AURORA ENGSON FRANSDILLA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 197562. April 20, 2015

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The complex crime of robbery in an inhabited house by armed persons and robbery with violence against or intimidation of persons was committed when the accused, who held firearms, entered the residential house of the victims and inflicted injury upon the victims in the process of committing the robbery. Hence, the penalty is that imposed for the robbery in an inhabited house, the more serious crime. All the accused are liable because the act of one is the act of all.

The Case

Aurora Engson Fransdilla (Fransdilla), the lone appellant, seeks to reverse the decision promulgated on February 28, 2011,[1] whereby the Court of Appeals (CA) affirmed her conviction and that of her co-accused for robbery on the basis of conspiracy, with modifications as to the penalty imposed, under the decision rendered on September 15, 1999 by the Regional Trial Court (RTC), Branch 99, in Quezon City[2]

Antecedents

As factual background, the CA adopted the summary rendered by the Office of the Solicitor General (OSG) in its appellee's brief, viz.:

> On February 20, 1991 between 3 o'clock and 4 o'clock in the afternoon, at private complainants' residence at No. 24, Mabait St., Teachers Village, Quezon City, private complainant Lalaine Yreverre saw appellant Aurora Engson in front of their gate. Upon noticing Aurora, Lalaine went to the gate and asked Aurora what is their purpose, as there were four (4) of them. Aurora then inquired about Cynthia Yreverre, Lalaine's sister. The latter replied that Cynthia was in the Japanese Embassy and asked Aurora if there was any other person whom she wanted to talk to. It was then that Aurora told Lalaine that she was from the Philippine Overseas Employment Agency (POEA). It was upon said pretension that Lalaine offered herself to instead talk to her and allowed her to enter their house. When they were already having a conversation, Aurora asked Lalaine if she could use the telephone, which the latter acceded to and handed her a cordless telephone. Lalaine noticed that Aurora seemed to keep on dialing the telephone and even said that the person she was calling did not know how to use the telephone. But still, Aurora kept on dialing the telephone.
>
> Thereafter, appellant Aurora asked for a cigarette. After Lalaine gave Aurora the cigarette, the four (4) other men outside the gate, who were with Aurora, suddenly came inside the house. The four (4) men stood behind Aurora who was still dialing the telephone. When Aurora told that she could not contact the person she was calling, she asked Lalaine if she could use the comfort room, which the latter again permitted. Aurora stood up, put down the telephone, got her bag and went to the comfort room. When Aurora came back, she sat down again but in crossed-legs as she said she was having a menstrual period. Upon saying that, Lalaine's attention was focused on her. At this juncture, accused Edgardo Cacal poked a gun at Lalaine's neck and announced that

it was a hold-up. While appellant Edgardo Cacal was poking a gun at Lalaine's neck, accused Danilo Cuanang and the two (2) other men proceeded to the kitchen. In the kitchen, Danilo and his two (2) other companions herded their maids, private complainant's niece and cousin inside the bodega.

Accused Cacal who was still poking the gun at Lalaine's neck, thereafter, pulled Lalaine's hair and dragged her upstairs and brought her inside Cynthia's room. The gun still being poked at Lalaine, Cacal looked around the room and when he spotted upon the vault he dropped Lalaine, opened the door and called for his companions to come along. Accused Cuanang came up and the two (Cacal and Cuanang) carried the vault and brought it downstairs. But before they went downstairs, they threatened Lalaine not to follow them and to just stay in the room, but Lalaine opened the door and followed them.

When Lalaine was halfway downstairs, accused Cacal turned his back and saw her. Accused Cacal then brought her inside her room. Inside the room, Cacal pushed her towards her bed and she fell. Cacal told her to just stay, and then he searched the room. Lalaine managed to stand up but Cacal slapped her. While sitting, accused Cuanang came and tied her arms at her back. While she was being tied, appellant Aurora Fransdilla peeped inside the room. It was also at the time that accused Cacal and Cuanang searched the entire room and took all the jewelries and things they saw.

When Cuanang and Cacal left the room, Lalaine followed them. While in the middle downstairs, she saw Cacal, Cuanang and their two other companions tucking their guns around their waists. Appellants and their co-accused then left the house on board two (2) cars that were waiting for them just outside the house, and one of which, a black Colt Mirage, was driven by accused Manuel Silao, together with appellant Edgardo Silao who was seated at the front passenger seat.

At this point, Lalaine shouted for help, thereafter, a relative came by to help and untied her. Lalaine then called her sister Cynthia and related the incident. Cynthia reported the incident to the police authorities. Not too long thereafter, the police investigated the incident.

In relation thereto, Lalaine executed her sworn statement on February 20, 1991 (Exhibit "J"). After said investigation, Lalaine underwent medical examination at the East Avenue Medical Center as her hands were bruised when she was tied by her hands and her face being slapped by one of the accused. A medical certificate was issued in relation thereto (Exhibit "N").

Thereafter, Lalaine went to Camp Karingal at Sikatuna, Quezon City where there were at least fifteen (15) person(s) presented before her in the police line-up, but she was not able to identify any of the accused among said line-up.

After which, she went to the Station Investigation Division (SID) Station 4, Quezon City where she was shown about fifty (50) pictures in order for her to identify the robbers, but she was not able to identify any of them.

Since she failed to identify any of the malefactors, she proceeded to the National Bureau of Investigation (NBI), Manila. She was referred to a cartographer for the sketch of herein appellants and their co-accused as the malefactors in robbing their house (Exhibits "B", "C" and "D").

Thereafter, Lalaine proceeded to the Western Police District, Manila. There, she went to the rogues gallery where a picture of about (5) persons were shown to her. After carefully examining the pictures, Lalaine was able to pinpoint the picture of accused Danilo Cuanang as one of the robbers. She was also able to identify Manuel "Sonny" Silao in a group picture where she identified accused Cuanang (Exhibits "E" and "F") It was also in said rogues gallery that they were able to get accused Cuanang's address at Iriga, Cubao, Quezon City.

Lalaine, together with her police officers companions, proceeded to Cuanang's indicated address. Upon arrival thereat, they inquired from the security guard of the townhouse if Danilo Cuanang was residing there, which the latter confirmed.

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> On the following day Lalaine and her police companions went back to Cuanang's house. Lalaine knocked at the door and accused Cuanang himself opened the door. When Lalaine confronted him and told him that he was one of those who entered their house, the latter did not answer. Lalaine asked Cuanang if he could come with them at the PNP-SID, Station 4, EDSA, Kamuning, Quezon City and the latter acceded.
>
> On their way to the police station, Lalaine inquired on Cuanang about their lady companion (herein appellant Fransdilla), but the latter just bowed his head. When Lalaine threatened him that if he would not tell the whereabouts of their lady companion (herein appellant Aurora) he would be answerable for all the things stolen, the latter replied that they had no share in the stolen items. Lalaine then asked the name of their lady companion and the latter said that her name was Jessica Engson (also known as Aurora Engson Fransdilla) and she was living in Antipolo Street, Sampaloc, Manila. Cuanang also volunteered himself to accompany them to Aurora's house provided that they should not hurt him. Agreeing thereto, the group of Lalaine, accompanied by Cuanang, proceeded to Aurora's house at the given address. Upon arrival thereat, Lalaine inquired from a child if Aurora was awake, and upon asking, she saw appellant Aurora who was trembling at that time. Lalaine noticed that Aurora was nervous and even told her that Lalaine was able to remember her face. Appellant even voluntarily told Lalaine that she would tell her the whole truth. She (Aurora) told that she was instructed by her companions Edgar (Silao), Sonny (Manuel Silao) and Danilo Cacal. Lalaine even confronted her when she implicated her cousins (Sonny and Edgar).
>
> Upon reaching PNP Station 4, SID, Kamuning, Quezon City, Lalaine and her police companions rested for a while before they proceeded to 921 Adelina St., Sampaloc, Manila, where accused Manuel "Sonny" Silao lived. Upon reaching the said address, Lalaine knocked at the gate, and a maid opened the same and allowed them to enter the house. In the house, Lalaine asked the maid where Sonny's room was and the latter said it was on the third floor. When Lalaine and her police companions were going upstairs, they passed by the second floor and saw accused Cacal sitting on a folding bed. She then told her police companions that that man (Cacal) was among those who entered and robbed their house, Cacal just remained silent. Thereafter, the group proceeded to the third floor of the house, knocked at the door and it was Manuel's (a.k.a. Sonny) wife who opened it. At this point, Manuel (a.k.a. Sonny) was lying on the bed and holding his gun, thus, Pat. Randy Quitoriano immediately handcuffed him. Lalaine's group invited Manuel and Danilo to go with them at the police station; both acceded.
>
> On March 21, 1991, Lalaine went back to the PNP Station 4, SID, Kamuning, Quezon City, where she was informed that they (Rod Fortaleza's group) were able to recover some money (dollar bills) from appellant Edgardo Silao. When these dollar bills were shown to her, she recognized that these were the same dollar bills withdrawn by her sister Cynthia from the RCBC Bank as the bills bear red markings (Exhibits "M" to "M-5".[3]

Fransdilla and her co-accused were eventually charged with robbery under the following information, to wit:

> That on or about the 20[th] day of February, 1991, in Quezon City Philippines and within the jurisdiction of the Honorable Court, the above-named accused, conspiring together, confederating with and mutually helping one another, did then and there wilfully, unlawfully and feloniously with intent to gain, and by means of violence and intimidation upon person rob the residence of CYNTHIA YREVERRE Y PANGANIBAN located at No. 24-B Mabait St., Teacher's Village, Quezon City, this City, by pretending to be from PHILIPPINE OVERSEAS EMPLOYMENT AGENCY (POEA) and once inside took, rob, and carried away the following items therefrom, to wit:
> nine (9) pieces of expensive jewelry .... P1 .5 M
> $30,000.00 (U.S. Dollars equivalent to ... 900,000.00

belonging to CYNTHIA YREVERRE Y PANGANIBAN.

> two (2) pairs of gold earings

P 10,000.00

one (1) gold necklace with pendant

180,000.00

one (1) Louie Viton Brown Leather (sic)...

11,000.00

one (1) Gucci Ladies watch

13,000.00

two (2) gold earrings w/diamond pendant...

80,000.00

CASH MONEY

7,000.00

belonging to LALAINE YREVERRE Y Panganiban, all in the total amount of PhP2,701,000.00, Philippines Currency, to the damage and prejudice of the said offended party in the aforementioned sum and in such other amounts as maybe awarded under the provisions of the Civil Code.

CONTRARY TO LAW.[4]

At the pre-trial conference, the parties stipulated as follows:

- The identity of all the accused as indicated in the information.

- The accused Manuel Silao and Edgar Silao are brothers and first cousins of private complainant Cynthia Yreverre and prosecution witness Lalaine Yreverre.

- The accused Manuel Silao had entered the house of complainant on several occasions to visit relatives.

- The accused Edgardo Cacal is the driver of Manuel Silao and knows Manuel's brother accused Edgar Silao.

- The accused Manuel Silao has a pending criminal case for illegal possession of firearms before the RTC, Manila.

- The accused Manuel Silao is the owner of one Cal. 9mm Springfield bearing Serial No. 64624 with one magazine containing eight (8) ammunitions, although only 4 were delivered to the Court.

- The accused were all investigated in connection with the instant case, without the assistance of counsel.

- The person depicted in the picture marked as Exhibit "E" is accused Manuel Silao while the one in the

photograph marked as Exhibit "D" is accused Danilo Cuanang.

- On February 20, 1991, Edgar Silao was in Quezon City.[5]

The prosecution presented complainants Lalaine Yreverre and Cynthia Yreverre, NBI Illustrator Amando Mendoza, SPO2 Randolf Quitoriano, RCBC Manager Ma. Teresa Jamir, Joel Yreverre and Dr. Richard Pascual as its witnesses during the trial on the merits. On its part, the defense relied on Celia Syquian, Edgardo Y. Silao, Dominador Pilar, Lourdes Samson Lopez, and Danilo Cuanang as witnesses.

As stated, the RTC convicted Fransdilla and her co-accused of robbery, decreeing in its decision of September 15, 1999, viz.:

> WHEREFORE, premises considered, this Court finds accused AURORA ENGSON FRANSDILLA, EDGARDO CACAL Y SANCHEZ, DANILO CUANANG Y VALDEZ, MANUEL SILAO Y YREVERRE and EDGARDO SILAO Y YREVERRE GUILTY BEYOND REASONABLE DOUBT of the crime of Robbery punished under Article 299 of the Revised Penal Code and in the application of the Indeterminate Sentence Law and in the absence of any mitigating or aggravating circumstances, hereby sentences said accused to imprisonment of TWELVE (12) YEARS AND ONE (1) DAY to FOURTEEN (14) YEARS and EIGHT (8) MONTHS of reclusión temporal as minimum to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY to TWENTY (20) YEARS of reclusión temporal as maximum. Said accused are likewise ordered to indemnify the herein private complainants the amount of TWO MILLION TWO HUNDRED FIFTY THOUSAND, the value of the property taken less the amount recovered, and to pay the amount of PhP200,000.00 as exemplary damages.
>
> SO ORDERED.[6]

As to Fransdilla, the RTC ruled that several facts and circumstances either proved by the Prosecution or admitted by the Defense established her having conspired with her co-accused in committing the offense charged.[7]

Decision of the CA

On appeal, the CA affirmed the conviction of all of the accused, but modified the penalty imposed by the RTC, as follows:[8]

> WHEREFORE, the Decision dated September 15, 1999 of the trial court is affirmed subject to the modification that accused-appellants and accused are sentenced to an imprisonment ranging from twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusión temporal, as maximum.
>
> SO ORDERED.

Rejecting the claim of insufficiency of the proof of conspiracy raised by Fransdilla, the CA observed that the clear and categorical testimony of Lalaine positively showed that Fransdilla's acts demonstrated her common design with the other accused to commit the robbery,[9] stressing that "it is a common design which is the essence of conspiracy, though the conspirators may act separately and on different manner but always leading to the same unlawful result." It adverted to Fransdilla's various acts as evincing her role in the concerted resolve to commit the robbery, such as introducing herself to Lalaine as a representative of the POEA in order to gain access into the house; trying to distract Lalaine by using the telephone, asking for a cigarette, going to the bathroom, and pretending that she was then having her menstrual period in order to have her cohorts enter the house; and peeping inside the bedroom when her co-accused were tying Lalaine up to enable themselves to search for and take away jewelry and other valuables inside the latter's bedroom without hindrance.

Issue

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The accused still insists on her innocence, protesting that the CA erred in affirming the conviction despite the failure to establish her guilt beyond reasonable doubt as a co-conspirator in robbery.[10]

Ruling of the Court

The Court AFFIRMS the decision of the CA.

1.
Conspiracy of Fransdilla with
her co-accused was established
beyond reasonable doubt

It bears stressing that Fransdilla opted not to present evidence in her defense during the trial. On appeal, the core of her contentions in the CA was that the Prosecution did not establish her having conspired with the other accused in committing the robbery. She reiterates such contentions here, stating that the State's formal offer of evidence did not include any reference to any evidence specifically incriminating her.

The Court rejects Fransdilla's contentions.

Our review of the records of the trial reveals that contrary to Fransdilla's contentions, the State competently and credibly established her active participation in the execution of the robbery through Lalaine's testimony detailing her specific acts, as follows:

> Q - Miss Yrreverre, do you recall if there was any unusual incident that happened on that particular date and time on February 20, 1991 between 3:00 o'clock to 4:00 o'clock in the afternoon?
> A - Yes, sir.
>
> Q - What was it?
> A - On February 20, 1991, between 3:00 to 4:00 o'clock in the afternoon while I was resting at our sala I saw them and I met them at the gate and I asked the lady because there were four of them I asked the lady to come in.
>
> Q - How did the lady come in?
> A - When I saw the lady I asked the lady what is her purpose and she said I am from the POEA and she is looking for my sister Cynthia Yrreverre, sir.
>
> Q - What happened after that?
> A - When she inquired about my sister I told her that my sister Cynthia Yrreverre is in Japan embassy and she said if there is any other person she could talked to.
>
> Q - What was your answer?
> A - When she said that she is from POEA I recommended myself to her and I said you can talk to me and I allowed her to enter our house, sir.
>
> Q - After you allowed that lady who represented herself to you that she is from the POEA to enter, what happened next?
> A - I let her enter our house and I inquired and asked from her who are the persons she know in POEA, sir.
>
> Q - And what happened next after that?
> A - She mentioned a name whom according to her from the POEA but I do not remember anymore, sir.
>
> Q - What happened next after that?
> A - While we were chatting or conversing for a while she asked if she can use our telephone, sir.
>
> Q - And what was your answer to that?

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A - I said yes and I handed to her the cordless telephone, sir.

Q - What happened after you gave the telephone to the lady who represented herself that she is from the POEA?
A - After I gave the cordless telephone she keep on dialing, dialing and dialing and according to her she constantly dialing the number and she even remarked: "the person she is calling does not know how to use the telephone"...

Q - What happened after that remarks?
A - She still kept on dialing and she remarked that she did not know how to use the phone...

Q - What happened after that?
A - After that, she asked for a cigarette sir.

Q - Did you give to the lady who represented herself that she is from the POEA a cigarette?
A - Yes, sir.

Q - What happened next after that?
A - After I gave the cigarette the four (4) men entered suddenly and came in our house.

Q - Where did they come from?
A - I do not know, sir.

Q - From what direction of the house they came from Miss Witness, do you know?
A - They came from the outside of the gate, sir, and suddenly entered our house, sir.

Q - When for the first time did you see that lady who represented herself that she is from the POEA and the four (4) men burged (sic) in your house?
A- Last February 20, 1991 only, sir.

x x x x x x x x x

ATTY. COPE:
Q - Miss Yrreverre, would you look around the courtroom and pinpoint if that lady who represented herself from the POEA is here present?
A - Witness is pointing to a lady wearing black and when asked by the interpreter she answered to the name of Aurora Engson Fransdilla.

x x x x x x x x x

Q - Miss Yrreverre, what happened after four (4) men suddenly entered your residence on that particular date and time you mentioned earlier?
A - As I was looking on the lady dialing, kept on dialing the number in the telephone I saw the four (4) men standing behind the lady, sir.

Q - And when you saw the lady, you are referring to Aurora Engson Fransdilla?
A - Yes, sir.

Q - What happened after that?
A - When we were in the sala we were talking Aurora Engson Fransdilla remarked she cannot really contact the number as it was busy, sir.

Q - What happened next after that?
A - And Aurora Engson Fransdilla after which asked if she can use the comfort room to which I agreed, sir.

Q - What happened next?

A - She stood up and put down the cordless telephone and took her bag because she wanted to get a napkin as she said she still has to call up before going to the comfort room, sir.

Q - What happened next?
A - After which she sat down again and crossed legs and remarked that she had a monthly period so my attention was focused on her, sir.

Q - What happened after that?
A - While my attention was with Aurora Engson Fransdilla, Cacal approached me and poked the gun on my neck, sir.

Q - What happened after that?
A - And he announced hold-up.

Q - Who announced that hold-up?
A - Cacal, sir.

Q - What happened after that?
A - While Cacal poked a gun at my neck Cuanang and the two other men went to the kitchen to which I could see very well in my position from where I stood, sir.

COURT:
Q - How many men went to the kitchen?
A- The three (3) others went to the kitchen, sir.

ATTY. COPE:
Q - What happened next?
A - While Cacal was poking the gun at my neck, I saw Cuanang and the two (2) men herded our maids my one cousin and my niece, sir in the bodega, sir.

Q - What happened next?
A - And our maids and my niece and my cousin were locked inside the bodega, sir.

Q - Where is this bodega located Miss Witness?
A - In our kitchen, sir.

Q - What happened after that?
A - While Cacal who was still poking the gun at my neck held and pulled the tail of my hair and dragged me upstairs and brought me upstairs to the room of my sister Cynthia Yrreverre, sir

Q - What happened next?
A - While I was at the room of my sister Cynthia and while the gun was still poked at my neck and still held by Cacal he looked around the room, sir.

Q - What happened after that?
A - While I was looking around the room he saw the vault of my sister Cynthia Yrreverre, sir.

Q - What happened next then?
A - Suddenly he dropped me and opened the door and shouted that one (1) of your should come up.

Q - What happened after that?
A - While they carried the vault of my sister downstairs Cuanang came up and Cuanang carried the vault with Cacal and before they went down they told me, Cacal told me that you should not follow us. You should stay here.

x x x x x x x x x

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ATTY. COPE:
Q - Miss Yrreverre, will you please describe the vault which Cuanang and Cacal got from the room of your sister Cynthia Yrreverre?
A - Witness is demonstrating the size of the vault it is a small one it is as small television.

ATTY. VALDEZ:
Can we measure that Your Honor.

COURT:
You agree on the size.

WITNESS:
A - Witness is pointing half of the area of the table which is more or less 1 1/2 x 1 1/2 cubic feet.

ATTY. COPE:
Q - After Cuanang and Cacal brought out the vault from the room and you were told by Cacal to stay from the room and not to get out, what did you do?
A - When the two (2) got out I just stay and they simultaneously closed the door, sir.

Q - What happened next then?
A - When they closed the door I got the courage to open the door and followed them, sir.

Q - What happened then?
A - I went down the stairs when I was at the middle of the stairs Cacal turned his back and he saw me and came after me and brought me up to my room, sir.

Q - How far was your room to the room of your sister Cynthia Yrreverre?
A - Just near sir, the dividing portion for the room of my niece is so near.

Q - What happened after Cacal brought you to your room?
A - While I was in my room he pushed me towards my bed, sir.

Q - What happened after that?
A - So when he pushed me and I was felt on my back he said to me just stay right there and he searched my room (naghalughog), sir.

x x x x x x x x x

ATTY. COPE:
Q - How did you fall Miss Witness?
A - When he pushed me I felt at my back sir and Cacal searched my room, sir.

Q - What happened after that?
A - While Cacal was searching (naghahalughog) I stood up when Cacal saw me stood up he slapped me, sir.

Q - What happened when you were slapped by Cacal?
A - He said (putang ina mo matigas ang ulo mo) son of a bitch you are hard headed.

Q - And what happened after that?
A - While I was sitting Cuanang came inside my room and he tied my hands at my back, sir

Q - What happened after that?
A - While I was being tied by Cuanang at my back Aurora Engson Fransdilla peeped inside my room, sir.

Q - Is that Aurora Engson Fransdilla the lady who represented to you from the POEA?
A - Yes, sir.

Q - What happened after that while you were hogtied by Cuanang and Aurora Fransdilla peeped into your room?
A - While my hands was (sic) tied, that was the time Cacal and Cuanang took my jewelries, sir.

COURT:
Q - Where did she get those pieces of jewelry?
A - In my room at the headboard of my bed, sir.

ATTY. COPE:
Q - What else if there were any taken by Cacal and Cuanang?
A - Many sir.

Q - What are those?
A - They took the following: two pairs of gold earrings, one gold necklace with pendant, one Loui(s) Vuitton brown leather, one Gucci Ladies watch, two gold earrings with diamond pendant and cash money of SEVEN THOUSAND (P7,000.00) PESOS.

ATTY. COPE:
Q - This one gold necklace with pendant how much did you buy this?
A - I bought that for P180,000.00, sir.

COURT:
How many karats this gold necklace?

WITNESS:
That is 18 karats gold, sir.

ATTY. COPE:
Q - Miss Yrreverre, how about the two gold earrings with diamond pendant, how much did you buy this?
A - I bought that for EIGHTY THOUSAND (P80,000.00) PESOS.

COURT:
Q - Do you know the karats of this diamond? How big is this?
A - It is as big as big mongo, sir.

ATTY. COPE:
Q - This two pairs of gold earrings, how much did you buy this, how much is this?
A - TEN THOUSAND (P10,000.00) PESOS, sir.

Q - What else?
A - One gold necklace with pendant, sir.

Q - How much is this?
A - ONE HUNDRED EIGHTY THOUSAND (P180,000.00) PESOS, sir.

Q - How about this Louie Vitton brown leather bag, how much did you buy this?
A - I bought that for ELEVEN THOUSAND (P11,000.00) PESOS, sir.

Q - This Gucci ladies watch, how much did you buy this?
A - THIRTEEN THOUSAND (P13,000.00) PESOS, sir.

COURT:
What kind of Gucci is this, US Gucci or Hongkong?

WITNESS:
I do not remember anymore, Your Honor.

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COURT:
Q - How much did you buy this?
A - I bought that for THIRTEEN THOUSAND (P13,000.00) PESOS, sir.[11]

The State thus discharged its burden to produce before the trial court sufficient evidence against all the accused, including Fransdilla, that would warrant a judgment of conviction. Fransdilla's non-presentation of her defense, despite her being directly incriminated by Lalaine, denied the Court her explanation for her specific overt acts of complicity in the robbery and thus rendered the incriminating evidence unrefuted. By this the Court simply means that Fransdilla did not discharge her burden of evidence, which is "the duty of a party to start and continue giving evidence at any stage of the trial until he has established a prima facie case, or the like duty of the adverse party to meet and overthrow that prima facie case thus established."[12]

As such, the prosecution successfully discharged its burden of proof against Fransdilla.

In the eyes of the law, conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it.[13] For an accused to be validly held to have conspired with her co-accused in committing the crime, her overt acts must evince her active part in the execution of the crime agreed to be committed. The overt acts of each of the conspirators must tend to execute the offense agreed upon, for the merely passive conspirator cannot be held to be still part of the conspiracy without such overt acts, unless such conspirator is the mastermind. Here, Fransdilla was satisfactorily shown not to have been a mere passive co-conspirator, but an active one who had facilitated the access into the house by representing herself as an employee of the POEA. In that respect, it is not always required to establish that two or more persons met and explicitly entered into the agreement to commit the crime by laying down the details of how their unlawful scheme or objective would be carried out.[14] Conspiracy can also be deduced from the mode and manner in which the offense is perpetrated, or can be inferred from the acts of the several accused evincing their joint or common purpose and design, concerted action and community of interest.[15] Once conspiracy is established, the act of each conspirator is the act of all.

In establishing conspiracy, the State could rely on direct as well as circumstantial evidence. Lalaine's testimony against Fransdilla constituted both kinds of evidence. Lalaine's direct testimony showed the latter's overt participation in the execution of the robbery, while the following circumstances indicated the unity of action and common purpose or design to commit the robbery among Fransdilla and her co-accused, specifically: (1) Fransdilla and her co-accused went together to the complainants' house at around 3:00 to 4:00 p.m. of February 20, 1991; (2) she talked to Joel to solicit information on the whereabouts of Cynthia; (3) upon learning that Cynthia was not home, she stepped outside the gate and talked to two men sitting inside a vehicle parked outside the house; (4) she pretended to be an employee of the POEA in order to gain entry into the house; (5) she performed acts purposely aimed to distract Lalaine in order to give her cohorts the opportunity to enter the house and commit the robbery; (5) during the robbery, she was not tied up like the household members, but moved freely around the house, and at one point Lalaine spotted her peeping into the bedroom where Lalaine was then being held; and (7) she and the others fled together in two separate vehicles after the robbery.

In light of the foregoing, the CA justly concluded that the State established beyond reasonable doubt the guilt for of all the accused, including Fransdilla, for the robbery.

2.
Correction of the Indeterminate Sentence
was necessary to conform to the letter and spirit
the Indeterminate Sentence Law

That the trial judge fixed the indeterminate sentence at "imprisonment of TWELVE (12) YEARS AND ONE (1) DAY to FOURTEEN (14) YEARS and EIGHT (8) MONTHS of reclusion temporal as minimum to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY to TWENTY (20) YEARS of reclusion temporal as maximum" was a patent elementary error. Such fixing contravened the letter and spirit of the Indeterminate Sentence Law, Section 1 of which reads:

> Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (As amended by Act No. 4225)

The CA justifiably deemed it necessary to correct the indeterminate sentence. Under Section 1, supra, the minimum of the indeterminate sentence is a penalty "within the range of the penalty next lower to that prescribed by the [Revised Penal] Code for the offense," and the maximum is "that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code." Considering that the clear objective of the Indeterminate Sentence Law is to have the convict serve the minimum penalty before becoming eligible for release on parole pursuant to the Indeterminate Sentence Law,[16] both the minimum and the maximum penalties must be definite, not ranging. This objective cannot be achieved otherwise, for determining when the convict would be eligible for release on parole would be nearly impossible if the minimum and the maximum were as indefinite as the RTC fixed the indeterminate sentence. Indeed, that the sentence is an indeterminate one relates only to the fact that such imposition would leave the period between the minimum and the maximum penalties indeterminate "in the sense that he may, under the conditions set out in said Act, be released from serving said period in whole or in part."[17]

3.
Crime committed was the complex crime of
robbery in an inhabited house by armed men
under Article 299 of the Revised Penal Code and
robbery with violence against or intimidation of persons
under Article 294 of the Revised Penal Code

Citing Napolis v. Court of Appeals,[18] the CA ruled that all the accused, including Fransdilla, were guilty of committing the complex crime of robbery in an inhabited house under Article 299, Revised Penal Code, and robbery with intimidation or violence under Article 294, Revised Penal Code. Thus, it held that the penalty for the complex crime under Article 48 of the Revised Penal Code was that for the more serious offense, to be imposed in its maximum period. Taking into consideration that no mitigating or aggravating circumstances were present, it set the indeterminate sentence of 12 years of prision mayor, as minimum, to 17 years and four months of reclusion temporal, as maximum.

We concur with the CA.

In Napolis v. Court of Appeals, the Court abandoned the doctrine adopted in United States v. De los Santos[19] that when the felonies of robbery in an inhabited house under Article 299 of the Revised Penal Code and robbery with violence against or intimidation of a person under Article 294 of the Revised Penal Code are committed, the penalty for the latter crime (although the lighter one) should be imposed because the violence against or intimidation of a person was the "controlling qualification," on the theory that "robbery which is characterized by

violence or intimidation against the person is evidently graver than ordinary robbery committed by force upon things, because where violence or intimidation against the person is present there is greater disturbance of the order of society and the security of the individual." Writing for the Court, Chief Justice Roberto R. Concepción observed:

> Upon mature deliberation, We find ourselves unable to share the foregoing view. Indeed, one who, by breaking a wall, enters, with a deadly weapon, an inhabited house and steals therefrom valuable effects, without violence against or intimidation upon persons, is punishable under Art. 299 of the Revised Penal Code with reclusion temporal. Pursuant to the above view, adhered to in previous decisions, if, aside from performing said acts, the thief lays hand upon any person, without committing any of the crimes or inflicting any of the injuries mentioned in subparagraphs (1) to (4) of Art. 294 of the same Code, the imposable penalty - under paragraph (5) thereof- shall be much lighter. To our mind, this result and the process of reasoning that has brought it about, defy logic and reason.
>
> The argument to the effect that the violence against or intimidation of a person supplies the "controlling qualification," is far from sufficient to justify said result. We agree with the proposition that robbery with "violence or intimidation against the person is evidently graver than ordinary robbery committed by force upon things," but, precisely, for this reason, We cannot accept the conclusion deduced therefrom in the cases above cited - reduction of the penalty for the latter offense owing to the concurrence of violation or intimidation which made it a more serious one. It is, to our mind, more plausible to believe that Art. 294 applies only where robbery with violence against or intimidation of a person takes place without entering an inhabited house, under the conditions set forth in Art. 299 of the Revised Penal Code.
>
> We deem it more logical and reasonable to hold, as We do, when the elements of both provisions are present, that the crime is a complex one, calling for the imposition — as provided in Art. 48 of said Code — of the penalty for the most serious offense, in its maximum period, which, in the case at bar, is reclusion temporal in its maximum period. This penalty should, in turn, be imposed in its maximum period - from nineteen (19) years, one (1) month and eleven (11) days to twenty (20) years of reclusion temporal - owing to the presence of the aggravating circumstances of nighttime. xxx.[20]

Napolis v. Court of Appeals is controlling in this case. To start with, the information fully alleged the complex crime of robbery in an inhabited house under Article 299, Revised Penal Code, and robbery with intimidation or violence under Article 294, Revised Penal Code by averring that "the above-named accused, conspiring together, confederating with and mutually helping one another, did then and there wilfully, unlawfully and feloniously with intent to gain, and by means of violence and intimidation upon person rob the residence x x x." And, secondly, the Prosecution competently proved the commission of the complex crime by showing during the trial that the accused, after entering the residential house of the complainants at No. 24-B Mabait St., Teacher's Village, Quezon City, took away valuables, including the vault containing Cynthia's US dollar currencies, and in the process committed acts of violence against and intimidation of persons during the robbery by slapping and threatening Lalaine and tying her up, and herding the other members of the household inside the bodega of the house.

Article 294 of the Revised Penal Code provides:

> Article 294. Robbery with violence against or intimidation of persons; Penalties. — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:
>
> 1. The penalty of reclusión perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.[21]
>
> 2. The penalty of reclusion temporal in its medium period to reclusión perpetua when the robbery shall have been accompanied by rape or intentional mutilation, or if by reason or on occasion of such robbery, any of the

> physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted; Provided, however, that when the robbery accompanied with rape is committed with a use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death (As amended by PD No. 767).
>
> 3. The penalty of reclusion temporal, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted.
>
> 4. The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by sub-divisions 3 and 4 of said Article 263.
>
> 5. The penalty of prisión correccional in its maximum period to prision mayor in its medium period in other cases. (As amended by R. A. 18).

Paragraph 5, supra, is the relevant provision, under which the penalty is prision correccional in its maximum period to prision mayor in its medium period.

On the other hand, Article 299 of the Revised Penal Code states:

> Article 299. Robbery in an inhabited house or public building or edifice devoted to worship. — Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by reclusion temporal, if the value of the property taken shall exceed 250 pesos, and if:
>
> (a) The malefactors shall enter the house or building in which the robbery was committed, by any of the following means:
>
> 1. Through an opening not intended for entrance or egress.
>
> 2. By breaking any wall, roof, or floor or breaking any door or window.
>
> 3. By using false keys, picklocks or similar tools.
>
> 4. By using any fictitious name or pretending the exercise of public authority.
>
> Or if —
>
> (b) The robbery be committed under any of the following circumstances:
>
> 1. By the breaking of doors, wardrobes, chests, or any other kind of locked or sealed furniture or receptacle;
>
> 2. By taking such furniture or objects to be broken or forced open outside the place of the robbery.
>
> When the offenders do not carry arms, and the value of the property taken exceeds 250 pesos, the penalty next lower in degree shall be imposed.
>
> The same rule shall be applied when the offenders are armed, but the value of the property taken does not exceed 250 pesos.
>
> When said offenders do not carry arms and the value of the property taken does not exceed 250 pesos, they shall suffer the penalty prescribed in the two next preceding paragraphs, in its minimum period.
>
> If the robbery be committed in one of the dependencies of an inhabited house, public building, or building dedicated to religious worship, the penalties next lower in degree than those prescribed in this article shall be

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imposed.

Relevant are paragraph (a)4 (because Fransdilla pretended to be from the POEA) and paragraph (b)2 (because the accused brought the vault down from Cynthia's upstairs bedroom and forced it open outside the place where the robbery was committed), supra. The penalty for the crime is reclusion temporal.

Under Article 48 of the Revised Penal Code, the penalty for the complex crime is that for the more serious felony, which, in this case, was the robbery in an inhabited house by armed men punishable by reclusion temporal, to be imposed in the maximum period (i.e., 17 years, four months and one day to 20 years). Hence, the maximum of the indeterminate sentence of 12 years of prision mayor, as minimum, to 17 years and four months of reclusion temporal, must be corrected to 17 years, four months and one day of reclusion temporal.

4.
Exemplary damages to be deleted
for lack of legal basis

The CA affirmed the order of the RTC for the accused to return the value of the articles stolen totaling P2,250,000.00 and to pay to the complainants P200,000.00 as exemplary damages.

Article 2230 of the Civil Code authorizes the grant of exemplary damages as part of the civil liability in crimes only when one or more aggravating circumstances were present in the commission of the crime. With the conceded absence of any aggravating circumstance in the commission of the crime, therefore, we delete the P200,000.00 as exemplary damages for lack of legal basis. However, interest of 6% per annum should be imposed on the P2,250,000.00,[22] to be reckoned from the filing of the information until full payment because the value of the stolen articles, which the information individually averred, could be established with reasonable certainty.[23]

WHEREFORE, the Court DENIES the petition for review on certiorari and AFFIRMS in all respects the conviction of accused AURORA ENGSON FRANSDILLA for the complex crime of robbery in an inhabited house by armed men under Article 299 of the Revised Penal Code and robbery with violence against and intimidation of persons under Article 294 of the Revised Penal Code, subject to the following MODIFICATIONS, namely: (1) she shall suffer the indeterminate sentence of 12 years of prision mayor, as minimum, to 17 years, four months and one day of reclusion temporal, as maximum; (2) the award of P200,000.00 as exemplary damages is deleted for lack of legal basis; and (3) and the actual damages of P2,250,000.00 shall earn interest of 6% per annum reckoned from the filing of the information until full payment.

The petitioner shall pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-De Castro, Perez, and Estela-Bernabe, JJ., concur.

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[1] Rollo, pp. 128-157; penned by Associate Justice Fernanda Lampas Peralta, with Associate Justice Priscilla J. Baltazar-Padilla and Associate Justice Manuel M. Barrios concurring.

[2] Id. at 41 -51; penned by Presiding Judge Ma. Theresa Dela Torre-Yadao.

[3] Id. at 130-134.

[4] Id. at 135.

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[5] Id. at 136.

[6] Id. at 51.

[7] Id. at 50.

[8] Supra note 1.

[9] Id. at 140.

[10] Id. at 14.

[11] TSN, September 2, 1991, pp. 8-20.

[12] VI Moran, Comments on the Rules of Court, 1963 Edition, p. 3.

[13] Article 8, second paragraph, Revised Penal Code.

[14] People v. Pansacala, G.R. No. 194255, June 13, 2012, 672 SCRA 549, 558-559.

[15] People v. Fegidero, G.R. No. 113446, August 4, 2000, 337 SCRA 274, 284.

[16] Section 5 of the Indeterminate Sentence Law ordains, among others, that: "x x x Whenever any prisoner shall have served the minimum penalty imposed on him, and it shall appear to the Board of Indeterminate Sentence, from the reports of the prisoner's work and conduct which may be received in accordance with the rules and regulations prescribed, and from the study and investigation made by the Board itself, that such prisoner is fitted by his training for release, that there is a reasonable probability that such prisoner will live and remain at liberty without violating the law, and that such release will not be incompatible with the welfare of society, said Board of Indeterminate Sentence may, in its discretion, and in accordance with the rules and regulations adopted hereunder, authorize the release of such prisoner on parole, upon such terms and conditions as are herein prescribed and as may be prescribed by the board, x x x."

[17] People v. Ducosin, 59 Phil. 109, 114 (1933).

[18] No. L-28865, February 28, 1972, 43 SCRA301.

[19] 6 Phil. 411, 412 (1906). This doctrine was followed in United States v. Manansala, 9 Phil. 529 (1908); United States v. Turla, 38 Phil. 346 (1918); People v. Baluyot, 40 Phil. 89 (1919); Manahan v. People, 73 Phil. 691 (1942); and People v. Sebastian, 85 Phil. 601, 603 (1950).

[20] Supra note 18, at 311-312.

[21] This paragraph has since been amended by Republic Act No. 7659 (approved on December 13, 1993) to add: "or when the robbery shall have been accompanied by rape or intentional mutilation or arson."

[22] The Civil Code states:

Article 2211. In crimes and quasi-delicts, interest as a part of the damages may, in a proper case, be adjudicated in the discretion of the court

[23] According to Article 2213 of the Civil Code: "Interest cannot be recovered upon unliquidated claims or damages, except when the demand can be established with reasonable certainty."

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