



Republic of the Philippines

Supreme Court

Manila

THIRD DIVISION

MISAEL DOMINGO C. BATTUNG III  
Deputy Division Clerk of Court  
Third Division

JAN 10 2020  
SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE  
RECEIVED  
JAN 14 2020  
BY: JOAN  
TIME: 2:15

EXCEL GURRO y MAGA,  
Petitioner,

G.R. No. 224562

- versus -

PEOPLE OF THE PHILIPPINES,  
Respondent.

X-----X X-----X

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 237216

Present:

- versus -

PERALTA, J.,  
Chairperson,  
LEONEN,  
REYES, A., JR.,  
HERNANDO,\* and  
INTING, JJ.

EXCEL GURRO y MAGA, WENNIE  
IDIAN y JAMINDANG and JOEL  
JAMINDANG y ZOSA,  
Accused,

WENNIE IDIAN y JAMINDANG  
and EXCEL GURRO y MAGA.  
Accused-Appellants.

Promulgated:

September 18, 2019

MisPDCBatt

X-----X

DECISION

REYES, A., JR., J.:

\* On leave.

Reyes

Assailed in these consolidated cases is the Decision<sup>1</sup> dated September 23, 2015 and the Resolution<sup>2</sup> dated May 11, 2016, rendered by the Court of Appeals (CA) in CA-G.R. CR-HC No. 06112, which affirmed the Decision<sup>3</sup> dated December 5, 2012 of the Regional Trial Court (RTC) of Marikina City, Branch 192, in Criminal Case No. 2008-10454-MK, convicting Excel Gurro y Maga (Excel) and Wennie Idian y Jamindang (Wennie) of Kidnapping with Homicide.

### The Antecedents

On August 12, 2008, an Information for Kidnapping for Ransom was filed against Excel.<sup>4</sup>

On October 3, 2008, the prosecution, with leave of court, filed an Amended Information to include Wennie and Joel Jamindang y Zosa (Joel) as additional accused.<sup>5</sup>

Then, on January 6, 2009, with leave of court, a Second Amended Information,<sup>6</sup> alleging the fact of death was filed and, accordingly, the offense was amended to Kidnapping with Homicide. The accusatory portion of the Second Amended Information states that:

The undersigned State Prosecutors hereby accuse EXCEL GURRO y MAGA @ EXCEL, JOEL JAMINDANG y ZOSA @ JOJO, WENNIE IDIAN y JAMINDANG @ WINNIE, and JOHN DOE/S, of the crime of KIDNAPPING WITH HOMICIDE, defined and penalized under Article 267 of the [R]evised Penal Code committed as follows:

That on or about August 2, 2008, at Malanday, Marikina City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, together with other persons whose names and identities are unknown, did then and there willfully, unlawfully and feloniously kidnaped and detained victim, AAA, AN 8-YEAR-OLD MINOR, AGAINST HER WILL, FOR THE PURPOSE OF EXTORTING RANSOM FROM THE VICTIM AND THE LATTER'S FAMILY AND THEREAFTER, DEMANDED THE AMOUNT OF Three Million (Php 3,000,000.00) Pesos, and actually received the amount of One Hundred Eighty-Six Thousand (Php186,000.00) pesos ransom money in exchange for AAA's life and liberty. While in captivity victim AAA was murdered by the accused while in detention.

CONTRARY TO LAW.<sup>7</sup>

<sup>1</sup> Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Magdangal M. De Leon and Elihu A. Ybañez, concurring; *rollo* (G.R. No. 224562), pp. 45-65.

<sup>2</sup> Id. at 85-87.

<sup>3</sup> Rendered by Judge Geraldine C. Fiel-Macaraig; *CA rollo*, pp. 113-127.

<sup>4</sup> Id. at 182.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id. at 182-183.



Joel pleaded guilty to the charge of kidnapping with homicide, while Excel and Wennie pleaded not guilty to the charge.<sup>8</sup> Trial on the merits ensued thereafter.

The antecedent facts reveal that on August 2, 2008, Arnel Salvador (Arnel) brought his daughter AAA to the house of Wennie. Wennie is the wife of Randy, the brother of Arnel's wife, Helen Salvador (Helen).<sup>9</sup>

Prosecution witness Patrick Mabulac (Patrick) confirmed that he saw AAA at Wennie's house playing with the latter's daughters, at around 2:00 p.m. of August 2, 2008. Later on, he saw Wennie leave with AAA. Wennie returned alone at 3:00 p.m.<sup>10</sup>

AAA went missing thereafter.

At around 5:00 p.m. of even date, Bernard, Helen's brother received a text message from an unknown person saying, "*hawak namin ang anak ninyo. Don't call cops. 3 Million, kung hindi papatayin namin ang anak ninyo.*"<sup>11</sup>

At around 6:00 to 7:00 p.m., Helen, Arnel, Randy, and Helen's mother went to Wennie's house looking for AAA. When the group had left, Wennie asked Patrick to help her look for AAA. Since Wennie's cellphone battery was running low, she borrowed Patrick's cellphone and inserted her SIM card therein. She then texted someone. After removing her SIM Card from Patrick's phone, Wennie apologized to him, claiming that she accidentally deleted all of the messages in his cellphone. Later that night, Wennie again borrowed Patrick's cellphone and deleted all of the latter's contacts.<sup>12</sup>

The next day, Patrick was about to send Joel a text quote, when he suddenly noticed that Joel's number had been deleted from his contact list. Patrick commented to Wennie that she had deleted Joel's number, to which Wennie casually replied that she may have erased it by accident as she was not accustomed to using Patrick's cellphone. Then, Patrick asked Wennie for Joel's number, but the latter dismissively said that Joel no longer has a cellphone. Patrick asked for Joel's number from the house helper. Later on, Patrick showed the Salvador family Joel's cellphone number and they noticed that Joel's number matched that of the kidnapper's.<sup>13</sup>

---

<sup>8</sup> Id. at 183.

<sup>9</sup> Id. at 188.

<sup>10</sup> Id.

<sup>11</sup> Id. at 273.

<sup>12</sup> Id. at 188.

<sup>13</sup> *Rollo* (G.R. No. 224562), p. 54.

*Meyer*

At around 8:00 p.m., Arnel's family received another text message from the kidnappers asking if the money was already available. The kidnappers ordered Arnel to come up with the money, otherwise, they would kill AAA.<sup>14</sup>

The next morning, Arnel sent a message to the kidnappers and informed them that he only had ₱186,000.00. The kidnappers instructed him to bring the money to 7-Eleven at Bayan, Marikina City. Upon reaching 7-Eleven, Arnel received another message ordering him to go to Metrobank instead and deposit the money in the account of one Jackielou Guevarra (Jackielou).<sup>15</sup>

Randy accompanied Arnel at Metrobank. While depositing the money, Arnel was informed that the amount he deposited was being wired to Catbalogan City. Hearing this, Randy commented that Jojo (Joel) might be involved.<sup>16</sup>

At around 5:00 p.m., Arnel again received a text message from the kidnappers saying that AAA will be dropped off in Cubao, Quezon City. However, AAA was never released. Arnel and his family learned that AAA had been killed on August 3, 2008. They were instructed to go to a funeral parlor in Laguna to identify her body.<sup>17</sup>

On August 5, 2008, Wennie suddenly left for Catbalogan, Samar.<sup>18</sup>

During the trial, prosecution witness Jackielou testified that at around 12 noon of August 4, 2008, Excel suddenly approached her while she was standing in line at the Automated Teller Machine in Metrobank Catbalogan, Samar. She had known Excel since high school. Excel asked if he could borrow her account number so that his cousin Joel could deposit ₱20,000.00 in her account for his tuition fee.<sup>19</sup>

Later on, Jackielou received a text message from Excel informing her that ₱186,000.00 had been deposited to her account. She withdrew the money and handed it to Excel, who placed it inside a yellow plastic bag.<sup>20</sup>

---

<sup>14</sup> Id. at 49.

<sup>15</sup> Id. at 51.

<sup>16</sup> Id. at 50.

<sup>17</sup> Id. at 51.

<sup>18</sup> Id. at 54.

<sup>19</sup> Id. at 51.

<sup>20</sup> Id. at 52.

*peyer*

The accused vehemently denied the charges leveled against them. Wennie and Joel related that they are siblings, while Excel is their cousin. Joel admitted that he kidnapped AAA and, thereafter, killed her because he got irritated with her, as she kept insisting to go home.<sup>21</sup>

Joel stated that Wennie had nothing to do with the crime, and that he merely used Excel to receive the ransom money. He related that he told Excel to look for somebody with a Metrobank account because Joel's father will be sending a large sum of money to Excel. After withdrawing the money, Excel remitted ₱183,000.00 to Joel through ML Kwartá Padala. Thereafter, he and his cohorts went to Naga City and divided the ransom.<sup>22</sup>

Likewise, Joel claimed that Patrick was the mastermind of the plot to kidnap AAA. He related that he sent ₱30,000.00 to Patrick from the ransom money he received from the Salvador family.<sup>23</sup>

Wennie also denied the charges leveled against her. Wennie admitted that Arnel left AAA in her care. She claimed that she brought the victim to her friend's house and they went home after 15 minutes. Then, AAA left for home at around 2:00 p.m.<sup>24</sup>

### **Ruling of the RTC**

On December 5, 2012, the RTC rendered a Decision<sup>25</sup> convicting Wennie and Joel, as principals and Excel, as an accomplice for the crime of Kidnapping with Homicide.

The dispositive portion of the RTC decision reads:

WHEREFORE, the court finds accused [JOEL] and [WENNIE], GUILTY BEYOND REASONABLE DOUBT of KIDNAPPING WITH HOMICIDE. Both accused are hereby sentenced to suffer the penalty of *reclusion perpetua*. The accused, [EXCEL], is GUILTY BEYOND REASONABLE DOUBT as an ACCOMPLICE and hereby sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum.

The accused are hereby ORDERED to pay, jointly and severally, to the heirs of the victim, AAA, civil indemnity in the amount of Fifty Thousand (Php 50,000.00) Pesos.

---

<sup>21</sup> Id. at 56.

<sup>22</sup> Id. at 57.

<sup>23</sup> Id. at 55.

<sup>24</sup> Id. at 57-58.

<sup>25</sup> CA *rollo*, pp. 80-94.

*Meyer*

SO ORDERED.<sup>26</sup>

Aggrieved, Wennie and Excel filed an appeal before the CA.

### **Ruling of the CA**

On September 23, 2015, the CA rendered the assailed Decision<sup>27</sup> affirming the conviction meted by the RTC unto Wennie and Excel. The CA found that Joel and Wennie conspired to kidnap AAA. Also, the CA held that Excel was an accomplice of Joel and Wennie. According to the CA, Excel's act of borrowing the Metrobank account of his friend, thereby allowing him to receive the ransom was proof that he assisted in the crime.<sup>28</sup>

As for the damages awarded, the CA increased the amount of civil indemnity awarded by the RTC to ₱100,000.00. The CA, likewise, awarded moral damages of ₱100,000.00 and exemplary damages of ₱100,000.00. Finally, the CA apportioned the award of damages by adjudging Joel and Wennie liable to shoulder the greater share of the damages in the amount of 5/6, while holding Excel liable for merely 1/6 of the total amount of damages.<sup>29</sup>

The dispositive portion of the assailed CA decision reads:

WHEREFORE, premises considered, the instant appeals are DENIED. The assailed December 5, 2012 Decision is AFFIRMED with MODIFICATION, that:

1. Joel Jamindang y Zosa and Wennie Idian y Jamindang are jointly and severally ORDERED to pay the heirs of the victim, Php 250,000.00 as civil indemnity, moral and exemplary damages;
2. Excel Gurro y Maga is ORDERED to pay the heirs of the victim, Php 50,000.00 as civil indemnity, moral and exemplary damages; and
3. Interest is imposed on the monetary awards at the legal rate of 6% *per annum* from the finality of this judgment until fully paid.

SO ORDERED.<sup>30</sup>

Aggrieved, Wennie filed a Notice of Appeal<sup>31</sup> under Section 13(c) of Rule 124 of the Rules on Criminal Procedure.

<sup>26</sup> Id. at 94.

<sup>27</sup> *Rollo* (G.R. No. 224562), pp. 45-65.

<sup>28</sup> Id. at 62.

<sup>29</sup> Id. at 63-64.

<sup>30</sup> Id. at 64.

<sup>31</sup> *Rollo* (G.R. No. 237216), pp. 23-24.

*meys*

On the other hand, Excel filed a Petition for Review on *Certiorari*<sup>32</sup> under Rule 45 of the Rules of Court.

On August 13, 2018, the Court issued a Resolution<sup>33</sup> ordering the consolidation of the two cases.

### The Issue

The main issue raised for the Court's resolution rests on whether or not the prosecution sufficiently established the guilt of Wennie and Excel beyond reasonable doubt.

Both Wennie and Excel claim that the prosecution failed to establish their guilt beyond reasonable doubt. Particularly, Wennie argues that the circumstance that she was last seen with AAA is not by itself sufficient to prove her complicity to the crime. Likewise, she urges the Court to give credence to Joel's statement that she (Wennie) was not involved in kidnapping AAA.<sup>34</sup>

In the same vein, Excel asserts in his Petition for Review on *Certiorari*<sup>35</sup> that both the trial court and the CA erred in convicting him as an accomplice to the crime. He contends that he did not assist Joel in profiting from the effects of the crime. He was not aware of the kidnapping and had no idea that the amount deposited in the account of Jackielou partook of ransom money.

On the other hand, the People of the Philippines, through the Office of the Solicitor General (OSG), counters that the prosecution sufficiently established the guilt of both Wennie and Excel. The OSG avers that the evidence shows that Wennie conspired with Joel to kidnap AAA. She was the last person seen with AAA, and her acts subsequent to the kidnapping were certainly dubious. In fact, prosecution witnesses Arnel and Patrick confirmed that AAA was last seen with Wennie. As a conspirator, Wennie was equally responsible for all the acts committed by Joel.<sup>36</sup>

Likewise, Excel actively cooperated with Joel and Wennie in the crime of kidnapping, by acting as the medium through which Joel received the ransom money.<sup>37</sup>

<sup>32</sup> *Rollo* (G.R. No. 224562), pp. 10-43.

<sup>33</sup> *Rollo* (G.R. No. 237216), pp. 53-54.

<sup>34</sup> *Id.* at 162-180.

<sup>35</sup> *Rollo* (G.R. No. 224562), pp. 10-43.

<sup>36</sup> *Rollo* (G.R. No. 237216), pp. 205.

<sup>37</sup> *Rollo* (G.R. No. 224562), pp. 143-175.

*Meyer*

## Ruling of the Court

*The Court affirms the conviction of Wennie and Excel.*

***The Prosecution Established Beyond Reasonable Doubt the Guilt of Wennie as a Principal to the Crime of Kidnapping for Ransom with Homicide***

Article 267 of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 7659,<sup>38</sup> defines and penalizes the crime of kidnapping, as follows:

**Article 267. 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.

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.<sup>39</sup>

In the cases of *People v. Dionaldo, et al.*<sup>40</sup> and *People v. Elizalde, et al.*,<sup>41</sup> the Court explained that if the victim was detained for the purpose of extorting ransom and the victim dies during detention, then the crime committed shall be the special complex crime of Kidnapping for Ransom with Homicide. This holds true in the case at bar, considering that all the elements for the said crime were sufficiently alleged in the Information, in that: (i) the victim was detained against her will; (ii) the accused demanded ransom from the victim's family; and (iii) the victim was killed during

<sup>38</sup> AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES (Approved on December 13, 1993).

<sup>39</sup> *People v. Dionaldo, et al.*, 739 Phil. 672, 682 (2014).

<sup>40</sup> 739 Phil. 672 (2014).

<sup>41</sup> 801 Phil. 1008 (2016).

*Reyes*



detention. Thus, the proper nomenclature for the offense committed shall be kidnapping for ransom with homicide, and not simply kidnapping for homicide, as the prosecution charged.

More importantly, the prosecution was able to prove each of the component offenses of kidnapping for ransom with homicide. AAA was a minor, who was taken on August 2, 2008 and was, thereafter, detained or deprived of her liberty, in exchange for ransom. Later on, AAA was killed while in detention.

Joel pleaded guilty to the crime but denied conspiring with his sister Wennie. In the same regard, Wennie urges that the prosecution failed to prove the alleged conspiracy between her and Joel.

The Court is not persuaded.

It cannot be gainsaid that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.<sup>42</sup> Once conspiracy is established, the responsibility of the conspirators is collective, thereby rendering them all equally liable regardless of the extent of their respective participations.<sup>43</sup> This means that each conspirator is responsible for everything done by his/her confederates which follows incidentally in the execution of a common design as one of its probable and natural consequences.<sup>44</sup> Simply stated, their responsibility is not confined to the accomplishment of the particular purpose of conspiracy, but extends to collateral acts and offenses incident to and growing out of their intended purpose.<sup>45</sup> In the same vein, the conspirators are deemed to have intended the consequences of their acts and by purposely engaging in conspiracy which necessarily and directly produces a prohibited result, they are, in contemplation of law, chargeable with intending that result.<sup>46</sup>

Equally important, direct proof is not necessary to establish the fact of conspiracy. Rather, conspiracy may be presumed from, and proven by the acts of, the accused pointing to a joint purpose, design, concerted action and community of interests.<sup>47</sup>

In the case at bar, the prosecution presented credible and sufficient pieces of circumstantial evidence which, when taken together, prove that Wennie conspired with Joel, to wit:

---

<sup>42</sup> REVISED PENAL CODE, Article 8.

<sup>43</sup> *People v. Dionaldo, et al.*, supra note 40, at 681, citing *People v. Castro*, 434 Phil. 206, 221 (2002).

<sup>44</sup> *People v. Montanir, et al.*, 662 Phil. 535, 563-564 (2011).

<sup>45</sup> *Id.*, citing *People v. Bisda*, 454 Phil. 194, 218 (2003).

<sup>46</sup> *Id.*

<sup>47</sup> *People v. Dionaldo, et al.*, supra note 40, at 682, citing *People v. Buntag*, 471 Phil. 82, 93 (2004).

*Meyer*

- (i) At around 1:00 p.m. of August 2, 2008, AAA was brought by her father to Wennie's house;
- (ii) An hour thereafter, Wennie, together with AAA, left the house on board the former's tricycle;
- (iii) At 3:00 p.m., Wennie came home alone;
- (iv) AAA was never seen again;
- (v) Wennie started acting suspiciously after AAA's disappearance;
- (vi) On the night that AAA's family went looking for her, Wennie kept secretly texting an unknown person using Patrick's cellphone;
- (vii) Wennie admitted having deleted the cellphone number of Joel from Patrick's cellphone;
- (viii) Wennie kept misleading Patrick as to Joel's correct cellphone number and deliberately gave him the wrong cellphone number; and
- (ix) Joel's cellphone number was found to be the same as that of the kidnapper's.

It is all too apparent that Wennie's suspicious acts show her complicity to the crime. To begin with, she was the last person seen with AAA. She and AAA went outside of the house, but the former returned home alone. AAA went missing thereafter.

Likewise, Wennie's staunch efforts at protecting Joel were indeed questionable. It was certainly suspicious why Wennie constantly misled Patrick as to Joel's true cellphone number. First, she deleted all of the messages in Patrick's cellphone after using the same, and then she deleted all of Patrick's contacts. Not content, Wennie even misled Patrick, by deliberately giving a wrong number. All of these suspicious deeds cast doubt unto Wennie's innocence, especially since it was later on discovered that Joel's cellphone number matched that of the kidnapper's.

In addition, it was highly suspicious why Wennie suddenly went home to Catbalogan City - the town where the money was wired. Also, it was discovered that Wennie was heavily indebted and had pawned pieces of jewelry belonging to her husband Randy without this knowledge.<sup>48</sup>

---

<sup>48</sup> *Rollo* (G.R. No. 237216), p. 189.

*Meyer*

Certainly, the acts of Wennie, when taken together, reveal that she acted in concert with Joel and that their acts emanated from the same purpose or common design showing unity in its execution. For sure, Joel would not have been able to kidnap AAA if not for the participation of Wennie.

Against this factual backdrop, all that Wennie offers as proof of her innocence is the weak defense of denial. This defense cannot prevail, as it is settled that “alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law. They are considered with suspicion and always received with caution, not only because they are inherently weak and unreliable but also because they are easily fabricated and concocted.”<sup>49</sup> A denial cannot prevail over the positive testimony of prosecution witnesses who were not shown to have any ill-motive to falsely testify against the appellants.<sup>50</sup>

***Excel is Guilty as an Accessory to the Crime of Kidnapping for Ransom with Homicide***

The RPC delineates the liabilities of each of the offenders by determining the extent of their respective participations in the offense committed.

Relatedly, principals are those who either (i) “take a direct part in the execution of the act;”<sup>51</sup> (ii) “directly force or induce others to commit it;”<sup>52</sup> (iii) “or cooperate in the commission of the offense by another act without which it would not have been accomplished.”<sup>53</sup> While accomplices are those persons who, not having acted as principals, cooperate in the execution of the offense by previous or simultaneous acts.<sup>54</sup>

On the other hand, accessories to the crime are described in Article 19 as:

[T]hose who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission in any of the following manners:

1. By profiting themselves or **assisting the offender to profit by the effects of the crime.**

<sup>49</sup> *People v. Anticamara, et al.*, 666 Phil. 484, 507 (2011), citing *People v. Togahan*, 551 Phil. 997, 1013-1014 (2007).

<sup>50</sup> *People v. Anticamara, et al.*, *id.*, citing *Gan v. People*, 550 Phil. 133, 157 (2007).

<sup>51</sup> REVISED PENAL CODE, Article 17.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> REVISED PENAL CODE, Article 18.

*Mejia*

2. By concealing or destroying the body of the crime, or the effects or instruments thereof, in order to prevent its discovery.

3. By harboring, concealing, or assisting in the escape of the principals of the crime, provided the accessory acts with abuse of his public functions or whenever the author of the crime is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime.<sup>55</sup> (Emphasis Ours)

In the instant case, Excel was convicted by the trial court and the CA as an accomplice to the special complex crime of Kidnapping for Ransom with Homicide.

The Court disagrees.

It must be noted that the prosecution failed to prove, much less allege, any overt act on Excel's part showing his direct participation in the kidnapping itself. It must be remembered that for one to be regarded as an accomplice, it must be shown that (i) he knew the criminal design of the principal by direct participation, and concurred with the latter in his purpose; (ii) he cooperated in the execution by previous or simultaneous acts, with the intention of supplying material or moral aid in the execution of the crime in an efficacious way; and (iii) his acts bore a direct relation with the acts done by the principal.<sup>56</sup>

There was no showing that Excel actually cooperated or assisted in kidnapping AAA and detaining the latter. At best, Excel's participation in the incident was limited to acts committed **after** the abduction was already consummated. Particularly, Excel retrieved the ransom money from Metrobank and, thereafter, immediately forwarded the same to Joel, through four money transfer transactions through ML Kwartá Padala remittance on August 4, 2008, merely two hours after Arnel wired the ransom money to the kidnappers.<sup>57</sup> This was established through the documents presented by Atty. Heidi Caguioa (Atty. Caguioa), Compliance Officer of ML Kwartá Padala. Atty. Caguioa presented photocopies of Excel's identification card and the accomplished "Know-Your-Customer Form" of Joel, as well as the Payout Receipts issued to Joel.<sup>58</sup>

Likewise, there is no doubt that Excel was aware of the crime Joel committed. His actuations are certainly suspect. He deceived Jackielou by telling her that his cousin Joel will be depositing ₱20,000.00 to her account for his tuition fee. However, he later on texted Jackielou that the amount was ₱183,000.00. He did not express any shock or surprise about suddenly

<sup>55</sup> REVISED PENAL CODE, Article 19.

<sup>56</sup> *People v. Yau, et al.*, 741 Phil. 747, 767 (2014).

<sup>57</sup> See Appellee's Brief, CA rollo (CA-G.R. CR-HC No. 06112), pp. 238-243.

<sup>58</sup> Rollo (G.R. No. 237216), pp. 189-190.

*Heyer*

receiving a hefty sum. Moreover, he immediately forwarded the money to Joel, two hours after the said amount was deposited by Arnel.<sup>59</sup>

### *The Proper Penalties*

Having thus established the guilt of Wennie as Joel's co-conspirator in the special complex crime of Kidnapping for Ransom with Homicide, she shall be meted with the penalty of death. However, in view of R.A. No. 9346,<sup>60</sup> which suspended the imposition of the death penalty, she shall be sentenced to the penalty of *reclusion perpetua* without eligibility for parole.

On the other hand, Excel, as an accessory to the crime, shall be punished with a penalty two degrees lower than *reclusion perpetua*, which shall be *prision mayor*. Applying the Indeterminate Sentence Law, the penalty shall be two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.<sup>61</sup>

As for the award of damages, the Court grants ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages, in conformity with the Court's ruling in *People v. Jugueta*.<sup>62</sup>

The liability of Joel, Wennie and Excel for the payment of damages shall be apportioned in accordance with the degrees of their liability, respective responsibilities and actual participation in the crime.<sup>63</sup> This means that the ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages, shall be borne solidarily by the principals Wennie and Joel, while Excel, as an accessory to the crime, shall be liable for ₱25,000.00 for each of the aforementioned damages.

Finally, all the amounts due shall earn a legal interest of six percent (6%) *per annum* from the date of the finality of the Court's Decision until full satisfaction.<sup>64</sup>

**WHEREFORE**, premises considered, the Decision dated September 23, 2015 and the Resolution dated May 11, 2016, rendered by the Court of Appeals in CA-G.R. CR-HC No. 06112, are **AFFIRMED with modification**. Wennie Idian y Jamindang and Joel Jamindang y Zosa are declared **GUILTY** beyond reasonable doubt as principals to the crime of

<sup>59</sup> Id.

<sup>60</sup> AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY (Approved on June 24, 2006).

<sup>61</sup> *People v. Yanson-Dumancas*, 378 Phil. 341, 367-368 (1999).

<sup>62</sup> 783 Phil. 806 (2016).

<sup>63</sup> *People v. Tampus, et al.*, 607 Phil. 296, 329-330 (2009).

<sup>64</sup> *People v. Jugueta*, supra note 61, at 856.


*peyer*

Kidnapping for Ransom with Homicide and shall be meted with the penalty of *reclusion perpetua* without eligibility for parole. Excel Gurro y Maga shall be held liable as an accessory to the crime of Kidnapping for Ransom with Homicide and shall suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

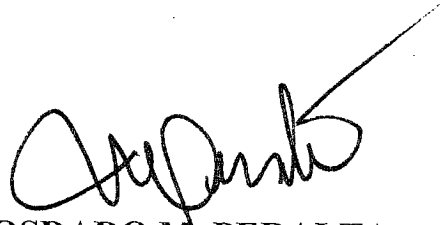
Likewise, Wennie Idian y Jamindang and Joel Jamindang y Zosa, as principals, are solidarily liable for ₱100,000.00 as civil indemnity; ₱100,000.00 as moral damages; and ₱100,000.00 as exemplary damages, while Excel Gurro y Maga shall bear ₱25,000.00 for each of the said damages.

All amounts due shall earn a legal interest of six percent (6%) *per annum* from the date of the finality of this Decision until the full satisfaction thereof.

**SO ORDERED.**

  
**ANDRES B. REYES, JR.**  
Associate Justice

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

(On leave)  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
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.



**DIOSDADO M. PERALTA**  
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.



**ANTONIO T. CARPIO**  
Acting Chief Justice  
Per Special Order No. 2703 dated  
September 10, 2019

**CERTIFIED TRUE COPY**

*MisldcBatt*  
**MISAEEL DOMINGO C. BATTUNG III**  
Deputy Division Clerk of Court  
Third Division

JAN 10 2020