

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIFE BELLO Y ROSCO @ “JOANN REDILLO,” JOHN DOE @ “ELADIO M. CONSUELO, JR.” AND “BOYET,” PETER DOE @ “DANNY DINEROS,” AND RIC...**

*G.R. No. 124871. May 13, 2004*

Ponente: PUNO, J.

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**PUNO, J.:**

To support his family, ROLANDO ANDASAN left Cabanatuan City and landed a job as messenger/collector at the Sunshine Moneychanger in Pasay City, earning a measly net income of P2,000.00 per month. On July 25, 1995, in the course of his employment, he was mercilessly stabbed 28 times and died.[1]

For his demise, an Information[2] for robbery with homicide was filed against four (4) accused, viz: Marife Bello y Rosco alias “Joann Redillo,” Eladio M. Consuelo, Jr. alias “Boyot,” Danny Dineros and “Cayo” or “George.” It reads:

That on or about 25 July 1995, in Pasay City, Metro Manila, and within the jurisdiction of this Honorable Court, said accused, conspiring and confederating together and mutually helping one another, with intent to gain, did then and there, willfully, unlawfully, and feloniously, by means of violence, intimidation, force and other unlawful means, take, divest and carry away from one ROLANDO ANDASAN y LEGASPI P114,000.00 cash belonging to the Sunshine Money Changer (sic) Shop, to its damage and prejudice in said amount, and during the occasion of which, repeatedly stab the latter with a bladed weapon, thereby inflicting upon him fatal wounds, which directly caused his death.

CONTRARY TO LAW.

Only accused Marife and Eladio, Jr. were arrested. Accused Danny and Cayo remain at large.

As there was no eyewitness to the actual commission of the crime, the prosecution built its case through circumstantial evidence. The unbroken chain of events was testified to by prosecution witnesses: Eduardo Rafael, OIC of the Sunshine Moneychanger; the employees of Queensland Lodge, namely: roomboys Mayonito Wayco and Jonathan Deniega, security guard Leonardo Acosta, accounting clerk Rose Caharian and telephone operator Digna Siazon; cab driver Ernesto Ramos; police investigators SPO3 Danilo Unico, SPO2 Angel Palattao, PO3 Warlito Hermo and PO3 Ronald Cabaliw; NBI medico-legal officer Ravell Baluyot; and, the victim’s wife, Zenaida Andasan. Their testimonies are summarized below.

On July 25, 1995, at about 10:30 a.m., a cab entered the Queensland Lodge in Pasay City, with accused Marife and Eladio, Jr. on board. They alighted in front of the private garage of room no. 2 and informed Jonathan Deniega, a roomboy, that they needed a room. Jonathan led them inside the private garage of room no. 2 and the three went up a flight of stairs leading to the room. Jonathan ushered them in, turned on the lights, aircondition unit and television set in the room before leaving.[3] Jonathan then gave a stub to their telephone operator,

DIGNA SIAZON, where he indicated that two customers checked in at room no. 2.

At about 11:00 a.m., accused Marife called up Digna and asked for an outside line. Initially, Digna was unable to grant her request as the telephone lines were busy. When a similar request was made by accused Marife at about 1:30 p.m., she was able to give her a line.[4] Accused Marife then called up the Sunshine Moneychanger in Pasay City and talked with the officer-in-charge, EDUARDO RAFAEL. Identifying herself as Joann Redillo, accused Marife misrepresented to Eduardo that she came from Japan and would like to convert her 40 pieces of yen to pesos. She requested that the currency conversion be made in her room inside the nearby Queensland Lodge as she did not want to carry around a huge sum of money. Eduardo agreed to the arrangement as their office was used to extending such service to the customers of the lodge.

Eduardo instructed his messenger ROLANDO ANDASAN to proceed to the lodge and give the lady occupant of room no. 2 the sum of P114,000.00 in exchange for her 40 pieces of yen. Rolando left the office at about 1:35 p.m. and arrived at the lodge ten minutes later. When he asked security guard LEONARDO ACOSTA where he could find room no. 2, he was instructed to inquire from a roomboy inside the lodge.[5]

At about that time, ROSE CAHARIAN, an accounting clerk of the lodge, saw Rolando standing by the hallway. Rolando informed her that he had about a hundred thousand pesos with him as they have a female guest in room no. 2 who wanted to have her yen converted into pesos. Rose escorted Rolando to Digna, the telephone operator, and directed the latter to call up room no. 2 and announce the presence and purpose of Rolando. Digna called up room no. 2 and accused Marife confirmed the currency transaction.[6]

Roomboy MAYONITO WAYCO escorted Rolando and directed him to wait in the garage while he first went up the room to announce his presence. Accused Eladio, Jr. opened the door and instructed Mayonito to let Rolando in. Mayonito returned to the garage, fetched Rolando and ushered him to the room. Mayonito returned to the garage and waited.

At about 2 p.m., accused Marife called up telephone operator Digna and informed her that they were checking out of the room. Seconds later, Mayonito, who was still waiting for Rolando in the garage, saw accused Marife emerge from room no. 2. She inquired about the cost of their room occupancy and, without waiting for his reply, immediately handed him a P500.00 bill. Mayonito called on Jonathan to arrange for the payment of the bill and handed him the P500 bill. Jonathan then signaled security guard Leonardo to hail a cab for accused Marife. In the meantime, Mayonito stayed in the garage with accused Marife.

While waiting for the bill and the cab, Mayonito inquired from accused Marife where Rolando was. She dismissed his query and directed him to follow-up instead the preparation of their bill as she and her companion were in a hurry. Mayonito rushed to the cashier to get the bill, only to be told that it was already with Jonathan.

Meanwhile, Jonathan returned to accused Marife with the bill. He waited with her at the garage for about 5 minutes for the arrival of her cab. As she seemed quite impatient to leave, they started to walk towards the gate of the lodge. Just then, security guard Leonardo was able to hail a cab and instructed it to enter the lodge.[7]

Thus, when Mayonito returned to the garage of room no. 2, he saw accused Marife about to board the cab inside the lodge. Mayonito instructed cab driver ERNESTO RAMOS to stay for a while as they still had to inspect room no. 2. Accused Marife likewise directed Ernesto to wait for her companion accused Eladio, Jr. who, seconds later, emerged from the garage but did not board the cab and fled on foot. Accused Marife then ordered Ernesto to follow him.

In the meantime, roomboys Mayonito and Jonathan discovered the lifeless body of Rolando inside the room, lying beside the bed and covered by blood-stained bedsheets. He sustained multiple stab wounds and a TV cable wire

was tied around his neck.

Mayonito immediately left the room to pursue its former occupants but he saw accused Marife's cab already on its way out of the lodge and accused Eladio, Jr. fleeing on foot. Mayonito and Jonathan chased after them while shouting at the guard to stop the accused at the exit.[8] Responding, security guard Leonardo grabbed the hand of accused Eladio, Jr. as he went past by him near the exit, thinking that the latter had not yet paid his bill. However, Eladio, Jr. deftly freed himself from Leonardo's grip and ran inside the nearby Violeta Court Subdivision. At about the same time, the cab boarded by accused Marife left the premises of the lodge and followed accused Eladio, Jr. in the subdivision. Leonardo was about to pursue them but the guard stationed at the gate of the subdivision advised him to wait by the entrance as there was no other way out except through the same gate. The subdivision guard then immediately closed the gate to prevent the cab from leaving. While the two guards were waiting, Jonathan arrived and informed them that the accused killed Rolando in room no. 2 and that the policemen had been notified.[9]

Inside the subdivision, accused Eladio, Jr. boarded the cab and sat beside accused Marife. When he asked if there was another way out of the subdivision, Ernesto replied that there was only one gate. When the cab reached the end of the road, the two accused alighted and scaled the wall of the subdivision. Accused Eladio, Jr. succeeded but Marife failed to climb over the wall and was left behind.

When Ernesto drove back to the gate of the subdivision, the security guards stopped him, inspected his cab and saw a brown envelope which was left by accused Marife at the backseat. They instructed Ernesto to return to the lodge as a crime had been committed by his passengers.[10]

Pasay City police operatives rushed to the lodge to investigate the crime scene. SPO3 Unico and PO3 Hermo proceeded to the subdivision and pursued the accused. They found accused Marife in a photo printing office inside the subdivision. Pale and trembling, she was holding a blood-stained face towel.[11] When interrogated by the policemen, she identified herself as Joann Redillo and her companion as one Danny Dineros who ran away with the money. The policemen then brought her back to the lodge for identification by the employees.

At the lodge, the employees identified accused Marife as one of the persons who occupied room no. 2. Cab driver Ernesto surrendered to the police authorities the brown envelope left by Marife in the cab containing a scabbard for a knife and a shirt. SPO2 Palattao placed the blood-stained towel he confiscated from accused Marife in the envelope.

PO3 Warlie Hermo and Sgt. Danilo Unico[12] investigated room no. 2 and discovered an improvised knife under the mattress, near Rolando's cadaver. The cadaver was then brought to the Rizal Funeral Homes for a medico-legal examination while accused Marife was taken to the police station for further investigation.[13]

The autopsy conducted by NBI medico-legal officer DR. RAVELL RONALD BALUYOT revealed that Rolando sustained 28 stab wounds on different parts of his body; the stab wounds on the chest penetrated the heart and lungs; the widest width of the wounds, caused by a single bladed weapon, is 3.5 cms.; and, as the knife found by the policemen in the crime scene was about 3.4 cms. wide, Dr. Baluyot opined that it may possibly be the weapon that killed the victim.[14]

At the police station, accused Marife was asked about the possible whereabouts of accused Danny. She opined that he might be hiding in his rented house in Bacoor, Cavite and volunteered to lead the operatives to his house.

They arrived in Cavite at past 3 p.m. of the same day but found the house of Danny uninhabited. According to the neighbors, Danny and his family left at about 2:30 that afternoon, bringing with them all their belongings. Marife then suggested that Danny might be hiding in their hometown in Samar. From Cavite, the group thus proceeded to

Samar. Marife's aunt, a neighbor of Danny in Samar, informed them that she had not seen Danny. The police operatives also learned that the name Joann Redillo given to them by accused Marife was a mere alias and that her real name was Marife Bello.[15] The group then decided to return to the Pasay City police station where Marife was detained.

Subsequently, on October 25, 1995, accused Eladio, Jr. was arrested by the NBI operatives at the house of his legal wife in Pasay City.

According to REMEDIOS VALDEZ, the owner of Sunshine Moneychanger, accused Eladio, Jr. worked for her from May until September 1994 as messenger/collector. He was thus familiar with their office's arrangement with the Queensland Lodge to service its guests who may want to convert their foreign currency into pesos and have the peso equivalent delivered to the hotel room. During this time, accused Marife who was then cohabiting with accused Eladio, Jr. would frequent their office at least twice a week to visit her paramour.[16]

On September 23, 1994, accused Eladio, Jr. misrepresented to them that a client called up and requested for the conversion of yen to pesos and the delivery of the peso equivalent to the client. For this spurious transaction, accused Eladio, Jr. received P213,000.00 from their cashier for delivery to the alleged client but he absconded with the money and never returned. Remedios filed an estafa case against him.

ZENAIDA ANDASAN, widow of the victim Rolando, testified about the damages she suffered and expenses incurred by reason of Rolando's death. Rolando, born on May 13, 1952, was buried in July, 1995 in Cabanatuan City; the cost of transporting the deceased to and burial in Cabanatuan City, duly supported by receipts, was P50,000.00; she suffered anxiety and pain over the loss of her husband as she was left to take care of their two (2) kids; Rolando used to give her monthly support in the amount of P2,000 when he visits them in Cabanatuan City.[17]

After the prosecution rested its case, the two (2) accused foisted separate defenses. While accused Marife admitted that she participated in the perpetration of the crime, albeit under duress, accused Eladio, Jr. raised the defenses of denial and alibi.

ACCUSED MARIFE admitted that she was present at every stage of the crime – from the time it was planned until its consummation. She alleged however that she joined the conspirators under duress as Danny threatened to kill her if she refused to cooperate. Her account of the events that transpired is as follows: She cohabited with accused Eladio, Jr. for a year and bore him a child. They parted ways in May 1995 after she gave birth and it was two months later when she saw accused Eladio, Jr. again.

On July 25, 1995, at about 8 a.m., she was staying in the house of her friend in Bacoar, Cavite when accused Danny arrived. He asked her to act as godmother to his child who would be baptized that day. She acquiesced and went with him to his house also in Bacoar, Cavite.

When they arrived at his house at about 9 a.m., she was surprised to find only accused George Rebello, alias Cayo, and her former paramour accused Eladio, Jr. waiting for them. Accused Danny then told her that no baptism would be held that day. It was just their scheme to get her to go with him as they wanted her to do something for them. When she inquired what it was, Danny dismissed her query and assured her she would know later.

After learning about the ploy, her first reaction was to leave but accused Cayo and Danny angrily twisted her arm and prevented her from leaving. She remained seated in the living room with Danny's wife while the three accused momentarily locked themselves in the bedroom and talked. She begged Danny's wife to let her go but the latter refused.

Accused Danny then emerged from the bedroom and brought her back to the room with the other accused. Danny then told her that they would have to go some place which he would divulge later on. Frightened, she asked where they would bring her but Danny got mad at her persistence, cursed her and told her to shut up if she did not want to get hurt. She cried and begged them to release her. Her pleas fell on deaf ears. Accused Danny and Cayo then dragged her out of the house. They walked for about 10 meters towards the Panapaan highway. She was unable to seek help from the other people along the road as Danny and Cayo were twisting her arm. When they reached the highway, a red cab driven by accused Eladio, Jr. arrived. Danny pushed her to the backseat and he and Cayo sat on either side of her. She cried as she was afraid but the accused just laughed at her. When she cursed Danny, he slapped her. Everytime she struggled, Danny and Cayo would twist her arm. Danny threatened to kill her inside the cab if she did not stop resisting. He then guided her hand to his waistline and let her touch the wooden handle of a knife tucked in his pants. Accused Danny then threatened to use the knife on her if she refused to cooperate.[18]

The cab stopped in Baclaran. Accused Cayo alighted and hailed a tricycle. Accused Danny then dragged Marife out of the cab, pushed her into the tricycle and sat beside her. They then proceeded to the Queensland Lodge in Pasay City, with Eladio, Jr. and Cayo following them in the cab.

However, only the tricycle entered the premises of the lodge. It stopped in front of the garage of room no. 2. A roomboy approached accused Marife and Danny and guided them to room no. 2. The roomboy turned on the lights, television and aircondition and then left. Danny ordered Marife to seat at the corner. He removed the knife tucked in his pants and told her to obey everything he ordered her to do. He then handed her the telephone and directed her to ask the operator for an outside line. Initially, she failed to get a line but eventually she was able to get connected to the manager of a moneychanger, Eddie. As per instruction of accused Danny, she introduced herself as Joann Redillo and explained that she wanted to have her 40 pieces of yen converted into pesos. Eddie agreed and asked her to call again so he can prepare the money.

When she hung up, she pleaded with accused Danny to let her go. Danny slapped her across the face and told her she could leave only after she has finished what he wanted her to do.

At about 1 p.m., Marife again called up Eddie. When she mistakenly told Eddie to deliver the money at Winners Hotel, accused Danny slapped her and scolded her for giving the wrong instructions. He directed her to hang up and tell Eddie that she would call again later.

In anger, Danny twisted her arm. She apologized for her mistake and begged him to release her for the sake of her child. Danny ignored her pleas. When she repeatedly inquired where accused Eladio, Jr. and Cayo were, Danny told her that the two were also in on the plan and she could not rely on them for help.

At about 1:30 p.m., accused Marife placed her last phone call to Eddie. She directed him to have the money delivered to room no. 2 of the lodge. After a couple of minutes, the messenger from the moneychanger arrived. She did not see his features as the room was dark. After accused Danny let him into the room, he poked a knife at the messenger and demanded to know where the money was. Whereupon, the messenger pulled up his shirt and showed the money to accused Danny who pulled it out of the messenger's waistline. The messenger threw a punch at accused Danny. A fight ensued. Accused Marife shouted for help but no one heard her as the television was loud. Danny then threatened to kill her if she did not stop shouting and ordered her to lie face down on the floor. She complied and did not witness the succeeding events that transpired. She heard a commotion. Then there was silence. Accused Danny then ordered her to stand up and told her she can already leave. When she stood up, she saw the messenger lying on the floor which accused Danny covered him with a blanket.

She rushed out of the room. A roomboy approached her and inquired if she was already leaving and if she needed

a cab. He also asked her why she was crying. She did not respond to the last question but merely said that she needed a vehicle. When a cab arrived inside the lodge, she boarded it. However, the roomboy ran after her and demanded that she first pay her bill. She pulled out an envelope from her pocket and took out a P500 bill.

As her cab approached the gate of the lodge, she saw a man chasing her but she did not pay any attention to him as she was not in her right frame of mind. Then, she saw accused Danny fleeing on foot. She repeatedly ordered the cab driver to chase him and ran over him. The driver followed Danny inside the Violeta Court Subdivision. When Danny saw the cab, he boarded it and handed the driver several bills. The driver then ordered accused Marife to alight from the cab before it sped away.

Left on her own, accused Marife entered a house in the subdivision where she was subsequently found and arrested by the police officers. She was puzzled why they were arresting her as she had not done anything wrong, but the policemen directed her to go with them to the police station.

During the investigation, she volunteered to accompany the investigators to the house rented by accused Danny in Cavite.[19] They arrived in Cavite at about 2:30 p.m. that day only to find the house rented by Danny abandoned and in complete disarray. The investigators then discovered a blood-stained face towel in Danny's house and confiscated it.

They returned to the Pasay City police station at about 4 p.m. where the police officers showed her a brown envelope containing a knife and a black shirt. She confirmed to the officers that she saw these things in the lodge but denied that she was in possession thereof.

Later on, Marife suggested to the investigators that Danny may be hiding in his house in Samar. She claimed to know where accused Danny resided in Samar as they were neighbors in that province. That evening, she and six (6) other policemen left for Samar but they failed to locate accused Danny. They interviewed a neighbor, the aunt of accused Marife, who told them that Danny had not been to that place. They returned to the Pasay City police station where she refused to give any statement to the police officers as she was not in her right frame of mind. Later, she wrote her own statement regarding the stabbing incident and gave it to her brother.[20]

For his part, ACCUSED ELADIO, JR. had a completely different story. ANITA CONSUELO, the wife of his cousin, testified that accused Marife and Eladio, Jr., together with their child, stayed in their house in Parañaque on June 22, 1995. Both accused were then unemployed and their plan was for accused Marife to seek overseas employment. Four (4) days later, accused Marife left her house to look for work but she never returned, leaving behind accused Eladio, Jr. with their child. Efforts to locate her proved futile. Accused Eladio, Jr. temporarily left the child to her sister while he looked for work.[21]

ACCUSED ELADIO, JR. then transferred to the house of his cousin, Nestor Marcos, in Carmona, Cavite. On that fateful day of July 25, 1995, he cleaned the house, watched television and had a drinking spree in Nestor's house with his cousins. His testimony was corroborated by one Lourdes Bacongga who visited Nestor's house on said date and stayed there from 9 a.m. until 6 p.m.[22]

Accused Eladio, Jr. charged that accused Marife and the other prosecution witnesses falsely implicated him in the crime of which he had no knowledge or participation. Neither did he know their fugitive co-accused Danny Dineros and Cayo. He claimed that his innocence regarding the conspiracy is supported by the letter sent to him while he was detained in the NBI by accused Marife who was then confined at the Pasay City jail. It reads:

Boyot sa pangalan ng panginoong Jesus sanay nasa mabuti kang kalagayan. Pagkabasa mo nitong sulat Boy, wag kang mag-alala nasa akin lahat ang buhay ng kaso mo. Pinipiga nila ako. Anu't-ano man ang mangyari hindi ko pwedeng idiin ang taong alam ko na walang alam sa krimeng binibintang nila sa iyo. Ako na lang ang

magsasalita, ingat ka ng lang lagi, okey lang ako dito ang sarap nga ng buhay ko dito. Magkikita rin tayo alam kong itransfer ka dito sa Pasay City Jail. Huwag kang matakot or mag-alala. Ako naman ang magsasalita. Di kita ididiin dahil pareho tayong walang alam sa mga nangyari. Huwag mo laging kalimutang magdasal. Di niya tayo pababayaan. Hanggang dito na lang ang sulat ko. Take care coz I care a lot, I love you and we miss you so much.

Marife B.

Accused Eladio, Jr. testified that he again met Marife and was reconciled with her in November 1995 when he was transferred to the Pasay City jail. During the time they were in jail, accused Marife never told him what really happened that fateful day. He only came to know about Marife's involvement in the crime when she testified at the trial. He charged that her testimony implicating him in the crime was a lie as he did not even know their co-accused Danny and Cayo. He claimed that Marife changed her mind and later on implicated him as she was under duress, as shown by her second letter to him on January 6, 1996 after her court testimony. It reads:

My dear husband, I'm sorry for what happened. I can't understand my feelings, I love you, I really love you. My dear, I don't know why about myself. I'm liar. From now on, please don't talk to me. I'm sick about my decision. I love my mother, sisters and brothers, specially my daughter. I love my baby please understand my situation. This is my first and last letter to you. I'm very sorry papa. Do you remember I'm everything your self. Oh! My god, papa don't talk to me all my remembering to each other, like please forgive me. I'm sorry my dear for all my sins. Take care co'z I care a lot. Your love one Mama.

After trial, the court found the accused guilty as charged and imposed on them the maximum penalty of death as they were found to be part of an organized or syndicated crime group under Article 62 (1) (a) of the Revised Penal Code, as amended. The dispositive portion reads:

WHEREFORE, accused Marife Bello y Rosco and Eladio M. Consuelo, Jr. are found guilty beyond reasonable doubt as principals in the commission of the crime of robbery with homicide, as charged in the aforementioned Information; and because of the aggravating circumstance of their having collaborated, confederated and mutually helped one another for the purpose of gain in the preparation of the offense, they are each sentenced to suffer the penalty of death. Both accused are also ordered, jointly and severally, to return to or reimburse the Sunshine Money Changer the sum of P114,000.00 as restitution or reparation of the damage caused; and to pay Zenaida Andasan, the surviving wife of the deceased Rolando Andasan, P50,000.00 as indemnification for consequential damages; P50,000.00 as compensation for the death of her husband; P591,999.98 as indemnity for the loss of the earning capacity of the deceased; and P40,000.00 as moral damages.

Accused Bello and Consuelo are likewise required to shoulder the costs of the suit.

SO ORDERED.[23]

On automatic appeal, the two accused filed separate Briefs.

In assailing the Decision of the trial court, appellant MARIFE assigns the following errors:

I

THE LOWER COURT ERRED IN FINDING THAT ACCUSED-APPELLANT MARIFE BELLO WAS IN CONSPIRACY WITH THE OTHER ACCUSED.

II

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT MARIFE BELLO VIA CIRCUMSTANTIAL EVIDENCE.

III

THE LOWER COURT ERRED IN NOT HAVING ACCUSED-APPELLANT MARIFE BELLO

ACQUITTED BASED ON FACTS EXTRACTED FROM HER DURING THE CUSTODIAL INVESTIGATION AND WAS TAKEN IN VIOLATION OF HER CONSTITUTIONAL RIGHTS.

For his part, appellant ELADIO, JR. contends that the trial court erred in convicting him for: (1) his identity as a co-conspirator was not established beyond reasonable doubt as appellant Marife herself identified accused Danny Dineros as her companion in room no. 2 on that fateful day, and; (2) the trial court failed to give weight to his alibi which was duly corroborated by Lourdes Bacongga.

The trial court rejected the appellants' defenses and we find no reason to disturb its guilty verdict.

Appellant Marife avers that her alleged conspiracy with the other accused was not sufficiently established by circumstantial evidence as there was no showing that she had the same purpose and united with the other accused in the execution of the crime. She alleges that her mere presence in the crime scene is not per se a sufficient indicium of conspiracy. She insists that she acted against her will due to the irresistible force employed by her co-accused.

We are not persuaded.

Conspiracy exists where the plotters agree, expressly or impliedly, to commit the crime and decide to pursue it.[24] Conspiracy is predominantly a state of mind as it involves the meeting of the minds and intent of the malefactors. Consequently, direct proof is not essential to establish it. The existence of the assent of minds of the co-conspirators may be inferred from proof of facts and circumstances which, taken together, indicate that they are parts of the complete plan to commit the crime.

In the case at bar, the records clearly reveal that appellant Marife was part of the plan to rob the moneychanger. This plan was mapped out in accused Danny's house in Cavite by appellants, together with accused Danny and Cayo. The four drove in a cab from Cavite to Baclaran. As the robbery will be set up inside a motel room, only appellants Marife and Eladio, Jr. boarded a tricycle and checked in the lodge so as not to arouse suspicion. A number of employees of the Queensland Lodge and the cab driver testified on the conduct of appellant Marife inside the lodge on that fateful day: the roomboys identified her and Eladio, Jr. as the ones who alighted from the tricycle and checked into room no. 2; contrary to her account, the employees did not notice that appellant Marife was nervous, crying or trembling due to fear when she entered the lodge; appellant Marife asked the telephone operator thrice that day for an outside line; using an alias, she called up the moneychanger twice to set up the robbery; appellants were the last to see the victim alive; after they accomplished their criminal design, appellant Marife rushed out of the room, personally paid for the bill and asked for a cab; the roomboys noticed that she was nervous and in a hurry to leave; after she boarded the cab, she ordered the driver to wait for her companion; she and Eladio, Jr. then fled from the lodge while the roomboys were inspecting their room; both sought refuge in a subdivision; and, finally, they tried to scale the wall of the subdivision in an attempt to get away. All these chain of events and the conduct of appellant Marife lead to no other conclusion than that she conspired with her co-accused to commit the crime.

Neither can we give credit to appellant Marife's claim of duress and irresistible fear. Her story simply does not add up. First, the records show that she had close relations with all her co-accused: she has a child with appellant Eladio, Jr.; she and her co-accused all resided in Cavite; accused Danny Dineros asked her to be the godmother of his child; she knew where Danny resided in Cavite and they both hail from Samar; and, even Marife's aunt in Samar was acquainted with Danny. Indeed, her claim of irresistible force from her co-accused is difficult to fathom as it would be easier to instill fear on a stranger than on a friend or close relation. Second, while appellant Marife claims that she was mostly in tears during the time she was abducted by her co-accused, none of the employees of the lodge noticed any manifestation of fear or coercion on her part. Third, her claim of duress and

irresistible fear is negated by her failure to escape or ask for succor during her alleged abduction despite several opportunities to do so. She could have asked help from the people she saw along the road when they left Danny's house in Cavite and while she was allegedly being dragged towards the cab; from the tricycle driver who drove them to the lodge; from the roomboys who stayed with her in the garage after the stabbing incident, while she was waiting for her bill and cab; and, from the cab driver who picked her up from the lodge. She could have escaped after the stabbing incident when she went out of the room alone and conversed with the roomboy. An innocent victim of circumstances would have waited for and eagerly grabbed the first chance to escape or seek help; but not appellant Marife. Fourth, she escaped from the lodge, fled to the nearby subdivision and tried to scale its wall with appellant Eladio, Jr. who, moments before, was supposed to be her aggressor. Finally, even at the time she was arrested, she stuck to her alias and identified herself as Joann Redillo to the police authorities. Hence, apart from her biased testimony, the records are bereft of evidence to corroborate and bolster her claim of coercion. The more logical and inescapable conclusion is that she was part of the conspiracy. Plainly, her conduct all throughout the incident reveals that she was united in purpose with her co-accused in the execution of the crime.

On the whole, the incriminating circumstantial evidence against the appellants sufficiently proves their complicity.

Circumstantial evidence is that which proves a fact or series of facts from which the facts in issue may be established by inference.[25] Resort to circumstantial evidence is, in the nature of things, a necessity as crimes are usually committed clandestinely and under conditions where concealment is highly probable. To require direct testimony would, in many cases, result in freeing criminals and deny proper protection to society.[26] Thus, the guilt of an accused may be established through circumstantial evidence provided that the requisites are present, viz: (1) there is more than one circumstance; (2) the inferences must be based on proven facts; (3) the combination of all the circumstances produces a conviction beyond doubt as to the guilt of the accused.[27]

In the case at bar, while no witness testified to the actual stabbing and robbing of the victim, the circumstantial evidence adduced by the prosecution supports a judgment of conviction. Appellants asked roomboy Jonathan for a room; Jonathan escorted them to room no. 2, prepared the room for them by turning on the lights, television and airconditioning unit before ushering them in. The telephone operator received a request for an outside line from the lady occupant of room no. 2 thrice that day. Eduardo, the manager of the moneychanger, got phone calls from the lady occupant of room no. 2 who identified herself as Joann Redillo; the caller pretended that she just arrived from Japan and asked her yen be converted to pesos. Eduardo gave his messenger, the victim Rolando Andasan, the amount of P114,000.00 to be delivered to the lady occupant of room no. 2. Rolando arrived at the lodge and explained his purpose to the employees therein. Rolando was a familiar face in the lodge which had an internal arrangement with the moneychanger to extend currency conversion services upon the request of their guests. Appellant Eladio, Jr. used to be employed as a messenger of the moneychanger and knew about the office's internal arrangement with the lodge. Roomboy Mayonito escorted Rolando to room no. 2 for the currency transaction; when appellant Eladio, Jr. opened the door to Mayonito, the latter informed him about the presence of Rolando in the garage; appellant Eladio, Jr. gave the go signal for Rolando to come up to the room; Mayonito returned to the garage, fetched Rolando and escorted him to room no. 2; again, it was appellant Eladio, Jr. who opened the door and let Rolando in. That was the last time Rolando was seen alive and the money was no longer to be found.

After accomplishing their criminal design, appellants emerged from the room, hurriedly paid their bill and left. The roomboys discovered the cadaver of Rolando in the room which sustained several stab wounds. Appellants fled and scaled the wall of the subdivision. The police authorities recovered a knife under the bed of room no. 2 which fitted the scabbard left by appellant Marife in the cab, together with a bloodied face towel. The width of

this knife is compatible with the width of the stab wounds sustained by the victim.

Thus, while no person actually witnessed the appellants rob and kill the victim, the confluence of the incriminating circumstances enumerated above clearly shows that the appellants had motive and opportunity to kill the victim when he resisted the robbery. As the victim was last seen alive with them, coupled with their conduct that fateful day and their possession of the deadly weapon, there can be no other reasonable conclusion than that the appellants authored the crime. To be sure, their conviction is essentially based on this unbroken chain of events as testified to by the prosecution witnesses and not on the uncounselled interrogation of appellant Marife by the police authorities.

On the other hand, the alibi proffered by appellant Eladio, Jr. does not hold. Alibi is a Latin word which means elsewhere or in another place.[28] Where the defense of alibi is raised, the accused must show that he was at some other place when the crime was committed at such length of time that it was impossible for him to have been at the locus criminis; or that the distance is such as to preclude the possibility or probability for the accused to be at the crime scene at the time it was committed; or that it would have been physically impossible for the accused, by reason of illness or physical condition to be at the place where the crime was committed. It is doctrinally settled that alibi is the weakest defense that can be put up by an accused, especially where there is direct testimony of an eyewitness, duly corroborated by another.

In the case at bar, while appellant Eladio, Jr. insists that he was in his cousin's house in Cavite that day, the employees of the lodge, all strangers to him and had no motive to distort the truth or falsely implicate him, categorically identified him as one of the occupants of room no. 2. Roomboys Jonathan and Mayonito identified the appellants as the occupants of room no. 2. They had every opportunity to remember the appellants on that fateful day due to several encounters: the appellants asked roomboy Jonathan for a room; Jonathan escorted them to room no. 2, prepared the room for them by turning on the lights, television and airconditioning unit before ushering them in; roomboy Mayonito accompanied the victim Rolando to the room for the currency transaction; it was appellant Eladio, Jr. who opened the door to Mayonito who informed him about the presence of Rolando in the garage; Mayonito returned to the garage, fetched Rolando and escorted him to room no. 2; again, it was appellant Eladio, Jr. who opened the door and let Rolando in; minutes later, after the stabbing incident, appellant Marife went down to the garage and asked Mayonito to prepare her bill and get a cab for them; Jonathan handed her the bill and waited with her for about 5 minutes until her cab arrived; the roomboys and security guard of the lodge pursued appellants Marife and Eladio, Jr. when they fled from the crime scene.

Interestingly, while a different version was offered by appellant Marife as to the exact participation of Eladio, Jr. in the crime (i.e., that he merely drove the cab from Danny's house to Baclaran but it was accused Danny who checked in the room with appellant Marife and killed the victim in the course of the robbery), Marife's testimony nonetheless placed appellant Eladio, Jr. at the house of accused Danny during the planning of the conspiracy, all the way to the entrance of the lodge that fateful day, contrary to his claim that he was in Cavite that entire fateful day. These eyewitnesses' accounts regarding appellant Eladio, Jr.'s complicity in the crime and presence at the locus criminis effectively shattered his proffered alibi. The settled rule is that where there is positive testimony of eyewitnesses regarding the presence of the accused at the locus criminis on the date and time the crime was committed, a negative defense of alibi is undeserving of weight or credence.[29]

In sum, we find that the defenses raised by the appellants are clouded with improbability and uncertainty. As the conspiracy among the accused was sufficiently established by the prosecution, the appellants are equally guilty of the special complex crime of robbery with homicide for in conspiracy, the act of one is the act of all.[30] Thus, although the original plan may have been to simply rob the victim and while appellant Marife may not have actually participated in the horrendous killing, the conspirators are equally liable as co-principals for all the

planned or unanticipated consequences of their criminal design.

Be that as it may, we find that the trial court erred in holding that the appellants were part of a syndicated or organized crime group under Article 62 (1) (a) of the Revised Penal Code,[31] as amended, which merits the imposition of the maximum penalty of death. While the appellants and their co-accused confederated and mutually helped one another for the purpose of gain, it was neither alleged nor proved that they formed part of a group organized for the general purpose of committing crimes for gain which is the essence of a syndicated or organized crime group.[32]

IN VIEW WHEREOF, the appealed Decision is AFFIRMED with modification. Appellants MARIFE BELLO y ROSCO and ELADIO M. CONSUELO, JR. are found guilty beyond reasonable doubt as principals in the crime of robbery with homicide and, in the absence of any aggravating circumstance, are sentenced to suffer the penalty of reclusion perpetua. They are ordered to jointly and severally reimburse the Sunshine Moneychanger the amount of P114,000.00 as restitution for the damage caused, and to pay Zenaida Andasan, widow of the victim Rolando Andasan, the total amount of Seven Hundred Thirty-One Thousand, Nine Hundred Ninety-Nine and 98/100 (P731,999.98), broken down as follows: P50,000.00 as actual damages; P50,000.00 as compensation for the death of her husband Rolando; P591,999.98 as indemnity for loss of Rolando's earning capacity; and, P40,000.00 as moral damages. No costs.

#### **SO ORDERED.**

Davide, Jr., C.J., Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

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[1] NBI medico-legal officer Ravell Ronald R. Baluyot, TSN, November 28, 1995, pp. 2-31.

[2] Rollo, pp. 2-3.

[3] Jonathan Deniega, TSN, November 21, 1995, pp. 27-48.

[4] Digna Siazon, TSN, December 14, 1995, pp. 2-15.

[5] Leonardo Acosta, TSN, November 21, 1995, pp. 3-26.

[6] Rose Caharian, TSN, November 23, 1995, pp. 2-10.

[7] Jonathan Deniega, TSN, November 21, 1995, pp. 27-48.

[8] Mayonito Wayco, TSN, November 20, 1995, pp. 24-53.

[9] Leonardo Acosta, TSN, November 21, 1995, pp. 3-26.

[10] Ernesto Ramos, TSN, November 22, 1995, pp. 2-22.

[11] SPO2 Angel Palattao, TSN, December 5, 1995, pp. 2-31.

[12] Together with SPO3 William Masiglat, SPO2 Angel Palattao and PO3 Michael Manarang.

[13] PO3 Warlie Hermo, TSN, December 5, 1995, pp. 32-33.

[14] TSN, November 28, 1995, pp. 2-31.

[15] SPO2 Angel Palattao, TSN, December 5, 1995, pp. 2-31.

- [16] Remedios Valdez, TSN, December 12, 1995, pp. 2-10.
- [17] TSN, November 22, 1995, pp. 22-27.
- [18] TSN, January 8, 1996, pp. 4-29.
- [19] TSN, January 9, 1996, pp. 2-33.
- [20] TSN, January 10, 1996, pp. 2-42.
- [21] TSN, January 17, 1996, pp. 3-25.
- [22] TSN, January 15, 1996, pp. 2-13.
- [23] Penned by Judge Alfredo J. Gustilo, RTC, National Capital Judicial Region, Branch 116, Pasay City, in Criminal Case No. 95-7427; Rollo, pp. 28-40.
- [24] Article 8, Revised Penal Code; *People vs. Bautista*, 92 SCRA 465 (1979).
- [25] *People vs. Songcuan*, 176 SCRA 354 (1989).
- [26] 20 Am Jur 261.
- [27] Section 4, Rule 133, Revised Rules of Court.
- [28] Black's Law Dictionary, 4th edition, 1951.
- [29] *People vs. Aliben*, 398 SCRA 255 (2003).
- [30] *People vs. Salvador*, 398 SCRA 394 (2003).
- [31] x x x
- “The maximum penalty shall be imposed if the offense was committed by any one person who belongs to an organized/syndicated crime group.
- “An organized/syndicated crime group means a group of two or more persons collaborating, confederating or mutually helping one another for purposes of gain in the commission of any crime.”
- [32] *People vs. Napalit*, G.R. Nos. 142919 and 143876, February 4, 2003.

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