. He recounted that after a week thereat, several police officers came with a man in handcuffs he later came to know as Nilo Avelina. According to Elizalde, the police officers forced Avelina to point at him as one of the perpetrators in a kidnapping case in Quezon City, even if Avelina did not know who he was. A week after, a different set of police officers came and forced him to admit to being involved in said case, which

¹⁰ *Id.* at 9.
¹¹ *Id.* at 10.
¹² *Id.*
¹³ *Id.*
¹⁴ *Id.* at 11.



he succumbed to even if he had no knowledge thereon for fear of what said officers might do to him. The Quezon City RTC eventually convicted Elizalde and Avelina for kidnapping. Meanwhile, several police officers came to inform him that he was going to be brought to Tarlac to face Frustrated Murder and Carnapping charges against him. He was convicted by the Tarlac RTC of Frustrated Murder, but was subsequently acquitted on appeal. Thereafter, he was again informed of another case, this time, on the instant Kidnapping for Ransom with Homicide accusation.¹⁵

During trial, the defense also presented Avelina to corroborate appellant Elizalde's testimony as to the latter's claim that the former pointed to him as co-kidnapper in the Q.C. case even if Avelina did not know who he was and merely because he was told that he would be freed if he did as he was told.¹⁶

In addition, appellant Placente next testified and also denied knowing any of his co-accused as well as the accusations against him. According to Placente, he came to Manila in 1982 from Samar. On the alleged day and time of the kidnapping, he was merely working, driving a tricycle owned by his neighbor on his way to the market in Pasig City. His job normally ends at 8:00 p.m., and on that day, he claimed that he did not go anywhere other than his daily route. Thereafter, he parked the tricycle in front of his neighbor's house and returned the key, as he normally did. In August 2003, he began driving a taxi. In 2005, however, he went back to Samar with his pregnant wife and his son so that his wife can give birth there. He worked as a laborer and a farmer until he was arrested on May 9, 2007.¹⁷

On March 4, 2011, the RTC found appellants guilty beyond reasonable doubt of the special complex crime of kidnapping for ransom with homicide and rendered its Decision, the dispositive portion of which reads:

WHEREFORE, this Court finds both accused CHRISTOPHER ELIZALDE Y SUMAGDON AND ALLAN BUSIO PLACENTE, GUILTY BEYOND REASONABLE DOUBT of the special complex crime of KIDNAPPING FOR RANSOM WITH HOMICIDE and hereby sentences them to suffer the penalty of Reclusion Perpetua without eligibility for parole.

Accused Elizalde and Placente are likewise ordered to pay the heirs of Letty Tan y Co the following: ₱75,000.00 as civil indemnity; ₱500,000.00 as moral damages; ₱25,000.00 as temperate damages; and ₱100,000.00 as exemplary damages.



¹⁵ *Id.* at 11-13.

¹⁶ *Id.* at 13-14.

¹⁷ *Id.* 14-15.

As regards accused ALLAN DELA PEÑA, for failure of the prosecution to prove his guilt beyond reasonable doubt, he is hereby ordered ACQUITTED. The City Jail Warden of Parañaque City is hereby ordered to release said accused from his custody unless he is being held for some other legal cause/s.

With respect to accused Arcel Lucban y Lindero @ Nonoy, Alden Diaz and one Alias Erwin, the instant case is hereby ordered ARCHIVED. Let Alias Warrants of Arrest be issued against them.

SO ORDERED.¹⁸

The RTC gave credence not only to the fact that the prosecution witnesses testified in a positive, categorical, unequivocal and straightforward manner, but also to the inherent weakness of appellants' defenses of denial and alibi. According to the trial court, the prosecution duly established all the following elements of the crime of kidnapping for ransom: (a) intent on the part of the accused to deprive the victim of his liberty; (b) actual deprivation of the victim of his liberty; and (c) motive of the accused, which is extorting ransom for the release of the victim.¹⁹ Antonio, in positively identifying the appellants, convincingly testified on the events that transpired on the day of the alleged incident. Said testimony was even strengthened by the testimonies of the other prosecution witnesses, especially in light of the fact that there exists no showing that said witnesses were impelled with improper and ill motive.²⁰

Aside from this, the trial court further noted that the appellants' defense of denial was not even corroborated by any credible witness. Elizalde's testimony that he was just selling peanuts, as well as Placente's testimony that he was merely driving his neighbor's tricycle, are self-serving statements unsupported by any substantiating evidence. Elizalde's cousin or Placente's neighbor could have been presented to corroborate their claims. The defense, however, failed to do so. Moreover, Avelina's testimony that he was forced by policemen to point at appellant Elizalde as one of his cohorts in the kidnapping case in Quezon City, even if true, has no bearing in this case simply because it was an entirely different case.²¹ Thus, in view of the clarity of the prosecution's version of events, the trial court found the presence of conspiracy shown by Placente's act of poking a gun at Antonio, while Elizalde and their cohorts dragged Letty into the van.²²

On appeal, the CA affirmed the RTC Decision, but reduced the moral damages to ₱100,000.00. The CA ruled that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great weight and respect. On the one

¹⁸ CA rollo, pp. 42-43.

¹⁹ *Id.* at 39-40.

²⁰ *Id.* at 40.

²¹ *Id.* 39.

²² *Id.* at 41.

hand, the prosecution witnesses unerringly established the crime in a clear and candid manner, positively identifying appellants as Letty's abductors. The argument that Antonio's testimony contains inconsistencies is inconsequential for they merely refer to minor details which actually serves to strengthen rather than weaken his credibility as they erase suspicion of being rehearsed.²³ On the other hand, the appellate court ruled that appellants' defense cannot prosper having failed to prove that they were at some other place at the time when the crime was committed and that it was physically impossible for them to be at the *locus criminis* at the time.²⁴ Appellants merely alleged their bare alibis of selling peanuts and driving a tricycle without even attempting to present any credible witness that could corroborate the same.²⁵

In this regard, the CA agreed with the RTC as to the existence of conspiracy among appellants and their cohorts. Their community of criminal design could be inferred from their arrival at Antonio's store already armed with weapons, Placente and companions pointing their guns at Antonio, while Elizalde and companions dragged Letty into their van. Moreover, they demanded ₱20M for Letty's freedom which never materialized as she was killed during captivity by the kidnappers before evading arrest. Thus, having been proven that they each took part in the accomplishment of their common criminal design, appellants are equally liable for the complex crime of kidnapping for ransom with homicide.²⁶

Consequently, appellant filed a Notice of Appeal²⁷ on June 25, 2013. Thereafter, in a Resolution²⁸ dated February 26, 2014, the Court notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties, however, manifested that they are adopting their respective briefs filed before the CA as their supplemental briefs, their issues and arguments having been thoroughly discussed therein. Thus, the case was deemed submitted for decision.

In their Brief, appellants essentially assigned the following error:

I.

THE COURT OF APPEALS ERRED IN FINDING ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED BY GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE.²⁹



²³ *Rollo*, p. 20.
²⁴ *Id.* at 21.
²⁵ *Id.* at 22.
²⁶ *Id.* at 22-23.
²⁷ *Id.* at 26.
²⁸ *Id.* at 32.
²⁹ CA *rollo*, p. 67.

Appellants argue that the positive identification made by the prosecution witnesses should not be given any weight and credence. This is because Antonio only recognized appellant Elizalde on television in April 2004, or ten (10) months after the incident. In fact, a day after the incident, no cartographic sketch was made of Elizalde. Thus, if Antonio could not describe Elizalde's physical appearance a day after the incident, it would be highly incredible that he would be able to identify his wife's abductors ten (10) months after. This lapse of time would definitely affect his memory. In addition, Antonio's identification of Elizalde at the hospital was marked by suggestiveness for he was already informed beforehand that Elizalde was involved in the instant kidnapping. Thus, Antonio was inclined to point to just anybody. Appellants also raise inconsistencies in Antonio's testimonies as to the time his family left Mandarin Hotel, the number of PACER people who met them there, the exact number of his wife's abductors, and such other factual circumstances that cast doubt on his credibility. Thus, while it is true that alibi is a weak defense, the prosecution cannot profit therefrom, but on the strength of its own evidence. Finally, appellants assert that there is no showing that they were informed of their constitutional rights at the time of their arrest. Consequently, the entire proceedings are a nullity.

We affirm appellants' conviction, with modification as to the award of damages.

Time and again, the Court has held that the question of credibility of witnesses is primarily for the trial court to determine.³⁰ Its assessment of the credibility of a witness is conclusive, binding, and entitled to great weight, unless shown to be tainted with arbitrariness or unless, through oversight, some fact or circumstance of weight and influence has not been considered.³¹ Absent any showing that the trial judge acted arbitrarily, or overlooked, misunderstood, or misapplied some facts or circumstances of weight which would affect the result of the case, his assessment of the credibility of witnesses deserves high respect by the appellate court.³²

After a careful review of the records, the Court finds no cogent reason to overturn the trial court's ruling, as affirmed by the appellate court, finding the prosecution witnesses' testimonies credible. According to the lower courts, the prosecution witnesses testified in a categorical and straightforward manner, positively identifying appellants as part of the group who kidnapped the victim. Particularly, Antonio unmistakably and convincingly narrated, in detail, the series of events that transpired on the day of the incident from the moment he saw appellants alight from their red van, who thereafter split up into two (2) groups, one, pointing guns at him, and the other, dragging his wife to their van, up until the time when they successfully boarded said vehicle before speeding away. In fact, he easily

³⁰ *People v. Dionaldo*, G.R. No. 207949, July 23, 2014, 731 SCRA 68, 76.

³¹ *Id.*

³² *Id.*



recognized appellants from the photographs in the PACER gallery for all throughout the incident, their faces remained visible, uncovered by any sort of mask. We quote the pertinent portions of his testimony, thus:

Q: Did you recognize any of the persons or the pictures in the photo gallery of PACER?

A: Yes, sir.

Q: Do you know the names of these persons whom you recognized there in the photo gallery of PACER?

A: The face I can recall but the name I can no longer remember, sir.

Q: And would you be able to tell if it's the same person just by looking on the cartographic sketch?

A: Yes, sir.

Q: I'm showing you the prosecution's EXHIBITS "D", "E" and "F", Mr. Witness, can you tell us if the persons depicted therein are the same ones you are referring to?

A: Yes sir, these are the pictures of the persons I identified when I was brought to the photo gallery of PACER.

QUESTIONS FROM THE COURT:

Q: What is the relation of these pictures to those persons who kidnapped your wife (EXHIBITS "D", "E", and "F")?

A: **The people in these pictures, your Honor, were the ones who pointed at me.**

Q: **Pointed what?**

A: **They were the ones who poked a gun on me.**

Q: **Those three persons?**

A: **Yes, your Honor.**

x x x x

Q: **Mr. Witness, after you were shown scanned photographs of the other suspects and these are EXHIBITS "D" for the picture of Arcel Lucban; EXHIBIT "E" for the picture of Allan Dela Pena and EXHIBIT "E" for the picture of Allan Placente, you mentioned that they were the ones who came up to you and pointed their guns at you. Now, Mr. Witness, how about accused Christopher Elizalde, what did he do during the abduction of your wife?**

A: **He was one of the two persons who pulled out my wife from the vehicle, sir.**

COURT:

Q: **From which vehicle?**

A: **Our car, your Honor.**³³

³³ CA rollo, pp. 132-133. (Emphasis ours)

In addition, such testimony was duly corroborated and further strengthened by other prosecution witnesses, such as P/Insp. Nelmidia, who was personally engaged in the shootout and whose buttocks were even shot by appellant Elizalde, as well as Mario Ramos, who personally saw appellants alight from the jeepney where he eventually saw the lifeless body of the victim. The Court cannot, therefore, turn a blind eye to the probative value of the testimonies of the prosecution witnesses, consistent with each other, given in the absence of any showing of ill motive.

This is especially so when, as noted by the trial court, the appellants' defenses of alibi and denial were not even corroborated by any credible witness. Well settled is the rule that alibi and denial are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused. It is only axiomatic that positive testimony prevails over negative testimony.³⁴ In the instant case, it seems as if appellants urge Us to accept – hook, line, and sinker – their self-serving statements that Elizalde was merely selling peanuts while Placente was simply driving his neighbor's tricycle without even attempting to corroborate the same with any supporting evidence. As aptly pointed out by the RTC, Elizalde's cousin or Placente's neighbor could have been presented to substantiate their stories. Regrettably, appellants failed to convince.

Neither is the Court persuaded by appellants' assertions in their appeal in view of the CA's refutations thereof. Contrary to appellants' argument that Antonio's positive identification of Elizalde should not be given credence due to the fact that Antonio only recognized Elizalde on television in April 2004 and that the day after the incident, no cartographic sketch was made, the CA held that Antonio actually identified Elizalde as his wife's abductor twice prior to confirming his identity in the hospital.³⁵ The day after the incident, Antonio recognized Elizalde from four (4) cartographic sketches based on the descriptions given by Antonio. Thus, appellants' claim that there was no cartographic sketch of Elizalde made after the crime has no basis. Thereafter, Antonio again recognized Elizalde on television prompting him to immediately call the PACER agents. Verily, the Court cannot give credence to appellants' assertion that Elizalde's identification at the hospital was marked by suggestiveness for as clearly narrated, it was Antonio who first recognized Elizalde on television and who instantly contacted the PACER agents, not the other way around. Antonio categorically testified, viz.:

Q: Mr. Witness, after this incident on June 17, 2003, what, if any, incident took place which is related to the abduction of your wife?

A: **While I was watching TV sir in April 2004, I saw a news item regarding a shooting incident I saw in Navotas.**

³⁴ *People v. Torres, et al.*, G.R. No. 189850, September 22, 2014, 735 SCRA 687, 704.

³⁵ *Rollo*, p. 20.

Q: And what about that footage you saw?

A: When a picture of a wounded person from the shooting incident in Navotas was flashed on the screen, I recall that that person was one of the persons who kidnapped my wife, sir.

Q: And what, if any, did you do about it, Mr. Witness?

A: I immediately called up PACER, sir.

Q: And what did the PACER do, if any?

COURT: No. Why did you call the PACER?

A: I told the agent of the PACER that the person I saw on TV was one of the persons who kidnapped my wife, your honor.

Q: Was that person whom you saw on TV one of those who were shot during that encounter in Navotas?

A: Yes, your honor.

COURT: Proceed.

PROS. MARAYA:

Q: What, if any, did PACER do after you informed them that you recognized one of the persons who were shot in that encounter in Navotas?

A: We decided to go personally to the person I identified on TV to personally identify, sir.

QUESTIONS FROM THE COURT:

Q: So you went to Navotas?

A: No, your honor.

Q: Where did you go after calling the PACER?

A: We went to the hospital, your Honor.

Q: What hospital?

A: V. Mapa hospital, your Honor.

Q: Did you see the person whom you said you have identified as one of the kidnappers of your wife [in] that hospital?

A: Yes, your Honor.³⁶

With respect to the contention that Antonio's testimony contains inconsistencies, the Court agrees with the appellate court when it ruled that the so-called inconsistencies are inconsequential for they merely refer to minor details which actually serve to strengthen rather than weaken his credibility as they erase suspicion of being rehearsed. This is so because what really prevails is the consistency of the testimonies of the witnesses in relating the principal occurrence and positive identification of the appellants.³⁷ As for the alleged nullity of the proceedings due to the absence

³⁶ CA rollo, pp. 137-138. (Emphasis ours)

³⁷ *People v. Montanir, et al.*, 662 Phil. 535, 552 (2011).

of any showing that the police officers informed appellants of their constitutional rights, the Court sustains the CA's ruling that even assuming said failure to inform, the same is immaterial considering that no admission or confession was elicited from them.³⁸ As previously discussed, their guilt was established by the strength of the prosecution witnesses' testimonies.

In view of the foregoing, the Court sustains the findings of the trial court, as positively affirmed by the appellate court, insofar as the existence of conspiracy is concerned. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.³⁹ When conspiracy is established, the responsibility of the conspirators is collective, not individual, rendering all of them equally liable regardless of the extent of their respective participations.⁴⁰ Accordingly, direct proof is not essential to establish conspiracy, as it can be presumed from and proven by the acts of the accused pointing to a joint purpose, design, concerted action, and community of interests.⁴¹ As aptly held by the CA, the community of criminal design by the appellants and their cohorts is evident as they each played a role in the commission of the crime. While appellant Placente and companions pointed their guns at Antonio, Elizalde and companions simultaneously dragged Letty into their van. Thereafter, they demanded ransom money as a condition for her release, which, however, never materialized due to a shootout that sadly led to her death. Consequently, therefore, appellants are equally liable for the crime charged herein.

In this respect, Article 267 of the Revised Penal Code as amended by Republic Act (RA) No. 7659, provides:

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

³⁸ Rollo, pp. 23-24.

³⁹ *People v. Dionaldo*, *supra* note 30, at 77.

⁴⁰ *Id.*

⁴¹ *Id.*



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.⁴²

Accordingly, in *People v. Mercado*,⁴³ the Court explained that when the person kidnapped is killed in the course of the detention, the same shall be punished as a special complex crime, to wit:

In *People v. Ramos*, the accused was found guilty of two separate heinous crimes of kidnapping for ransom and murder committed on July 13, 1994 and sentenced to death. On appeal, this Court modified the ruling and found the accused guilty of the "special complex crime" of kidnapping for ransom with murder under the last paragraph of Article 267, as amended by Republic Act No. 7659. This Court said:

x x x This amendment introduced in our criminal statutes the concept of 'special complex crime' of kidnapping with murder or homicide. It effectively eliminated the distinction drawn by the courts between those cases where the killing of the kidnapped victim was purposely sought by the accused, and those where the killing of the victim was not deliberately resorted to but was merely an afterthought. **Consequently, the rule now is: Where the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought, the kidnapping and murder or homicide can no longer be complexed under Art. 48, nor be treated as separate crimes, but shall be punished as a special complex crime under the last paragraph of Art. 267, as amended by RA No. 7659.**⁴⁴

On this score, the Court finds no reason to disturb the rulings of the lower courts for they aptly convicted appellants with the special complex crime of kidnapping for ransom with homicide. As clearly proved by the prosecution, appellants succeeded in executing their common criminal design in abducting the victim herein, demanding for the payment of money for her release, and thereafter, killing her as a result of the encounter with the police officers. Accordingly, the Court affirms the lower court's imposition of the penalty of *reclusion perpetua*, without eligibility for parole, which should have been death, had it not been for the passage of Republic Act No. 9346, entitled "An Act Prohibiting the Imposition of the Death Penalty in the Philippines" prohibiting the imposition thereof.

There is, however, a need to modify the amounts of damages awarded. Verily, pursuant to prevailing jurisprudence,⁴⁵ the amount of damages are increased to ₱100,000.00 as civil indemnity, and ₱50,000.00 as temperate damages, and that an interest be imposed on all damages awarded at the rate

⁴² Emphasis ours.

⁴³ 400 Phil. 37 (2000).


⁴⁴ *People v. Mercado, supra*, at 82-83. (Emphasis ours)

⁴⁵ *People v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.⁴⁶


WHEREFORE, premises considered, the Court **AFFIRMS** the Decision dated May 31, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05100 finding appellants Christopher Elizalde y Sumagdon and Allan Placente y Busio guilty beyond reasonable doubt of the crime of kidnapping for ransom with homicide, as defined and penalized under Article 267 of the Revised Penal Code, sentencing them to suffer the penalty of *reclusion perpetua*, without eligibility for parole, in accordance with the mandate under Republic Act No. 9346, prohibiting the imposition of death penalty, and to pay Letty Tan y Co's heirs the amounts of ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages, with **MODIFICATIONS** in view of prevailing jurisprudence,⁴⁷ that the amount of damages be increased to ₱100,000.00 as civil indemnity and ₱50,000.00 as temperate damages, and that an interest be imposed on all damages awarded at the legal rate of 6% *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.




DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

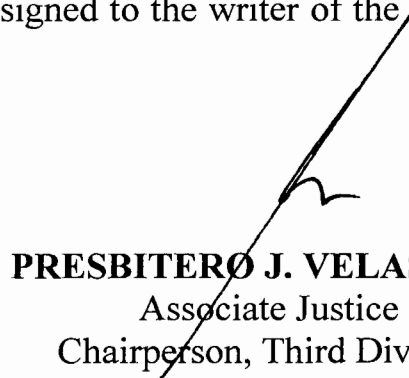
⁴⁶ *Id.*

⁴⁷ *Id.*


BIENVENIDO L. REYES
 Associate Justice


ATTESTATION

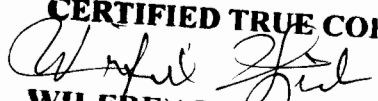
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.


MARIA LOURDES P. A. SERENO
 Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

DEC 19 2016