



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapidan*  
 WILFREDO V. LAPIDAN  
 Division Clerk of Court  
 Third Division

OCT 09 2018

**THIRD DIVISION**

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

**G.R. No. 232361**

**Present:**

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

- versus -

**FRANCISCO DAMAYO y JAIME,**  
 Accused-Appellant.

**Promulgated:**

September 26, 2018

*Wilfredo V. Lapidan*

X-----X

**DECISION**

**PERALTA, J.:**

Before the Court is an appeal from the January 30, 2017 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07683, which affirmed with modifications the July 29, 2015 Decision<sup>2</sup> of the Regional Trial Court, Branch 207, Muntinlupa City (RTC), finding accused-appellant Francisco Damayo y Jaime (*Damayo*) guilty beyond reasonable doubt of the crime of Kidnapping for Ransom.

The antecedent facts are as follows:

Damayo was indicted for Kidnapping for Ransom under Article 267 of the Revised Penal Code, as amended, in an Information which reads:

\* On wellness leave.  
 \*\* Designated additional member per Special Order No. 2588 dated August 28, 2018; on leave.  
<sup>1</sup> Penned by Associate Justice Socorro B. Inting, with Associate Justices Remedios A. Salazar-Fernando and Priscilla J. Baltazar-Padilla concurring; *rollo* pp. 2-10.  
<sup>2</sup> Penned by Judge Philip A. Aguinaldo; CA *rollo* pp. 38-48.

*W*

That, on or about the 7<sup>th</sup> day of August, 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a private individual, did then and there willfully, unlawfully and feloniously kidnap one JEROME ROSARIO Y SAMPAGA, an eleven (11)-year-old minor, for the purpose of extorting ransom.

CONTRARY TO LAW.

When arraigned, Damayo pleaded not guilty to the charge. After pre-trial, trial on the merits ensued.

### *Version of the Prosecution*

As summarized by the Office of the Solicitor General (OSG), the People's factual version is as follows:

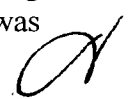
On August 7, 2008, at 12:00 noon, Jerome Rosario, then eleven (11) years old, was outside his school at Sucat Elementary School, Brgy. Sucat, Muntinlupa City when appellant, known to him as Kuya Frank, approached and told him that he was there to fetch him as they were going somewhere. Since Jerome was familiar with appellant, he went with him and both boarded a jeep bound for Pasay. Upon arriving at Pasay, they boarded a bus. Jerome did not know where they were going.

Worried that Jerome had not returned from school, his parents Edna Rosario and Jerry Rosario started to look for Jerome. When they chanced upon Daryll, a classmate of Jerome, and asked him on his whereabouts, Daryll informed them that an unknown man had taken Jerome during dismissal time. Edna and Jerry then reported the incident to the barangay, where it was blotted.

The next day, August 8, 2008, Edna received a call on her daughter's cellphone from a person who introduced himself as Jerome's classmate. The man, whom Edna recognized to be appellant, stated that Jerome was with him and will be let go, provided that he will be given P150,000.00 and Edna will be unaccompanied when they meet. He directed her to meet him at a terminal in Dau, Pampanga.

The following day, August 9, 2008, Edna and Jerry went to the Muntinlupa City Police Station to report the matter. An operation was planned to retrieve Jerome, where it was agreed that upon meeting appellant at the designated meet-up point, Edna would touch appellant's arm, signaling to the police his identity.

At 2:00 P.M. of the same date, Edna, Jerry, and the police officers, namely, Senior Police Officer 4 (SPO4) Elias Nero, Police Officer 3 (PO3) Rudolph Delmendo, PO3 Roberto Lanting and Police Officer 2 (PO2) Julkabra Sulaiman, proceeded to the Dau terminal in Mabalacat, Pampanga. Upon seeing appellant, Edna touched his arm which prompted the police to arrest him. After handcuffing him, informing him of his arrest and reading him his constitutional rights, the police asked appellant where Jerome was



being kept. Appellant told them that Jerome was at his house at No. 301 Telabastaga, San Fernando, Pampanga. They proceeded to the area and were able to safely recover Jerome.<sup>3</sup>

### *Version of the Defense*

The defense relates Damayo's version of the facts in this manner:

x x x x

11. On the other hand, accused FRANCISCO J. DAMAYO vehemently denied the charge against him and interposed that on 7 August 2010, he was instructed by Edna to fetch Jerome from school and to meet her at the Pasay bus terminal thereafter. This is because they were planning to transfer Jerome to another school in Pampanga where they were living as common-law spouses.

12. Prior to the incident, the accused, being one of the Rosarios' close friends, stayed in their house in Sucat for a couple of weeks. At which time, he witnessed how Gerry Rosario abused his wife (Edna) and children. He (accused) tried to distance himself from the Rosarios but Edna kept on asking for his help and advice. As time went by and due to the fact that the accused has always been there for Edna, they grew closer and had an illicit relationship. Ashamed of his weakness, the accused left and stayed with his daughter in Tagaytay. Edna, however, kept on following him.

13. As a last effort to rid himself of his affair with Edna, the accused went to Clark, Pampanga to work there. He, likewise, changed his contact information. Edna, however, was able to trace him and unable to avoid her, the accused succumbed to her desires. They (Edna and the accused) started living together in Pampanga. Edna would then fetch her son, Jerome, every Friday and bring him back to Sucat every Sunday.

14. As the set up proved to be inconvenient for both Edna and Jerome, the couple (Edna and the accused) decided to just transfer Jerome to a school in Pampanga. Thus, on 7 August 2008, after his stay in Tagaytay, the accused met Edna at their house in Sucat, where she asked him to fetch Jerome from school and she will join them at Pasay bus terminal.

15. To his surprise and disappointment, however, Edna did not show up, thus, at Jerome's prodding, the accused decided to leave with Jerome and let Edna follow them to Pampanga.

16. The following day, or on 8 August 2008, Edna called the accused, asking him to bring Jerome back to Sucat, as her husband learned of their plan (to live together with Jerome in Pampanga), and got mad. Unfortunately, however, the accused had no means to travel back to Sucat that day. He (accused) told Edna to fetch Jerome herself or to wait for him to be able to come up with the money for their fare back to Sucat.



17. On 9 August 2008, while the accused was driving his jeepney, he received a call from Edna, asking him to meet her at Dau terminal. Upon arriving thereat, he was suddenly handcuffed by two (2) men in civilian clothes, accusing him of kidnapping Jerome. He instantly denied it and even told them where to find the boy. With no intention of detaining or abducting Jerome, the accused reasoned that he was only following Edna's instructions.<sup>4</sup>

### *The RTC Ruling*

After trial, the RTC rendered its Decision dated July 29, 2015, finding Damayo guilty beyond reasonable of the crime charged. The dispositive portion of which reads:

WHEREFORE, the Court finds accused Francisco Damayo y Jaime guilty beyond reasonable doubt of kidnapping and serious illegal detention under the first (the private complainant is a minor) and second (for the purpose of extorting ransom) paragraphs of Article 267 (4) of the Revised Penal Code, and is sentenced to *reclusion perpetua* without possibility of parole. He is further ordered to pay private complainant Jerome Rosario y Sampaga civil indemnity in the amount of P25,000.00, and moral damages in the amount of P25,000.00 both with 6% interest per annum from the finality of this decision until fully paid.

The Jail Warden, Muntinlupa City Jail is directed to immediately transfer accused Francisco Damayo y Jaime to the New Bilibid Prison for the service of his sentence.

SO ORDERED.<sup>5</sup>

The RTC gave credence to the prosecution evidence which established that on August 7, 2006, Damayo took Jerome Rosario y Sampaga (*Jerome*), who was then eleven years of age, from his school and brought the latter to his house in Pampanga where he deprived the said victim of his personal liberty for three (3) days and that Damayo demanded ransom of ₱150,000.00 from Edna, Jerome's mother, for the release of her son from captivity. According to the RTC, Jerome convincingly testified on the events that transpired during the kidnapping incident from August 7 to 9, 2006 and positively identified Damayo as his abductor. The RTC rejected the defense of denial interposed by Damayo because it was not substantiated by clear and convincing evidence.

Not in conformity, Damayo appealed his conviction before the CA.

<sup>4</sup> *Id.* at 30-31.

<sup>5</sup> *Id.* at 48.

***The CA Ruling***

On January 30, 2017, the CA rendered its assailed Decision affirming Damayo's conviction with modification as to the award of damages, the *fallo* of which states:

WHEREFORE, the Decision dated 29 July 2015 of the Regional Trial Court of Muntinlupa City, Branch 207, in Criminal Case No. 08-556 is AFFIRMED with the following MODIFICATIONS:

- (1) that the amounts of moral damages and civil indemnity are increased to P100,000.00, each;
- (2) that exemplary damages in the amount of P100,000.00 is further awarded.

SO ORDERED.<sup>6</sup>

The CA ruled that the prosecution witnesses unerringly established the commission of the crime of kidnapping for ransom and Damayo's culpability thereof. The CA, likewise, brushed aside Damayo's defense of denial for being self-serving and unsupported by any plausible proof.

Aggrieved, Damayo filed the present appeal and posited the lone assignment of error he previously raised before the CA, to wit:

THE COURT *A QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF KIDNAPPING SOLELY ON THE BASIS OF THE PROSECUTION WITNESSES' INCONSISTENT AND CONTRADICTORY TESTIMONIES.<sup>7</sup>

In its Resolution<sup>8</sup> dated August 23, 2017, the Court directed both parties to submit their supplemental briefs, if they so desire. On October 23, 2017, the OSG filed its Manifestation (in Lieu of Supplemental Brief)<sup>9</sup> praying that it be excused from filing a Supplemental Brief as its Appellee's Brief had sufficiently ventilated the issues raised. On November 21, 2017, Damayo filed a Manifestation (*In lieu of a Supplemental Brief*)<sup>10</sup> averring that he would adopt all his arguments in his Appellant's Brief filed before the CA where he had already adequately discussed all matters pertinent to his defense.

---

<sup>6</sup> *Rollo*, p. 9.

<sup>7</sup> *CA rollo*, p.27.

<sup>8</sup> *Rollo*, pp. 17-18.

<sup>9</sup> *Id.* at 19-21.

<sup>10</sup> *Id.* at 25-27.



Insisting on his acquittal, Damayo asserts that the case for the prosecution was enfeebled by the inconsistent and contradictory testimonies of its witnesses, Jerome and Edna Rosario (*Edna*). He submits that said testimonies are barren of probative weight and, thus, his conviction based thereon was erroneous. He puts premium on the following alleged material and substantial discrepancies to impugn the credibility of Jerome and Edna:

- 1) Jerome averred in his Affidavit, dated August 9, 2008, that appellant took him by force, while during his direct testimony, Jerome recounted that he voluntarily went with Damayo because he was familiar with him;
- 2) While at the witness stand, Edna claimed that she and her husband purposely went to Jerome's classmate, Daryll, to know the whereabouts of their son, but during her later testimony, Edna alleged that she and her husband only chanced upon the said classmate; and
- 3) During her direct examination, Edna recalled that it was her daughter who received the call from Damayo, while during her cross-examination, Edna stated that she was the one who received the call from Damayo who demanded ransom of ₱150,000.00.

Damayo denies that he abducted Jerome and maintains that his denial gained commensurate strength since the credibility of the prosecution witnesses is wanting and questionable. He contends that any doubt should be resolved in favor of the accused based on the principle that it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence. Damayo stresses that his constitutional right to presumption of innocence remains because there is reasonable doubt that calls for his acquittal.

### ***The Court's Ruling***

The appeal is devoid of merit. Damayo's conviction of the crime charged must stand.

In the case at bench, the RTC, as affirmed by the CA, gave more weight and credence to the testimonies of the prosecution witnesses compared to that of Damayo. After a judicious review of the evidence on record, the Court finds no cogent reason to deviate from the factual findings of the RTC and the CA, and their respective assessment and calibration of the credibility of the prosecution witnesses. Despite Damayo's vigorous protestation, the Court is convinced beyond cavil that the prosecution has proven with moral certainty

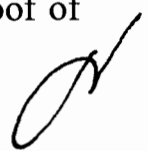


that Damayo kidnapped Jerome for the purpose of extorting money from his parents.

Jerome unmistakably and compellingly narrated, in detail, the events of the kidnapping incident, from the moment he was taken by Damayo from his school and brought to the latter's residence in Pampanga where he remained in captivity for three (3) days until his rescue by the police officers and his parents. The RTC described Jerome's testimony as "simple, straightforward and credible which was not toppled down in the cross-examination."<sup>11</sup> A perusal of Jerome's testimony confirms the trial court's observation. Jerome was consistent in his account. Even during the rigorous cross-examination conducted by Damayo's counsel, he remained steadfast in his story of the commission of the crime and categorically pinpointed Damayo as his abductor. There is no showing that Jerome simply made up the details of his testimony or that he was coached. His testimony is unequivocal, forthright, cohesive and, hence, bears the hallmarks of honesty and truth. In sum, the RTC did not commit any error when it gave probative weight and credence to Jerome's testimony.

In order that the accused can be convicted of kidnapping and serious illegal detention, the prosecution must prove beyond reasonable doubt all the elements of the crime, namely: (a) the offender is a private individual; (b) he kidnaps or detains another, or in any manner deprives the latter of his liberty; (c) the act of detention or kidnapping must be illegal; and (d) in the commission of the offense any of the following circumstances is present: (1) the kidnapping or detention lasts for more than three days; (2) it is committed by simulating public authority; (3) any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made; or (4) the person kidnapped or detained is a minor, female, or a public officer.<sup>12</sup>

If the victim of kidnapping and serious illegal detention is a minor, the duration of his detention is immaterial. Also, if the victim is kidnapped and illegally detained for the purpose of extorting ransom, the duration of his detention is immaterial.<sup>13</sup> It is settled that the curtailment of the victim's liberty need not involve any physical restraint upon the latter's person and it is not necessary that the offender kept the victim in an enclosure or treated him harshly.<sup>14</sup> The crime of serious illegal detention is committed by detaining a person or depriving him in any manner of his liberty.<sup>15</sup> Its essence is the actual deprivation of the victim's liberty, coupled with indubitable proof of the intent of the accused to effect such deprivation.<sup>16</sup>



---

<sup>11</sup> CA rollo, p. 46.

<sup>12</sup> *People v. Anticamara, et al.*, 666 Phil. 484, 511 (2011).

<sup>13</sup> *People v. Pagalasan*, 452 Phil. 341, 362 (2003).

<sup>14</sup> *People v. Fabro*, G.R. No. 208441, July 17, 2017.

<sup>15</sup> *People v. Domasian*, 292 Phil. 255, 264 (1993).

<sup>16</sup> *People v. Obeso*, 460 Phil. 625, 634 (2003).

The elements of kidnapping as embodied in Article 267 of RPC have been sufficiently proven in the case at bench. It is undisputed that Damayo is a private individual, and that he took Jerome from his school at Sucat Elementary School, Barangay Sucat, Muntinlupa City on August 7, 2008 at 12:00 noon, brought said victim to his house at No. 301 Telabastaga, San Fernando, Pampanga, and kept him there until he was safely recovered by his parents and the police officers on August 9, 2008. That Damayo had no justification whatsoever to detain Jerome is undeniable.

Although it was not established that Jerome was placed inside an enclosure or was locked up, he was nonetheless deprived of his liberty because he cannot leave the place where Damayo brought him as the latter remained outside and kept watch of him. This only goes to show that Jerome was constantly guarded by Damayo during the period of his captivity. Also, let it be underscored that 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 inasmuch as under this situation, the child's freedom remains at the mercy and control of the abductor.<sup>17</sup>

Here, bringing minor Jerome to a house located somewhere in Pampanga, a place which is totally unfamiliar to him and very far from his residence at Sucat, Muntinlupa City, would constitute denial of the said victim's liberty. Even if Jerome had the freedom of locomotion inside the house of Damayo, he did not have the freedom to leave the same at will or escape therefrom because he did not know where to go and could not possibly go back home to his mother Edna as he didn't know how to do so. Jerome was merely waiting and hoping that he would be brought home or that his parents would fetch him. Verily, the prosecution has established beyond reasonable doubt that Damayo intended to deprive Jerome of his liberty, and his parents, with the custody of their minor son.

In his attempt at exculpation, Damayo posits that the charge against him should not have been given credence since the testimonies of prosecution witnesses Jerome and Edna are allegedly laced with inconsistencies and discrepancies which cast serious doubt on the veracity of their respective claims. Specifically, Damayo points out that while Jerome stated that he had been taken by force in his affidavit, he subsequently testified during his direct examination that he voluntarily went with the appellant because he personally knew the latter as "Kuya Frank" since Damayo stayed in their house for a time. Damayo submits that such inconsistency is sufficient to discredit Jerome.

Damayo's arguments do not persuade.



---

<sup>17</sup>*People v. Baluya*, 664 Phil. 140, 151 (2011).



Jerome's testimony prevails over the statement he gave in the affidavit which he previously executed. It is settled that whenever there is inconsistency between the affidavit and the testimony of a witness in court, the testimony commands greater weight considering that affidavits taken *ex parte* are inferior to testimony given in court, the former being almost invariably incomplete and oftentimes inaccurate.<sup>18</sup> Affidavits are usually incomplete, as these are frequently prepared by administering officers and cast in their language and understanding of what affiants have said.<sup>19</sup> They are products sometimes of partial suggestions and at other times of want of suggestions and inquiries.<sup>20</sup> Almost always, the affiants would simply sign the documents after being read to them. Jurisprudence is unequivocal in saying that the testimony of a witness prevails over an affidavit.<sup>21</sup>

At any rate, the inconsistency adverted to by Damayo is negligible and merely refers to a minor detail that does not bear relevance on the material and significant fact that Damayo kidnapped Jerome. It does not pertain to the why's and wherefore's of the crime, as to adversely affect the reliability of the People's evidence as a whole. An inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction.<sup>22</sup>

Thus, whether Jerome was taken by force or not is of no moment. What is controlling is the act of the accused in detaining the victim against his will after the offender is able to take the victim in his custody.<sup>23</sup> Besides, it is settled that the carrying away of the victim can either be made forcibly or fraudulently,<sup>24</sup> as in this case. The Court gathers from Jerome's testimony that he was deceived by Damayo to go with him. Jerome clearly testified that Damayo told him that they would just go somewhere for a while and that he would be brought back shortly thereafter. The unsuspecting minor readily acceded to Damayo's request because he trusted his "Kuya Frank," but the latter took him instead to Pampanga. Viewed in the light of the foregoing, the Court finds that the discrepancy in question did not damage nor shatter altogether the credibility and the essential integrity of Jerome's testimony, but instead, the honest inconsistency serves to strengthen rather than destroy the victim's credibility.

Anent the inconsistencies in the testimony of witness Edna cited by Damayo, suffice it to say that they are mere trifles which could not discredit her testimony nor diminish her credibility. It must be stressed that even the most candid witnesses oftentimes make mistakes and would fall into confused statements. Trivial inconsistencies do not shake the pedestal upon which the witness' credibility rests. On the contrary, they are taken as badges of truth

<sup>18</sup> *People v. Mamarion*, 459 Phil. 51, 85 (2003).

<sup>19</sup> *People v. Cueto*, 443 Phil. 425, 433 (2003).

<sup>20</sup> *People v. Abrera*, 347 Phil. 302, 316 (1997).

<sup>21</sup> *People v. Ortiz*, 413 Phil. 592, 611 (2001).

<sup>22</sup> *People v. SPO1 Gonzales, Jr.*, 781 Phil. 149, 156 (2016).

<sup>23</sup> *People v. Siongco, et al.*, 637 Phil. 488, 500 (2010).

<sup>24</sup> *People v. De Guzman*, 773 Phil. 662, 674 (2015).

rather than as *indicia* of falsehood for they manifest spontaneity and erase any suspicion of a rehearsed testimony<sup>25</sup> as well as negate all doubts that the same were merely perjured. A truth-telling witness is not always expected to give an error-free testimony, considering the lapse of time and the treachery of human memory.<sup>26</sup> Edna is not expected to remember every single detail of the incident with perfect or total recall.

What militates against Damayo's claim of innocence is the time-honored rule that the issue of credibility of witnesses is a question best addressed to the province of the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying and absent any substantial reason which would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the former's findings.<sup>27</sup> The 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.<sup>28</sup>

We do not find any compelling reason to deviate from the trial court's evaluation of prosecution witnesses as credible witnesses and the credibility of their respective testimonies. Neither the RTC nor the CA overlooked, misinterpreted, misapplied or disregarded any significant facts and circumstances which when considered would have affected the outcome of the case. To the contrary, the prosecution witnesses' testimonies presented a cohesive, detailed, and convincing account of Jerome's August 7 to 9, 2008 kidnapping incident: from Jerome's actual abduction, to the ransom negotiation, to the supposed ransom payout, and to accused-appellant's apprehension by the police officers and Jerome's rescue.

Still, Damayo denies that he kidnapped Jerome. In a crude effort to muddle the case for the prosecution, Damayo asserts that he and Edna were lovers and that he took Jerome from his school and brought him to Pampanga upon Edna's request. Damayo explains that he and Edna had considered transferring Jerome to a school in Pampanga. He claims that it had been the practice for Edna and Jerome to spend their weekends with him at their rented home in Pampanga.

Damayo's contention is nothing more than a futile maneuver and a vain attempt to provide a viable excuse for taking Jerome from his school and bringing him to his house in Pampanga where he detained said victim for three days. What destroys the veracity of Damayo's claims is the categorical and credible declaration of Jerome that he and his mother have never stayed in Pampanga with Damayo at any given time, and that he has never been in

<sup>25</sup> *People v. Diopita*, 400 Phil. 653, 665 (2000).

<sup>26</sup> *People v. Mendoza*, 421 Phil. 149, 168 (2001).

<sup>27</sup> *People v. Dominguez, Jr.*, 650 Phil. 492, 520 (2010).

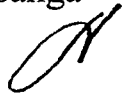
<sup>28</sup> *Kummer v. People*, 717 Phil. 670, 679 (2013).

Pampanga before the kidnapping incident. Case law has it that testimonies of child victims are given full weight and credit, and that the testimony of children of sound mind is likely to be more correct and truthful than that of older persons.<sup>29</sup>

Moreover, as aptly observed by the RTC, if the trip to Pampanga was indeed planned as claimed by Damayo, then Jerome would have brought with him certain personal belongings which he will use during his stay at appellant's house. Or, if Edna and Jerome really spend their weekends at Pampanga, there would have been clothes available for use at Damayo's place. Evidence on record, however, showed that for the entire duration of his detention, Jerome only wore his school uniform and only had with him his school bag.

Edna, on the other hand, vehemently denied that she and Damayo were lovers and that she gave him an instruction to bring Jerome to Pampanga. We agree with the courts *a quo* that Edna has not given her consent for Damayo to take and keep her son. This is evident from the fact that Edna, together with her husband, wasted no time and went through the trouble of going to Jerome's school to look for their son when the latter failed to go home at around 4 o'clock in the afternoon on August 7, 2008 and in having the incident of the taking of Jerome by a male person to be blotted before the *Barangay* Office of the Sucat, Muntinlupa City. This is, likewise, clear from the plea of Edna, via cellular phone, for Damayo to bring home her son.

Apart from Damayo's bare assertion, no other evidence was adduced by the defense to substantiate his claim that he and Edna were lovers. Records show that the testimony of defense witness Edwin Alcantara, appellant's son-in-law, confirming the alleged love affair between Damayo and Edna, was ordered by the RTC to be expunged from the records due to the failure of this witness to appear and testify for cross-examination. Granting *arguendo* that Edna and Damayo were indeed sweethearts, the same does not negate the commission of kidnapping. Such a romantic relationship, even if true, does not give Damayo the authority to remove Jerome from his school and detain him for three days at San Fernando, Pampanga away from his parents. In any event, the Court notes that Edna's reactions consisting of immediately reporting the kidnapping of his son to the Muntinlupa City Police and identifying the culprit to be herein appellant, cooperating with the police for the apprehension of Damayo, and testifying against him before the RTC, are certainly not consistent with the conduct of a woman deeply in love with appellant. Besides, if it was really true that Edna and Damayo are lovers, then she should have conveniently joined appellant and Jerome in Pampanga instead.



---

<sup>29</sup> *People v. Bisda*, 454 Phil. 194, 224 (2003).

More importantly, Damayo's defense of denial was not corroborated nor bolstered by any competent and independent evidence testimony or other evidence and, hence, cannot be sustained in the face of Jerome's unwavering testimony and of his positive and firm identification of Damayo as the perpetrator. 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.<sup>30</sup>

It bears stressing that Damayo utterly failed to allege, much less, prove any ill or ulterior motive on the part of Jerome and Edna to fabricate a story and to falsely charge Damayo with such a very serious crime. Where there is no evidence to show any dubious or 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.<sup>31</sup>

Lastly, the Court determines that the qualifying circumstance of extortion of ransom being the purpose of Damayo in kidnapping Jerome was duly alleged in the Information and has been sufficiently established by the prosecution. Edna clearly testified that on August 8, 2008 at around 8 o'clock in the morning, she received a call from Damayo who demanded that he be given ₱150,000.00 in exchange for the safe release of Jerome and that the ransom payout shall be held at the Dau Terminal, Mabalacat, Pampanga. Damayo never rebutted this particular testimony of Edna. The fact that he did not receive the ransom payment is of no consequence. Actual payment of ransom is not necessary for the crime to be committed. It is enough that the kidnapping was committed for the purpose of extorting ransom.<sup>32</sup>

Since Damayo's guilt for the crime of kidnapping for ransom had been established beyond reasonable doubt, he should be meted the penalty of death under Article 267 of the Revised Penal Code, as amended. However, considering that the imposition of the death penalty has been prohibited by Republic Act No. 9346, entitled "*An Act Prohibiting the Imposition of Death Penalty in the Philippines*", the penalty of *reclusion perpetua* should be imposed upon Damayo. In addition, the qualification "without eligibility for parole" should be affixed to qualify *reclusion perpetua* pursuant to A.M. No. 15-08-02-SC.<sup>33</sup> Thus, the RTC has properly imposed upon Damayo the penalty of *reclusion perpetua* without eligibility for parole.

<sup>30</sup> *People v. Jacalne*, 674 Phil. 139, 148 (2011).

<sup>31</sup> *People v. Gregorio, et al.*, 786 Phil. 565, 596 (2016).

<sup>32</sup> *People v. Salimbago*, 373 Phil. 56, 75 (1999).

<sup>33</sup> Section II of A.M. No. 15-08-02-SC (Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties) states:

x x x x

II.

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":


(1) x x x: and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. 9346, the qualification of "*without eligibility for parole*" shall be used to qualify *reclusion perpetua*

Coming now to the civil liabilities, the Court finds that the CA is correct in awarding ₱100,000.00 each for civil indemnity, moral damages and exemplary damages being consistent with current jurisprudence.<sup>34</sup> Further, six percent (6%) interest *per annum* shall be imposed on all damages awarded to be reckoned from the date of the finality of this Decision until fully paid.<sup>35</sup>

**WHEREFORE, premises considered,** the appeal is **DISMISSED**. The Decision of the Court of Appeals dated January 30, 2017 in CA-G.R. CR-HC No. 07683 is hereby **AFFIRMED**. Accused-appellant Francisco Damayo y Jaime is found **GUILTY** beyond reasonable doubt of the crime of Kidnapping for Ransom and is sentenced to suffer the penalty of *Reclusion Perpetua* without eligibility for parole. He is **ORDERED** to **PAY** the private complainant Jerome Rosario y Sampaga the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) *per annum* from the time of finality of this Decision until fully paid.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

---

in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

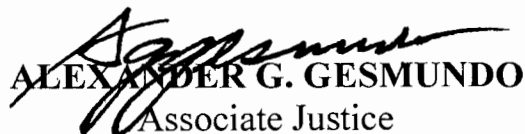
<sup>34</sup> *People v. PO3 Borja*, G.R. No. 199710, August 2, 2017.

<sup>35</sup> *People v. Romobio*, G.R. No. 227705, October 11, 2017.

**WE CONCUR:**

On wellness leave  
**MARVIC M.V.F. LEONEN**  
Associate Justice


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

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice


**ATTESTATION**

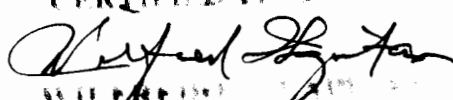
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**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.

  
**TERESITA J. LEONARDO-DE CASTRO**  
Chief Justice

CERTIFIED TRUE COPY  
  
CLERK OF COURT  
DIVISION OF THE SUPREME COURT  
THIRD DIVISION