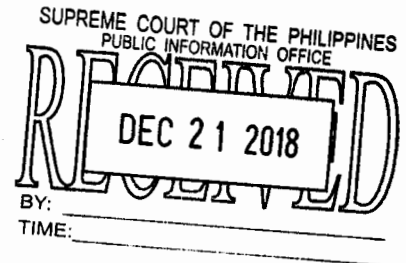




Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 226836

Present:

- versus -

BERSAMIN, C.J.,
 DEL CASTILLO,
 JARDELEZA,
 GISMUNDO,* *and*
 REYES, JR., J.,** JJ.

BONG CHAN AND ELMO CHAN,
Accused-Appellants.

Promulgated:
DEC 05 2018

X-----

DECISION

DEL CASTILLO, J.:

Actual taking indicates an intention to deprive the victim of his liberty.¹

This is an appeal filed by appellants Bong Chan (Bong) and Elmo Chan (Elmo) from the March 31, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06418, affirming the July 31, 2013 Decision³ of the Regional Trial Court (RTC) of Alaminos City, Pangasinan, Branch 55, in Criminal Case No. 4755-A, finding appellants guilty beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention, as defined and penalized under Article 267 of the Revised Penal Code (RPC).

The Factual Antecedents

Appellants were charged under the following Information:

* Per Special Order No. 2607 dated October 10, 2018.

** Designated Additional Member per November 28, 2018 raffle vice J. Tijam who recused due to prior participation before the Court of Appeals.

¹ *People v. Paingin*, 462 Phil. 519, 531 (2003).

² *Rollo*, pp. 2-10; penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Noel G. Tijam (now Supreme Court Associate Justice) and Eduardo B. Peralta, Jr.

³ *CA rollo*, pp. 49-65; penned by Presiding Judge Elpidio N. Abella.

That on or about September 27, 2004 in the evening[,] in Barangay Tawintawin, Alaminos City, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and helping each other and after threatening to kill the victim, did then and there willfully, unlawfully and feloniously club Reynard P. Camba with pieces of bamboo until he was rendered unconscious and thereafter, the same accused placed his body in a sack and carried him away depriving him of his liberty against his will and continued to detain and hide him illegally up to the present.

Contrary to [Article] 267 of the Revised Penal Code.⁴

When arraigned, appellants pleaded not guilty to the crime charged.⁵

Version of the Prosecution

During the bail hearing, the prosecution presented as witness, the victim's second cousin, Tito Camba (Tito) who was present the night the victim had an altercation with the family of the appellants.⁶

During the trial, the prosecution presented as witnesses: (1) Ernesto Estepa (Ernesto), the victim's uncle; (2) Rachele Camba (Rachele) and Erica Jean Camba (Erica), daughters of the victim; and (3) Rey Camba (Rey), the brother of the victim.⁷

According to the version of the prosecution, the victim was the nephew of Ernesto's wife; that at around 9:00 p.m. of September 27, 2004, the victim went to Ernesto's house to visit his (victim's) son, who was living with Ernesto and his wife; that the victim stayed at Ernesto's house for about two hours; that the victim told Ernesto that, earlier that evening, the victim had a quarrel with Melrose Libadia (Melrose) and her husband, Ronnie, because Melrose refused to sell the victim liquor from her store and that Melrose's father, appellant Elmo, threatened to kill the victim; that upon hearing this, Ernesto told the victim that it would be better for the latter to stay the night; that the victim refused because his wife might look for him; that around 11:00 p.m., the victim left Ernesto's house; that Ernesto followed the victim only until the latter was nearing the house of Helen Pamo; that the victim was about 10-20 meters ahead of Ernesto; that when the victim reached Melrose's house, Ernesto saw appellants come out of the yard; that upon seeing appellants, Ernesto hid; that Ernesto saw appellants hit the victim with bamboo sticks on the neck and kept hitting him even after he became unconscious and fell to the ground face down; that appellants went inside the yard; that they came back carrying a sack; that the appellants placed the victim, who was then unconscious, inside the sack and carried him inside their yard; that Ernesto did not see what happened thereafter; that he went home and had

⁴ Id. at 8.

⁵ *Rollo*, p. 3.

⁶ TSN, May 16, 2005, pp. 4-26.

⁷ CA *rollo*, p. 50.

a restless night; that the following day, he drove his jeepney plying the route of Alaminos-Lingayen; that when he arrived at his house at around 5:30 p.m., he met Rey, the brother of the victim; and that Ernesto told Rey that appellants killed the victim and that Rey should not tell anyone about it because they might kill him also.⁸

Rachelle, Erica, and Rey testified for the sole purpose of proving damages.⁹

Version of the Defense

The defense, on the other hand, offered the testimony of appellant Bong and his sister, Melrose.¹⁰

Melrose testified that around 9:00 p.m. of September 27, 2004, she was inside their house when the victim and Tito wanted to buy liquor; that she told the victim that she had no more stock of wine; that, contrary to the claim of the prosecution, there was no heated argument; that she left them and returned inside their house to take care of her husband who was sick at that time; and that on the said night, her brother and her father were at the auditorium of Barangay Tawin-tawin, which is a kilometer away from their house, to watch over their sacks of *palay*.¹¹

Appellant Bong, on the other hand, denied the accusations against them and claimed that, on the said evening, at around 10:00 p.m., he and his father were at the cemented pavement near the auditorium to watch over their *palay* that was scheduled for drying the following day; and that they stayed there until the morning of September 28, 2004.¹²

Ruling of the Regional Trial Court

On July 31, 2013, the RTC rendered a Decision finding appellants guilty beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention as defined and penalized under Article 267 of the RPC. The RTC gave no credence to the appellants' defenses of alibi and denial considering the positive testimony of Ernesto, who had no ill motive to testify falsely against the appellants.¹³ Thus –

WHEREFORE, in light of the foregoing considerations, the Court finds both accused Bong Chan and Elmo Chan guilty beyond reasonable doubt of the crime of kidnapping and serious illegal detention as defined and penalized under Article 267 of the Revised Penal Code and as charged in the afore-quoted

⁸ Id. at 50-52.

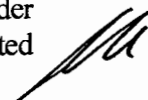
⁹ Id. at 53-54.

¹⁰ Id. at 55-56.

¹¹ Id. at 56.

¹² Id. at 55.

¹³ Id. at 56-64.



Information and, accordingly, hereby sentences them to each suffer the penalty of imprisonment of *reclusion perpetua* or twenty (20) years and one (1) day to forty (40) years with the accessory penalties provided for by law; to pay the heirs of the late Reynald Camba the amount of ₱50,000.00 as indemnification and the amount of ₱30,000.00 as moral damages, both without subsidiary imprisonment in case of insolvency; and to pay the costs.

In the service of their sentence, the accused shall be credited with the full time during which they underwent preventive imprisonment provided that they voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners otherwise they shall be credited to only four fifths (4/5) thereof. (Article 29, Revised Penal Code, as amended).

SO ORDERED.¹⁴

Appellants appealed the case to the CA putting in issue the credibility of Ernesto. They contended that Ernesto's testimony that he was driving his jeepney in the morning of September 28, 2004 to earn money contradicted with the testimony of Rachelle that Ernesto was with them in the morning of September 28, 2004 looking for the victim.¹⁵ They further argued that the prosecution failed to prove actual confinement, detention, or restraint of the victim.¹⁶

Ruling of the Court of Appeals

On March 31, 2016, the CA affirmed the Decision of the RTC. The CA agreed with the RTC that the prosecution was able to establish all the elements of the crime.¹⁷ The CA pointed out that the element of restraint was clearly established by the testimony of Ernesto.¹⁸ As to the alleged inconsistencies in the testimonies of Ernesto and Rachelle, the CA ruled that these pertained to events which transpired after the commission of the crime.¹⁹ As such, these inconsistencies on minor details did not in any way affect the veracity of Ernesto's testimony.²⁰

Hence, appellants filed the instant appeal, raising the same arguments they had in the CA.

Our Ruling

The appeal lacks merit.



¹⁴ Id. at 64-65.

¹⁵ Id. at 42-45.

¹⁶ Id. at 45-46.

¹⁷ *Rollo*, pp. 5-7.

¹⁸ Id. at 6-7.

¹⁹ Id. at 7-9.

²⁰ Id. at 8-9

The prosecution was able to prove all the elements of the crime.

Under Article 267 of the RPC, the elements of the crime of Kidnapping and Serious Illegal Detention are, as follows: “(1) the offender is a private individual; (2) he kidnaps or detains another or in any other manner deprives the victim of his liberty; (3) the act of kidnapping or detention is 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; (b) it is committed by simulating public authority; (c) serious physical injuries are inflicted on the victim or threats to kill are made; or (d) the person kidnapped or detained is a minor, female or public officer.”²¹

All the elements of the crime of Kidnapping and Serious Illegal Detention are present in this case. First, appellants are both private individuals. Second, the fact that they kidnapped the victim was clearly established by the testimony of the prosecution’s eyewitness, Ernesto. Third, appellants’ act of kidnapping was illegal. Lastly, the victim has been detained for more than three days. In fact, until now, the victim has not returned, nor his body been found.

Appellants, however, insist that the element of restraint was not clearly established as the prosecution allegedly failed to establish actual confinement, detention, or restraint of the victim.

The Court does not agree.

Actual confinement, detention, and restraint of the victim is the primary element of the crime of kidnapping.²² Thus, in order to sustain a conviction, the prosecution must show “actual confinement or restriction of the victim, and that such deprivation was the intention of the malefactor.”²³

In this case, Ernesto testified that he saw appellants: (1) hit the victim on the neck and other body parts using bamboo sticks causing the victim to fall down on the ground unconscious; (2) retrieve a sack from their yard; (3) place the victim inside the sack; and (4) carry him to their yard. Clearly, the acts of appellants of hitting the victim until he was unconscious, of putting him inside the sack, and of carrying him to their yard showed their intention to immobilize the victim and deprive him of his liberty. Thus, contrary to the claim of appellants, the element of restraint was clearly established. As aptly pointed out by the CA, “[a]ctual restraint of the victim was evident from the moment appellants clubbed the victim on the neck and other parts of his body and thereafter placed him inside a sack. Not only was [the victim’s]

²¹ *People v. Paingin*, supra note 1 at 530.

²² *Id.* at 530.

²³ *Id.*

freedom of movement restricted, he was immobilized because the blows rendered him unconscious. Putting him inside the sack completely rendered the victim powerless to resist.”²⁴

Minor inconsistencies do not affect the credibility and veracity of the testimony of the prosecution’s witness.

Appellants’ attempt to discredit the credibility of the prosecution’s eyewitness must likewise fail.

Discrepancies or inconsistencies in the testimonies of the witnesses pertaining to minor details, not touching upon the central fact of the crime, do not impair the credibility of the witnesses; on the contrary, they even tend to strengthen the credibility of the witnesses since they discount the possibility of witnesses being rehearsed.²⁵ In this case, discrepancies or inconsistencies in the testimony of Ernesto, vis-à-vis the testimony of Rachelle pertaining to minor details that have no bearing on the elements of the crime, do not affect the veracity and credibility of Ernesto’s positive testimony, who had no ill motive to testify against appellants. As the Court has consistently ruled, “the positive identification of the appellants, when categorical and consistent and without any [ill motive] on the part of the [eyewitness] testifying on the matter, prevails over alibi and denial.”²⁶

All told, the Court affirms the factual findings of the RTC, as affirmed by the CA. However, in order to conform to prevailing jurisprudence,²⁷ the Court finds it necessary to increase the awards of civil indemnity and moral damages to ₱75,000.00 each, and award exemplary damages in the amount of ₱75,000.00 to set an example for the public good. In addition, all damages awarded shall earn legal interest at the rate of 6% *per annum* from the date of finality of judgment until fully paid.

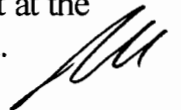
WHEREFORE, the appeal is **DISMISSED**. The March 31, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06418, which affirmed the July 31, 2013 Decision of the Regional Trial Court of Alaminos City, Pangasinan, Branch 55, in Criminal Case No. 4755-A, finding appellants **GUILTY** beyond reasonable doubt of the crime of Kidnapping and Serious Illegal Detention, as defined and penalized under Article 267 of the Revised Penal Code, is **AFFIRMED** with **MODIFICATIONS** that the awards of civil indemnity and moral damages be increased to ₱75,000.00 each and that exemplary damages in the amount of ₱75,000.00 be awarded. In addition, the damages awarded shall earn interest at the rate of 6% *per annum* from the date of finality of this Decision until fully paid.

²⁴ Rollo, pp. 6-7.

²⁵ *People v. Licayan*, 765 Phil. 156, 183 (2015).

²⁶ *People v. Berdin*, 462 Phil. 290, 304 (2003).

²⁷ *People v. Jugueta*, 783 Phil. 806, 848 (2016).



SO ORDERED.

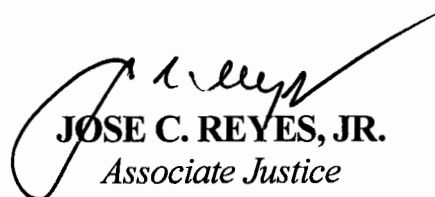

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

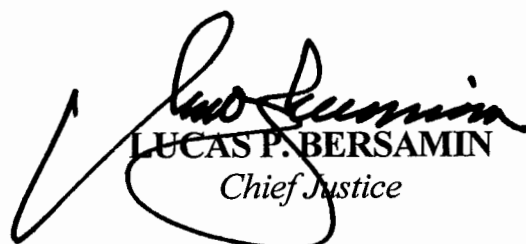

FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice

CERTIFICATION

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


LUCAS P. BERSAMIN
Chief Justice