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Wilfredo V. Lapid
WILFREDO V. LAPIDAN
Division Clerk of Court
Third Division



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 208441

Present:

- versus -

*CARPIO, J.
VELASCO, JR.,
Chairperson,
BERSAMIN,
TIJAM, and
REYES, JJ.

ZENAIDA FABRO or ZENAIDA
MANALASTAS y VIÑEGAS,
Accused-Appellant.

Promulgated:

July 17, 2017

Wilfredo V. Lapid

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DECISION

TIJAM, J.:

This is an appeal from the Decision¹ dated February 19, 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04598, affirming *in toto* the Decision dated July 16, 2010 of the Regional Trial Court (RTC),² Branch 45 of San Fernando, Pampanga, in Criminal Case No. 1204, which found accused-appellant Zenaida Fabro or Zenaida Viñegas Manalastas guilty of Serious Illegal Detention.

The Antecedents

¹Designated additional Member per Raffle dated February 6, 2017, *vice* Associate Justice Francis H. Jardeleza.

²Penned by Associate Justice Samuel H. Gaerlan, and concurred in by Associate Justices Rebecca L. De Guia-Salvador and Apolinario D. Bruselas, Jr.; *Rollo*, pp. 2-8.

³Penned by Presiding Judge Adelaida Ala-Medina; *CA rollo*, pp. 7-12.

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In an Information dated March 6, 2006, accused-appellant was charged with Serious Illegal Detention under Article 267³ of the Revised Penal Code (RPC), in relation to Republic Act No. 7610,⁴ committed as follows:

That on or about the 2nd day of March 2006, in the municipality of YYY, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ZENAIDA FABRO or ZENAIDA V. MANALASTAS, did then and there willfully, unlawfully and feloniously and by force take [AAA],⁵ 9 years old, minor, while the latter is in front of the XXX Elementary School, YYY whom the said accused detained and kept in the house of Brgy. Capt. Fabro, brother of the accused in Brgy. Villa Viniegas, Llanera, Nueva Ecija from March 2 to March 5, 2006 or a period of four (4) days under restraint and against her will.

Contrary to law.

When arraigned, accused-appellant pleaded “not guilty.”

During trial, the prosecution presented the testimonies of AAA and SPO1 Elmer Guevarra who received the report of AAA’s abduction. Accused-appellant was the lone witness for the defense.

The prosecution sought to establish that on March 2, 2006, 9-year old AAA was attending her Grade IV class at the XXX School in YYY, when accused-appellant suddenly arrived supposedly to fetch her. Since accused-appellant was AAA’s aunt residing just next to AAA’s house, the teacher allowed accused-appellant to take AAA. However, instead of bringing AAA

³Article 267 of the RPC as amended by Republic Act No. 7659 reads:

Art. 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.

The word “female” in paragraph 1(4) of Article 267 of the Revised Penal Code refers to the gender of the victim and not of the offender. (*People v. Bida*, G.R. 140895, July 17, 2003.)

⁴Known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.”

⁵The identity of the victim and any information which could establish or compromise her identity are withheld in keeping with the policy set forth in Republic Act No. 7610 (An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes), Republic Act No. 9262 (An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes), and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence Against Women and Their Children, effective November 5, 2004, and in view of this Court’s pronouncement in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006. See *People v. De Guzman*, G.R. No. 214502, November 25, 2015.

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kept AAA in Nueva Ecija despite the latter's plea to go home. She refused to let AAA go even after AAA's parents called her via cellular phone begging her to release their daughter.⁶

AAA's parents had reported the abduction to the police. After receiving information that accused-appellant might go to her brother's house in Barangay Villa Viniegas, Nueva Ecija, the police organized a team and monitored said house. On March 5, 2006, police operatives, accompanied by AAA's parents, rescued AAA and apprehended the accused-appellant at her brother's house.⁷

Denying the charge, accused-appellant declared that she could not have committed the crime because she loved AAA whom she had known since 1999 and who used to frequent her house to sleep, eat, and watch television with her siblings. She claimed that she brought AAA to Nueva Ecija on March 2, 2006 with the consent of AAA's mother and teacher. She explained that she had intended to bring AAA along to the Barangay Captain to prove that her husband had taken her luggage and some documents, given that AAA used to clean their room. The Barangay Captain was not around so they proceeded to Nueva Ecija after AAA requested to join her. After two days in Nueva Ecija, or on March 5, 2006, she brought AAA to her brother's house where she was arrested.⁸

The RTC convicted accused-appellant of Serious Illegal Detention, disposing as follows:

WHEREFORE, premises considered, the Court finds the accused ZENaida FABRO or ZENaida VIÑEGAS MANALASTAS GUILTY beyond reasonable doubt of Serious Illegal Detention penalized under Article 267 of the Revised Penal Code and hereby sentences the said accused to suffer the penalty of RECLUSION PERPETUA, together with all the accessory penalties provided for by law and to pay the private complainant, AAA, thru her father BBB, the sum of one hundred thousand pesos (P100,000.00) as moral damages.

The Jailer is hereby ordered to make the proper reduction of the period during which the accused was under preventive custody by reason of this case in accordance with law.

SO ORDERED.

Accused-appellant elevated the case to the CA, arguing that the prosecution failed to prove her guilt beyond reasonable doubt, and faulting

⁶Rollo, pp. 3-4.

⁷Id. at 4.

⁸Rollo, pp. 4-5.

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the trial court for relying on the prosecution's version of the events.⁹ The CA subsequently rendered the assailed Decision affirming the RTC's Decision *in toto*. In the present appeal, accused-appellant further asserts that the prosecution failed to prove her intent to detain the victim.¹⁰

Our Ruling

The appeal lacks merit.

The elements of Kidnapping and Serious Illegal Detention under Article 267 of the Revised Penal Code, as amended, are: (1) the offender is a private individual; (2) he kidnaps or detains another or in any other manner deprives the latter of his liberty; (3) the act of detention or kidnapping must be illegal; and (4) in the commission of the offense, any of the following circumstances is present: (a) the kidnapping or detention lasts for more than three days; or (b) it is committed by simulating public authority; or (c) serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or (d) the person kidnapped or detained is a minor, female, or a public officer. If the victim of kidnapping and serious illegal detention is a minor, the duration of his detention is immaterial.¹¹

There is no dispute that accused-appellant is a private individual and that she took AAA from her school on March 2, 2006, brought her to Nueva Ecija and kept her there until she was arrested on March 5, 2006.

That AAA was deprived of her liberty is clear from her testimony that despite her pleas for accused-appellant to let her go home, the latter refused, thus:

Q: How many days did you stay in that house in Nueva Ecija, AAA?

A: Four, Ma'am.

Q: And, in those four days did you ask Tita Zeny to let you go home?

A: Yes Ma'am.

Q: And what did Tita Zeny tell you?

A: "Huwag muna daw po."

Q: At that time AAA, did you want to go home already in those four days?

A: Yes Ma'am.

Q: And do you know if Tita Zeny called your father or your mother thru cellphone in those four days?

A: Yes Ma'am.

⁹CA *rollo*, p. 27.

¹⁰*Rollo*, p. 23.

¹¹*People v. Pepino*, G.R. No. 174471, January 12, 2016.

Q: Whom did Tita Zeny call, your father or your mother?

A: "Tatay ko."

Q: How did you know that Tita Zeny called your father?

A: "Sinabi po ng kaklase ko na kinipnap (sic) po ako."

Q: AAA, you said that Tita Zeny called your father. Were you able to talk to your father on the cellphone?

A: No, Ma'am. "Nakausap ko po ang nanay ko."

Q: Were you able to talk to your mother and that was thru the cellphone that was being used by Tita Zeny?

A: Yes ma'am.

Q: And, what did you tell your mother?

A: "Sya po ang sumabi."

Q: What did your mother tell you?

A: "Sabi po iuwi na niya ako."

Q: Is that the only conversation that you had with your mother?

A: "Ayaw po ako iuwi ni Tita Zeny."¹²

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Q: Did you again ask her to go home?

A: Yes Ma'am.

Q: What did she tell you?

A: "Huwag muna daw po."

Q: During those four days AAA, did you cry?

A: Yes, Ma'am.

Q: Why did you cry?

A: "Ayaw po ako iuwi."¹³ (Emphasis supplied.)

Accused-appellant, however, contends that AAA had not been deprived of liberty while in her custody. She argues that the records are bereft of any indication that AAA was physically restrained, or was under her constant control, or was ever prevented from going home. She claims that during the period she had custody of AAA, the latter was free to interact with third persons and communicate with her relatives, and was well taken care of.¹⁴

The argument fails. The prevailing jurisprudence on kidnapping and illegal detention is that the curtailment of the victim's liberty need not

¹²Rollo, pp. 6-7; Citing TSN, January 12, 2007, pp. 16-17.

¹³Id. at 7; Citing TSN, January 12, 2007, pp. 18-19.

¹⁴Id. at 26-27; Accused-appellant's Supplemental Brief, pp. 4-5.

involve any physical restraint upon the victim's person.¹⁵ For kidnapping to exist, it is not necessary that the offender kept the victim in an enclosure or treated him harshly.¹⁶

In *People v. Bisda*,¹⁷ the Court upheld the conviction of kidnapping for ransom even though the abducted five-year old child was, during her detention, free to roam around the place of detention, to practice on her drawing and to watch television, and was regularly fed and bathed. Citing *United States v. McCabe*,¹⁸ the Court stated that "to accept a child's desire for food, comfort as the type of will or consent contemplated in the context of kidnapping would render the concept meaningless." Should the child even want to escape, said the Court, she could not do so all by herself given her age; she was under the control of her abductors and was merely waiting and hoping that she would be brought home or that her parents would fetch her.

Nine-year old AAA was brought by accused-appellant to a place unfamiliar to her.¹⁹ In fact, she learned that the name of the place was Nueva Ecija only after she was rescued.²⁰

Leaving a child in a place from which he did not know the way home, even if he had the freedom to roam around the place of detention, would still amount to deprivation of liberty. Under such a situation, the child's freedom remains at the mercy and control of the abductor.²¹

The RTC, thus, correctly held that even in the absence of evidence that AAA was locked up, she was still deprived of her liberty because considering her minority and the distance between her home and Nueva Ecija, she could not possibly go back home to YYY without accused-appellant's assistance.²²

The RTC rightly invoked the Court's pronouncement in *People v. Acosta*.²³

The next question to be determined is whether or not element of restraint is present as to constitute the crime of kidnapping with which the appellants are charged. On this point the trial court made this observation: "While it is true that the boy was playing while he was in the house at Murphy on April 6, 1956, the fact remains that he was under the control of the accused Consolacion Bravo who left him there, as he could not leave

¹⁵ *Astorga v. People*, G.R. No. 154130, October 1, 2003.

¹⁶ *People v. Bahuya*, G.R. No. 181822, April 13, 2011.

¹⁷ *People v. Bisda*, G.R. No. 140895, July 17, 2003.

¹⁸ 812 F. 2d. 1660 (1987).

¹⁹ CA rollo, p. 11.

²⁰ Ibid.

²¹ *People v. Bahuya*, supra, note 16.

²² Id. at 10-11.

²³ *People v. Acosta*, G.R. No. L-11954, March 24, 1960.

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that house until she shall have returned for him. **Because of his tender age and the fact that he did not know the way back home, he was then and there in a way deprived of his liberty.** It is like putting him in a prison or in an asylum where **he may have freedom of locomotion but not the freedom to leave it at will.** The same thing can be said of his stay in the house at Tondo, where he was left by her on April 7, 1956.” In addition, we may say that because the boy was of tender age and he was warned not to leave until her return by his godmother, he was practically a captive in the sense that he could not leave because of his fear to violate such instruction. (*Emphasis supplied.*)

Accused-appellant also questions AAA’s credibility, pointing out that while AAA claimed to have been taken by force in her *Sinumpaang Salaysay*,²⁴ she subsequently testified²⁵ in court that she voluntarily went with accused-appellant.²⁶

The Court is not persuaded.

It is oft-repeated that affidavits are usually abbreviated and inaccurate. Oftentimes, an affidavit is incomplete, resulting in its seeming contradiction with the declarant’s testimony in court. Generally, the affiant is asked standard questions, coupled with ready suggestions intended to elicit answers, that later turn out not to be wholly descriptive of the series of events as the affiant knows them. Worse, the process of affidavit-taking may sometimes amount to putting words into the affiant’s mouth, thus, allowing the whole statement to be taken out of context.²⁷

Discrepancies between the statements of the affiant in his affidavit and those made by him on the witness stand do not necessarily discredit him since *ex parte* affidavits are generally incomplete.²⁸ Reiterating this principle, the Court, in the recently decided case of *People v. Dayaday*,²⁹ declared:

²⁴ AAA’s *Sinumpaang Salaysay*, in part, states:

2. T – AAA, ano ang nanyari sa iyo noong Marso 2, 2006?

S – Habang nasa school po ako dumating si Tita Zeny (Zenaida V. Manalastas) hinawakan niya ako sa kamay at may pinapipirma sa akin. Hindi ko po pinirmahan at sapilitan niya akong sinakay sa tricycle. Sinabi niya sa akin sandali lang at samahan ko daw siya. At sumakay na kami sa tricycle papuntang ZZZ, YYY. Hindi ko na po naisuot and aking tsinelas dahil sa paghatak niya sa akin.

²⁵TSN, January 12, 2007, p. 11.

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Q: Now, AAA, when you were in school and your Tita Zeny came, how did you leave the school AAA?

A: “Kusa po akong sinama niya. Niloko po niya ako.”

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²⁶Brief for the Accused-Appellant, pp. 5-6; CA *rollo*, pp. 31-32.

²⁷*Kummer v. People*, G.R. No. 174461, September 11, 2013.

²⁸*Ibid.*

²⁹*People v. Dayaday*, G.R. No. 213224, January 16, 2017, citing *People v. Yanson*, G.R. No. 179195, October 3, 2011.

xxx [T]his Court had consistently ruled that the **alleged inconsistencies between the testimony of a witness in open court and his sworn statement before the investigators are not fatal defects** to justify a reversal of judgment. Such discrepancies do not necessarily discredit the witness since *ex parte* affidavits are almost always incomplete. A sworn statement or an affidavit does not purport to contain a complete compendium of the details of the event narrated by the affiant. Sworn statements taken *ex parte* are generally considered to be inferior to the testimony given in open court.

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The discrepancies in [the witness]'s testimony do not damage the essential integrity of the prosecution's evidence in its material whole. Instead, **the discrepancies only erase suspicion that the testimony was rehearsed or concocted. These honest inconsistencies serve to strengthen rather than destroy [the witness]'s credibility.**

We also note that the force allegedly employed by the accused-appellant, as stated in AAA's *Sinumpaang Salaysay*, referred to the moment accused-appellant made AAA board a tricycle after the latter refused to sign a document from the accused-appellant. This obviously took place when they were already outside the school premises. On the other hand, when AAA testified to voluntarily going with accused-appellant, it was in reference to the time accused-appellant came to her classroom to take her. We are, thus, disinclined to conclude that there exists a glaring and irreconcilable inconsistency in AAA's declarations that would completely discredit her testimony.

In any event, the essence of the crime of kidnapping is the actual deprivation of the victim's liberty, coupled with indubitable proof of the intent of the accused to effect the same.³⁰ In this case, AAA has clearly and consistently declared that accused-appellant kept her in Nueva Ecija despite her repeated plea for accused-appellant to bring her home.

In *People v. Bisda*,³¹ this Court held:

Appellants must come to grips with case law that testimonies of child victims are given full weight and credit. The testimony of children of sound mind is likewise to be more correct and truthful than that of older persons. In *People vs. Alba*, this Court ruled that children of sound mind are likely to be more observant of incidents which take place within their view than older persons, and their testimonies are likely more correct in detail than that of older persons. Angela was barely six years old when she testified. Considering her tender years, innocent and guileless, it is incredible that Angela would testify falsely that the appellants took her

³⁰*People v. De Guzman*, G.R. No. 214502, November 25, 2015.

³¹Supra, note 17, citing *People v. Molas*, G.R. Nos. 88006-08, March 2, 1998, *People v. Alba*, G.R. No. 131858, April 14, 1999, and *People v. Dela Cruz*, G.R. No. 116726 July 28, 1997.

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from the school through threats and detained her in the “dirty house” for five days. In *People v. Dela Cruz*, this Court also ruled that ample margin of error and understanding should be accorded to young witnesses who, much more than adults, would be gripped with tension due to the novelty and the experience in testifying before the trial court.

Furthermore, the basic rule is that the Supreme Court accords great respect and even finality to the findings of credibility of the trial court, more so if the same were affirmed by the CA, as in this case.³² We find no reason to depart from this rule.

As consistently adhered to by this Court, 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.³³ The trial court has the singular opportunity to observe the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion, or the sudden pallor of a discovered lie, or the tremulous mutter of a reluctant answer, or the forthright tone of a ready reply; or the furtive glance, the blush of conscious shame, the hesitation, the sincere, or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.³⁴

Thus, when the credibility of a witness is in issue, the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect. This is more true if such findings were affirmed by the appellate court, since it is settled that when the trial court’s findings have been affirmed by the appellate court, said findings are generally binding upon this Court. Without any clear showing that the trial court and the appellate court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance, the rule should not be disturbed.³⁵

It bears stressing, too, that no improper motive has been imputed against AAA or her parents in filing the case against accused-appellant. In fact, accused-appellant testified that she was in good terms with AAA’s family before the incident and that AAA’s family was, in fact, “on (her) side because of the maltreatment of (her) other in-laws.”³⁶

It is settled that where there is no evidence to show any dubious or

³²*Kummer v. People*, supra, note 27.

³³*People v. Basao*, G.R. No. 189820, October 10, 2012.

³⁴*People v. Jacalne*, G.R. No. 168552, October 3, 2011

³⁵*People v. Basao*, supra, note 33.

³⁶TSN, August 8, 2008, pp. 6 & 9.

improper motive why a prosecution witness should bear false witness against the accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.³⁷

The Court cannot accept accused-appellant's contention that AAA was not deprived of liberty based on the RTC's supposed observation that she gave in to AAA's request to go home after AAA cried. *First* of all, the RTC's observation³⁸ was prefaced by a statement that accused-appellant "did not want (AAA) to go home," which explains why AAA had been crying. Thus, the RTC's observation reinforces rather than diminishes accused-appellant's culpability for detaining the child against her will. *Secondly*, a perusal of AAA's testimony, upon which the RTC ostensibly based its observation, showed that accused-appellant did not accede to AAA's request to be returned home; she merely brought the child to her brother's house in Villa Viniegas where she was subsequently arrested by police operatives.³⁹ *Finally*, there is nothing in accused-appellant's testimony that showed her intent to return AAA to her home.

That accused-appellant had no justification whatsoever to detain AAA is undeniable.

AAA's parents had not given their consent for accused-appellant to take and keep their child. This is evident from the fact that they reported accused-appellant's taking of AAA to the police on the same day she was removed from her school.⁴⁰ It is likewise clear from the plea of AAA's mother, via cellular phone, for accused-appellant to bring AAA home.⁴¹ We are, thus, hard-pressed to believe accused-appellant's claim, uncorroborated as it is, that AAA's mother had given her consent for accused-appellant to take her child to Nueva Ecija.

Furthermore, as the CA correctly held, neither the permission given by AAA's teacher nor AAA's supposed agreement to go with accused-appellant, justified AAA's detention.

Besides, AAA was just nine (9) years old at the time of her detention, as evidenced by her Certificate of Live Birth.⁴² Thus, accused-appellant's claim that AAA voluntarily went with her to Nueva Ecija cannot hold water, as AAA was not in a position to give consent.

Where the victim is a minor, lack of consent is presumed. She is incompetent to assent to seizure and illegal detention. The consent of such

³⁷ *People v. Gregorio*, G.R. No. 194235, June 8, 2016.

³⁸ *CA rollo*, p. 8.

³⁹ TSN, January 12, 2007, p. 19.

⁴⁰ *Id.* at 4; *CA rollo*, p. 8.

⁴¹ *Id.* at 10.

⁴² *Rollo*, p. 7.

child could place accused-appellant in no better position than if the act had been done against her will.⁴³

The Court also notes AAA's testimony that she had been deceived by accused-appellant to go with her. Both on direct and cross-examination, AAA testified that accused-appellant told her that they would be going to the barangay captain as her husband had taken her suitcase, but they did not proceed to the barangay captain and accused-appellant took her instead to Nueva Ecija.⁴⁴

It has been held that the fact that the victim voluntarily went with the accused did not remove the element of deprivation of liberty, because the victim went with the accused on a false inducement. What is controlling is the act of the accused in detaining the victim against his or her will after the offender is able to take the victim in his custody.⁴⁵

In this case, the inscrutable fact is that accused-appellant detained AAA despite the latter's repeated plea to be returned home.

Accused-appellant's defense of denial, uncorroborated by testimony or other evidence, cannot be sustained in the face of AAA's categorical and consistent testimony that accused-appellant rejected her pleas to be brought home. Denial is a self-serving negative evidence, which cannot be given greater weight than that of the declaration of a credible witness who testifies on affirmative matters. Like alibi, denial is inherently a weak defense, which cannot prevail over the positive and credible testimonies of prosecution witnesses who, as in this case, were not shown to have any ill-motive to testify against accused-appellant.⁴⁶

Accused-appellant asserts that while the prosecution attempted to show that she had planned to poison AAA, and that she had made demands for a Php2 Million ransom and for AAA's father to kill her estranged husband (his sibling) as conditions for AAA's release, the RTC found that such purpose, allegedly heard by AAA from a telephone conversation, had not been sufficiently substantiated, let alone alleged in the Information. She argues that this negates her intent to kidnap or illegally detain the victim.

The argument deserves scant consideration.

Suffice it to state that the charge against accused-appellant was for kidnapping of a minor, committed by taking the victim from her school and

⁴³ *People v. Bisda*, G.R. No. 140895, July 17, 2003, 406 SCRA 454.

⁴⁴ TSN, January 12, 2007, pp. 11 & 12; TSN, March 9, 2007, p. 6.

⁴⁵ *People v. Siongco*, G.R. No. 186472, July 5, 2010; *People v. Deduyo*, G.R. No. 138456, October 23, 2003.

⁴⁶ *People v. Jacalne*, supra note 34; *People v. Marquez*, G.R. No. 181440, April 13, 2011; *People v. De Guzman*, supra note 30.



detaining her against her will. In kidnapping, the specific intent is to deprive the victim of his/her liberty.⁴⁷ If the victim is a child, it also includes the intention of the accused to deprive the parents with the custody of the child.⁴⁸ In this case, the prosecution has established beyond reasonable doubt that accused-appellant intended to deprive AAA of her liberty, and her parents, with the custody of their daughter.

The Court notes the RTC's finding that while accused-appellant sought to excuse her actions by "her desire to be loved" and "to accomplish some family concerns," her detention of AAA was not justifiable as it already prejudiced a minor.⁴⁹ Indeed, as the RTC pointed out, despite the alleged closeness of AAA's family to accused-appellant and their relationship by affinity, AAA's family still filed and pursued a serious charge against accused-appellant.⁵⁰

In fine, considering that the elements of Serious Illegal Detention have been sufficiently established in this case, there is no cogent reason for the Court to reverse accused-appellant's conviction for said offense.

Article 267 of the RPC prescribes the penalty of *reclusion perpetua* to death for Serious Illegal Detention. Absent any aggravating or modifying circumstance, the RTC, as affirmed by the CA, correctly imposed the penalty of *reclusion perpetua*, pursuant to Article 63⁵¹ of the RPC.⁵²

In line with prevailing jurisprudence,⁵³ the Court reduces the award of moral damages from PhP100,000 to PhP75,000, and directs accused-appellant to additionally pay AAA a civil indemnity of PhP75,000 and exemplary damages of PhP75,000. The civil indemnity and damages are subject to interest at the rate of six percent *per annum* from the finality of this Decision until fully paid.

The moral damages awarded by the RTC, as affirmed by the CA, were made payable to AAA through her father because of her minority. Considering that AAA is no longer a minor, the civil indemnity and damages

⁴⁷*People v. Delim*, G.R. No. 142773, January 28, 2003.

⁴⁸*People v. Baluya*, supra note 16; *People v. Acbangin*, G.R. No. 117216, August 9, 2000.

⁴⁹CA rollo, p. 11; Citing TSN, August 8, 2008, p. 10.

⁵⁰*Ibid.*

⁵¹Article 63. Rules for the application of indivisible penalties.

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In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

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2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

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⁵²*People v. Jacalne*, supra note 34.

⁵³*People v. Jugueta*, G.R. No. 202124, April 5, 2016.


shall be paid directly to AAA.


WHEREFORE, the Court of Appeals' Decision dated February 19, 2013 in CA-G.R. CR-H.C. No. 04598 is **AFFIRMED** with the following **MODIFICATIONS**: (a) the award for moral damages is reduced to PhP75,000; (b) accused-appellant is further ordered to pay a civil indemnity of PhP75,000 and exemplary damages of PhP75,000; (c) the civil indemnity, moral damages and exemplary damages so awarded shall be paid by accused-appellant directly to AAA, all with interest at the rate of six percent *per annum* from the time of finality of this Decision until fully paid.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

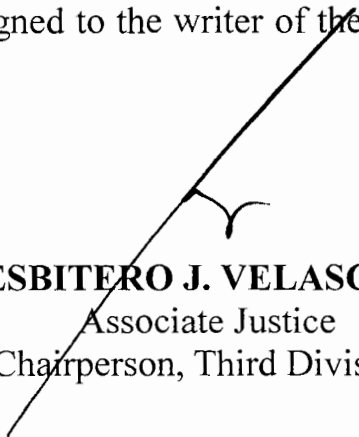

ANTONIO T. CARPIO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

ATTESTATION

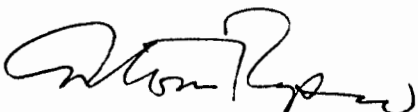
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.




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.



ANTONIO T. CARPIO
Acting Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division