

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILFREDO SALA ALIAS “FRED” AND “DODONG,” SARAH JUDILLA, MARILOU MAGLASANG, MELQUIADES ACUSAR, EMILY GOMEZ ALIAS “NORMA CORTES,” ...

G.R. Nos. 76340-41. July 28, 1999

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-76340-41/>

MENDOZA, J.:

These cases are here on appeal from the decision,[1] dated July 7, 1986, of the Regional Trial Court, Branch X, Cebu City, finding accused-appellant Marilou Maglasang and her co-accused, Wilfredo Sala and Sarah Judilla, guilty of kidnapping for ransom and attempted kidnapping for ransom.

The informations[2] against accused-appellant and her co-accused allege:

In Criminal Case No. CBU-6028:

That on or about the 19th day of August, 1985, at about 12:00 o'clock, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, (Wilfredo Sala, Sarah Judilla, Marilou Maglasang, Melquiades Acusar, Emily Gomez, and two (2) John Does), conniving and confederating together and mutually helping one another, with deliberate intent, did then and there kidnap one Remton Zuasola, a child one year and seven month old, or in any manner deprive him of his liberty for more than five (5) days by bringing him to Toledo City.

CONTRARY TO LAW.

In Crim. Case No. CBU-6027:

That on or about the 27th day of August, 1985, at about 9:45 a.m., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with firearms, conniving and confederating together and mutually helping one another, with deliberate intent, and by means of violence and intimidation upon persons, to wit: by pointing their firearms at one Antonio Zuasola, driver of one Roberto Paro-an, and demanded that they be guided to the path leading to the interior of the house of said Roberto Paro-an, and for fear of his (Antonio Zuasola) life, said Antonio Zuasola obeyed the order of said accused, and once inside said house of Roberto Paro-an, with intent of gain and without the knowledge and consent of said Roberto Paro-an, did then and there attempt to kidnap and detain one Roslyn Claire Paro-an, daughter of the latter, for ransom, in exchange for the life of one Remton Zuasola, son of said Antonio Zuasola, who was earlier kidnapped and detained by said accused, thus commencing the commission of the crime of Robbery with Kidnapping directly by overt acts, but which nevertheless did not produce it by reason of some (sic) cause of desistance, independent of the will of said accused, that is, by the timely detection and arrival of the PC and CIS elements.

CONTRARY TO LAW.

On motion of the prosecution, Melquiades Acusar was discharged from the informations and utilized as a state

witness.[3] In his sworn statement executed at the PC-Criminal Investigation Service (CIS) office in Camp Sotero Cabahug, Gorordo Avenue, Cebu City, on October 29, 1985, he identified the two (2) John Does referred to in the information for kidnapping as Edwin Sala and Danilo Ytang.[4] Accordingly, the information was amended by including them as accused.[5] Thereafter, all the accused were arraigned. All pleaded "not guilty" to the offenses charged.[6]

The two (2) cases were jointly tried. The prosecution presented evidence showing the following:

Antonio Zuasola was employed as a family driver by Roberto Paro-an, a bank executive, whose wife had a general merchandise store in Consolacion, Cebu City. Zuasola's wife, Remedios, on the other hand, was employed at the Metaphil Company, also in Cebu City. The Zuasolas had an 18-month old son Remton and lived at the Martinez Compound on Juana Osmeña Extension, Cebu City.[7]

On August 13, 1985, Antonio and Remedios Zuasola went to work, leaving their son to the care of Remedios' aunt, Emeteria Siega. While they were out, a young woman, who turned out to be accused-appellant Marilou Maglasang, arrived asking for the couple on the pretext that she wanted to sell them textiles and corned beef. When told by Emeteria that the owners of the house had gone to work, accused-appellant said she would come back later.

On August 15, 1985, accused-appellant came back with an elderly lady whom Emeteria later identified in court as accused Sarah Judilla. The two women offered denim pants and other clothing materials for sale to Remedios Zuasola who was then home. But Remedios was not interested and said she had no time as she was leaving for work, but the two women stayed on for about fifteen minutes more before leaving. They said they would return in the hope that Remedios would change her mind and buy from them.

On August 17, 1985, accused-appellant and Judilla came back. Because Zuasola's sister, Soledad, was there, it was she who talked to the two women. As she showed no interest in buying, the two left saying they would come back again. Two days later, on August 19, 1985, they came back with the same offer. Accused-appellant asked Emeteria to let them inside the house. As by then the two had become familiar to her, Emeteria let them inside the house and allowed them to eat their lunch there. Accused-appellant went out and bought "puso"[8] and their meal from a nearby store, while Judilla stayed behind talking with Emeteria about how hard times were. After accused-appellant came back, she and Judilla ate their lunch, using plates lent to them by Emeteria.

While they were eating, a man, whom Emeteria later identified as accused Wilfredo Sala, arrived with the news that Antonio Zuasola had met an accident and was at Ward 5 of the Southern Islands Hospital. As Emeteria panicked, accused-appellant and Judilla offered to help her. Gathering the baby Remton, Emeteria boarded a waiting taxicab with Sala and the two women to go to the hospital. Upon reaching the hospital, accused-appellant told Emeteria that children were not allowed inside, but she could entrust the baby to Sala. Emeteria, therefore, left the baby with Sala and went with the two women to Ward 5. But Antonio Zuasola was not there as he had not met an accident. When Emeteria and the two women went back for Remton, Emeteria was distressed to find that Sala had left with the baby. The two women said they would help look for the baby, but they, too, later disappeared. Emeteria went to the Fuente Osmeña police station to report the incident.[9] As it turned out, accused-appellant is the common-law wife of Wilfredo Sala, while Sarah Judilla is his elder sister.

In the afternoon of the same day, August 19, 1985, Antonio Zuasola was surprised to find his wife Remedios in the house of the Paro-ans on B. Rodriguez Street at Espina Village. She was crying and told her husband that their baby had been kidnapped.

Wilfredo Sala had taken the baby to the house of Jesus Canillo in Awihao, Toledo City. He knew Canillo, the two

having worked as carpenters in Sipalay, Negros Occidental. He told Canillo that the baby's name was "Jeffrey" and that the latter was his child by his paramour. He said that he was going to take the baby boy to Manila but wanted Canillo to take care of him while he (Sala) looked for money for transportation. He gave Canillo P20.00 for the baby's milk and promised to be back for the baby on Wednesday, August 21, 1985. The next day, he came back together with accused-appellant Marilou Maglasang. They were riding on a motorcycle. Canillo recognized accused-appellant as the woman who had gone to his house the previous month, July 1985. Sala introduced accused-appellant to him as his new wife. They brought four (4) cans of milk for the baby and told Canillo that they would not be able to get the baby on Wednesday but on Monday, August 26, 1985, when they would have secured some money for their bus fare to Manila.[10]

Zuasola and his employer, Roberto Paro-an, sought the assistance of the PC-Criminal Investigation Service (CIS) at Gorordo Avenue, Cebu City.

On August 21, 1985, at around 10:00 in the morning, Zuasola received a telephone call at the Paro-an residence. The caller was the leader of the kidnappers. He identified himself as "Ninong" and turned out to be Wilfredo Sala. When Zuasola asked why his son had been kidnapped, the caller did not reply. Instead, he promised to call again at 4:00 in the afternoon. When he called again, he told Zuasola to look for a woman selling cigarettes in front of the Regent Theater, who would give him a letter. Zuasola did as bidden. The letter, signed by "Ninong X" and written by hand in red ink, was in Cebuano. As translated into English by the private prosecutor, the letter reads:[11]

You know, our target is the child of your boss. We only used your son as a means. We want you and your wife to get the child for us. Don't be afraid because we will never implicate you.

What you will do is to hire two (2) men. And you Tony [Antonio Zuasola] continue driving for your boss and look for a way, while they are not around, that you may be able to loiter and/or stay inside [their house] and then [when] the two (2) men [whom] you have hired [arrived] you will open [the door for them] and allow them to go inside and have the maids held-up. Thereafter, you will have them tied including yourself then we will have the child kidnapped. Your wife will be waiting at the gate because a taxi will be waiting. Then, you, your wife and [the] child will go straight to your house in the province because, there, we will exchange and give you your son. And you Tony, don't ever stop working with your boss to avoid suspicions. You should choose the men that you are going to hire. Those that you can trust. We will do this as early as possible so that we can turn over your son soon.

NINONG X

The following day, August 22, 1985, at around 9:00 in the morning, Zuasola received another call at the Paro-an residence. It was from the same person who had earlier called him. The caller (Wilfredo Sala) wanted to know Zuasola's reply to his letter. Zuasola told the caller that it was hard to hire persons to kidnap the Paro-ans' child. The caller then asked Zuasola to simply allow the caller's three (3) companions inside the house of the Paro-ans. Fearful for the safety of his son, Zuasola agreed to the proposal.[12]

On August 23, 1985, at about 3:00 in the afternoon, Wilfredo Sala looked for Melquiades Acusar in Canduman, Mandaue City and asked him to take him (Sala) to Melquiades' brother, Ernesto Acusar, at the Ermita Beach. He told Melquiades that an uncle of accused-appellant Marilou Maglasang wanted to get back his (uncle) son because his wife, who was having an affair with another man, took away the son from him without his permission. Sala wanted Ernesto Acusar to abduct the child. Melquiades took Sala and accused-appellant Marilou Maglasang to the house where his younger brother Ernesto was staying. There Sala discussed with Ernesto Acusar the plan to abduct the son of accused-appellant's "uncle." Accused-appellant Maglasang told Ernesto that there was no risk involved because the father of the child was her uncle.[13]

Meanwhile, on the same day, in Awihao, Toledo City, Cebu, Canillo heard over the radio that several children in Cebu City had been missing. Afraid that the baby, "Jeffrey," was one of the children, he reported the matter to the barangay captain.[14] The latter, in turn, reported the matter to the INP Station Commander in Toledo City. [15]

On August 25, 1985, Zuasola got another call in the house of the Paro-ans. The caller, who turned out to be Ernesto Acusar, told Zuasola to meet him at 5:00 p.m. at Fuente Osmeña Avenue. Zuasola agreed and, at 6:30 p.m., met Ernesto Acusar at the designated place. Acusar introduced himself as one of the companions of the kidnappers. He had been asked by "Ninong" to meet Zuasola so that they could get acquainted with each other for the execution of the plan to kidnap the Paro-an child. After five minutes, Zuasola saw Wilfredo Sala approaching them on a motorcycle. Zuasola knew Sala because the latter used to be a helper in the store of Roberto Paro-an's wife. Zuasola was familiar with his voice so that he was able to identify him as the caller on August 21 and 22, 1985. Sala made two rounds on Fuente Osmeña Avenue before stopping in front of Zuasola and Acusar. Acusar told Zuasola that their plan would be carried out on Monday, August 26, 1985.

Earlier, at around 1:00 in the afternoon of August 25, Ernesto Acusar met with accused Wilfredo Sala, accused-appellant Marilou Maglasang, Melquiades Acusar, and accused Danilo Ytang at the Ermita Beach and discussed the plan to kidnap the child of accused-appellant's "uncle." At 4:45 p.m., accused-appellant went home while the Acusar brothers hitched a ride on Sala's motorcycle and proceeded to Fuente Osmeña Avenue. When they reached their destination, accused Sala told Ernesto Acusar to look for a man named "Tony" (Antonio Zuasola), who would show him and Melquiades Acusar the house of Roberto Paro-an, the alleged uncle of accused-appellant.

In the early morning of August 26, 1985, Sala went to Melquiades' house in Consolacion, Cebu, to inform him that he was not able to secure firearms for Ernesto.[16]

Later that morning, Antonio Zuasola received a phone call at the Paro-ans' residence from the same person who called him up on August 25, 1985. The caller informed him that the plan was temporarily shelved because their leader was still in Toledo City.[17]

The next morning (August 27, 1985), Wilfredo Sala called accused Danilo Ytang and Melquiades Acusar to his house. In the presence of Ytang and accused Edwin Sala, Wilfredo Sala handed Melquiades a .38 caliber "paltic" revolver[18] and asked him to give it to his brother Ernesto. Melquiades did as ordered and gave the gun at 8:00 a.m. to Ernesto at the Ermita Beach. Ernesto then ordered his two companions, namely, Felix Abañó and a certain Loloy, to secure their own firearms. Shortly after, Wilfredo Sala arrived with accused-appellant. They proceeded to Southern Islands Hospital (SIH) where Ytang and Edwin Sala were waiting. Melquiades and Ernesto Acusar, Felix Abañó, and Loloy, on the other hand, followed in a passenger jeepney. Wilfredo Sala then told Ernesto Acusar, Felix Abañó, and Loloy to proceed to the Paro-ans' residence at the Espina Village to carry out their mission.[19]

At the Paro-ans' residence, Zuasola waited for the arrival of the kidnappers. About seven (7) agents of the CIS were deployed around the house. At 9:45 a.m., Wilfredo Sala called up Zuasola and told him that he was calling from the Midland Pharmacy in front of the Southern Islands Hospital with accused-appellant and that in a few minutes, three (3) persons would be arriving. Then Zuasola heard a knock at the gate. He opened it and saw three (3) persons. He recognized Ernesto Acusar, whom he met two (2) days before at Fuente Osmeña Avenue. Ernesto told Zuasola that their leader, Wilfredo Sala, was waiting at the "corner of Espina Village and B. Rodriguez Street" while accused-appellant Maglasang, was at the Midland Pharmacy. He also told Zuasola that they came to kidnap Roslyn Claire Paro-an, the youngest daughter of Zuasola's employer. Ernesto then drew his gun and poked it at the right side of Zuasola's body and ordered Zuasola to take him and his companions inside the house.

(Apparently, this was just a mock break-in which the group staged to protect Zuasola from suspicion that he had conspired with the kidnappers.) Following them were Ernesto's two companions, Felix Abañó and Loloy. Suddenly, one of the CIS agents at the left side of the gate shouted, "Stop! Don't move." Upon hearing this, Zuasola ran towards the house and ducked inside. There followed an exchange of gunfire. Then a member of the CIS team called, "Ton, get out." When Zuasola came out, he saw three (3) persons lying on the ground, two of them in front of the house and another one at the back. The dead persons were Ernesto Acusar, Felix Abañó, and Loloy. Zuasola led the CIS agents to the "corner of Espina Village and B. Rodriguez Street" where Wilfredo Sala was. They then went to the Southern Islands Hospital where, in front of the Midland Pharmacy, they saw a woman wearing jeans. As they approached the said woman, a CIS agent called, "Malou." When the woman turned her head, the CIS agents immediately arrested her.[20]

Sarah Judilla was arrested at around 4:00 p.m. on the same day at her residence in Nangka, Consolacion, Cebu. At the investigation conducted by the CIS immediately after the arrest of the accused, the names of two other persons were mentioned as accomplices, accused Danilo Ytang and Edwin Sala. Wilfredo Sala told the investigators that the two were his nephews who negotiated with Zuasola over the telephone. This information was later confirmed by the affidavit executed on October 15, 1985 by Melquiades Acusar.[21]

After the apprehension of the accused, the CIS agents went to the house of Jesus Canillo in Awihao, Toledo City, Cebu, to get the baby Remton. Canillo and his wife executed a joint affidavit before the barangay captain narrating how Wilfredo Sala entrusted to them his alleged son, "Jeffrey." [22] The agents then took Canillo to their station on Gorordo Avenue where he met accused-appellant and learned that the baby's real name was Remton Zuasola.[23] The next day, August 28, 1985, the baby was reunited with his parents Antonio and Remedios Zuasola.[24]

Accused-appellant Marilou Maglasang interposed alibi and denial in her defense. She said she did not go to the residence of the Zuasolas on August 13, 1985 but on August 15, 1985. She was with Judilla and their purpose was to sell textiles and corned beef to Remedios and Emeteria. According to her, it was Emeteria who told her to come back the following day as perhaps by then they would be able to buy from the two. Accordingly, she and Judilla returned on August 17 and August 19. Accused-appellant admitted that on August 19, she and Judilla ate their lunch in the Zuasolas' house. She narrated that they were eating when a stranger, who identified himself as a co-worker of Antonio Zuasola, arrived and told Emeteria that Zuasola had met an accident and was taken to the hospital. According to her, after Judilla had informed Emeteria that she was working in the government, Emeteria asked for their help, so they accompanied her. In the taxicab, the man sat on the front seat while they stayed at the back with Emeteria and the baby. She denied having told Emeteria that children were not allowed inside the hospital and claimed that it was Emeteria herself who gave the baby to that man. She said that they accompanied Emeteria to Ward 5 and that when they did not find Zuasola, they went upstairs to Ward 6. When they again did not find Zuasola there, they went back to the place where they left the man with the baby. However, the man and the baby were no longer there. Emeteria blamed them for telling her to leave the baby with the man, but they told Emeteria that it was she who voluntarily left the baby with him. She claimed that they offered to help Emeteria, but the latter said, "Bahala mo." Hence, they left Emeteria.

Accused-appellant denied participation in the attempt to kidnap Roslyn Claire Paro-an. She said that, on August 27, she was in front of the Southern Islands Hospital because she had just had an eye examination.[25] She claimed that she had her first checkup on July 31, 1985, but her doctor told her to come back on August 2, 1985. Because she had no money then, she went back only on that day, August 27, 1985.[26]

She said she first came to know Wilfredo Sala on February 2, 1985 when his friends had a drinking spree in her family's store. After having been introduced to him, she took a ride on his motorcycle several times. As for state

witness Melquiades Acusar, she admitted that he was her neighbor but could not think of any reason why he would implicate her in the commission of the crimes. She recalled, however, that at one time she refused to sell him "tuba"[27] on credit. As regards prosecution witness Jesus Canillo, she denied having met him before he testified in court. She denied that she went to his place in Awihao with Wilfredo Sala and could not think of any reason why Canillo should implicate her in the commission of the crimes.[28]

On July 7, 1986, the trial court found accused Wilfredo Sala, Judilla, and accused-appellant Maglasang guilty of the kidnapping of Remton Zuasola. In addition, Wilfredo Sala and accused-appellant were found guilty of the attempted kidnapping of Roslyn Claire Paro-an. The trial court found that through an elaborate scheme involving accused-appellant Maglasang, accused Sarah Judilla and Wilfredo Sala, they were able to kidnap baby Remton and used the latter's release as a leverage for forcing the baby's father, Antonio Zuasola, to agree to cooperate in the kidnapping of Roslyn Claire Paro-an, the youngest daughter of Zuasola's employer. The trial court found them to have conspired to kidnap baby Remton and ultimately Roslyn Claire Paro-an. However, it found the evidence insufficient to convict Edwin Sala, Danilo Ytang, and Emily Gomez. On the basis of its findings, the trial court ordered:

WHEREFORE

In Cr. Case No. CBU-6028 - - finding accused Wilfredo Sala @ Fred @ Dodong, Marilou Maglasang and Sarah Judilla guilty beyond reasonable doubt of the crime of kidnapping for ransom, each is hereby sentenced to death and to pay costs of the proceedings. For lack of evidence, accused Edwin Sala, Danilo Ytang and Emily Gomez @ Norma Cortes, are hereby acquitted with costs de oficio.

In Cr. Case No. CBU-6027 - - finding accused Wilfredo Sala and Marilou Maglasang guilty beyond reasonable doubt of the crime of attempted kidnapping, each is hereby sentenced to suffer an imprisonment of from 6 years and 1 day to 8 years and to pay costs. For insufficiency of evidence, Edwin Sala and Danilo Ytang are hereby acquitted with costs de oficio. For lack of evidence, Sarah Judilla and Emily Gomez @ Norma Cortes are hereby acquitted with costs de oficio.

SO ORDERED.

In view of the imposition of the death penalty on Sala, Judilla, and Maglasang, these cases were elevated to this Court for automatic review.

On February 2, 1987, however, the Constitution took effect, prohibiting the imposition of the death penalty and providing that in cases where the death penalty has been imposed, the same shall be reduced to reclusion perpetua.[29] Accordingly, the Court gave the accused a 30 day period within which to indicate whether or not they wanted to continue with their appeal, otherwise, their appeal would be dismissed and the cases would be remanded to the trial court for execution of its decision.[30] Wilfredo Sala and Sarah Judilla separately moved to dismiss their appeals. Accused-appellant Marilou Maglasang also moved to withdraw her appeal but later expressed her desire to continue her appeal.

Accordingly, the Court granted the motions to withdraw the appeal filed by Wilfredo Sala and Sarah Judilla but disregarded accused-appellant Maglasang's motion to withdraw appeal and ordered her appeal to proceed.

Accused-appellant assigns the following errors as having been allegedly committed by the trial court:

I.

THE TRIAL COURT ERRED IN FINDING THE EVIDENCE SUFFICIENT TO PROVE THE EXISTENCE OF A CONSPIRACY AMONG THE ACCUSED.

II.

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED DUE TO REASONABLE DOUBT AS TO [HER] GUILT.

III.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME OF KIDNAPPING FOR RANSOM.

The Court has carefully reviewed the records of these cases but has found no reason to reverse the decision of the trial court except to modify it as to the penalty imposed on accused-appellant.

First. Accused-appellant contends that the trial court erred in finding that there was a conspiracy among the accused to kidnap Remton Zuasola and Roslyn Claire Paro-an. She claims that the primary evidence of the conspiracy was the testimony of Melquiades Acusar, who had been discharged from the informations to be a state witness. She contends that, as Melquiades Acusar was a participant in the commission of the crimes, his testimony comes from a "polluted source." Accused-appellant contends further that the fact that the trial court acquitted Danilo Ytang and Edwin Sala indicates that Melquiades' testimony is not worthy of belief. The trial court could not discredit the testimony of Melquiades as to Danilo Ytang and Edwin Sala and at the same time rely on the same testimony to convict her.

The contention has no merit.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it.[31] It is settled that conspiracy need not be established by direct proof of a prior agreement by the parties to commit a crime but that it may be inferred from the acts of the accused before, during, and after the commission of the crime which indubitably point to a joint purpose, concerted action, and community of interest.[32] In the instant case, that accused-appellant acted in conspiracy with her co-accused is shown by her overt acts which facilitated the kidnapping of Remton by Wilfredo Sala and his group and thus forced the baby's father, Antonio Zuasola, to let the group inside the premises of the Paro-an residence. Posing as an ambulant vendor with Judilla, accused-appellant went to the Zuasola residence no less than four times before the kidnapping was executed. That her purpose was simply to persuade Remedios Zuasola and Emeteria to buy her merchandise is unbelievable. As the trial court observed, an ordinary house-to-house vendor would not waste his time trying to sell to someone who had refused the offer as many times as accused-appellant had done. One refusal to buy would be enough. It is clear that accused-appellant's purpose in returning to the Zuasolas' house was to befriend Emeteria. In fact, she and Judilla succeeded in doing so. Emeteria lent them plates and allowed them to eat their lunch in the Zuasolas' house. In connivance with Wilfredo Sala, they concocted the story of Antonio Zuasola's accident to create a situation for the kidnapping of Remton.

On August 20, 1985, a day after Wilfredo Sala had taken Remton to the house of the Canillo spouses in Awhao, Toledo City, accused-appellant came with Sala to bring the baby his milk. As the trial court observed:

The casing of the Zuasola residence by accused Maglasang and Judilla on August 15, 1985 and August 17, 1985 under the pretext of peddling clothing materials and the execution of a plan to abduct baby Remton on August 19, 1985, with a PU cab already waiting on the road outside the house of the Zuasolas, the ploy of accused Wilfredo Sala that Antonio Zuasola met an accident and was hospitalized, the buying of the food by Marilou Maglasang at an eatery which in all likelihood, could be the tip for Wilfredo to come in and perform his part of the plan, are clear indications of conspiracy. The hiding of the child in the hinterlands of Toledo by Wilfredo Sala and Marilou Maglasang exposed the conspirators' determination to clinch their basic scheme in order to accomplish their second and main target of getting the Paroan child thru exchange of the Zuasola boy for ransom.

Accused-appellant was not only privy to the plan to kidnap Remton, she was also part of the ultimate objective of kidnapping Roslyn Claire Paro-an. In the morning of August 27, 1985, when the attempt to kidnap Roslyn Claire Paro-an took place, accused-appellant was at the Midland Pharmacy, in front of the Southern Islands Hospital, where her co-conspirators had gathered before three of them went to the Paro-an residence. Again, as the trial court well observed:

There is no doubt that the prosecution established with clear and strong evidence the commission of attempted kidnapping.

Masterminded by accused Wilfredo Sala, three men were able to enter the Paro-an compound, armed with firearms, deadly weapons and a nylon cord with the sole intention of kidnapping baby Roslyn Claire Paro-an but failed to consummate their felonious act because of the shoot out with CIS agents. Wilfredo Sala during the attempt parked his motorcycle just a few meters away from the Paro-an residence pretending to fix the spark plug of his motorcycle, while Marilou Maglasang and Melquiades Acusar were waiting in the vicinity of the scene of the crime.

Contrary to accused-appellant's contention, her complicity in the kidnapping of Remton and in the attempt to kidnap Roslyn Claire was established not only by the testimony of state witness Melquiades Acusar but also by the testimonies of Emeteria Siega and Jesus Canillo. Siega testified as follows:[33]

Q And do you also know accused Sarah Judilla and Marilou Maglasang?

A Yes.

Q If they are ever present to day in the courtroom, please point out to the court the person who will answer the name Wilfredo Sala?

A That is Wilfredo Sala (pointing to a person answering the name of Wilfredo Sala).

Q How about Sarah Judilla?

A That is Sarah Judilla (pointing to an elderly lady who answered the name Sarah Judilla).

Q

How about accused Marilou Maglasang?

A That's Marilou Maglasang (pointing to a young lady).

....

Q On August 13, 1985, can you tell the Court where were you?

A

I was at home.

Q In whose house?

A In the house of Antonio Zuasola and Remedios Zuasola.

Q And will you please tell the Court where is this house located?

A J. Osmeña Ext., Cebu City.

Q Who were with you in the house of Antonio Zuasola then on that day?

A I and Remton Zuasola.

Q Now, while you and Remton Zuasola were in the house of Antonio Zuasola on August 13, 1985, was there an unusual incident that took place?

A

Yes, I could still remember.

Q Will you please tell the Court what was that unusual incident?

A A young lady went to that house.

Q Please point to the Court whom do you refer to as the young lady?

A (Pointed to accused Marilou Maglasang).

Q What was that young lady doing then at the house of Antonio Zuasola?

A She asked whether it was the house of Antonio Zuasola.

Q And so, what did you answer?

A I said it was.

Q After you answered that that is the house of Antonio Zuasola, what happened next?

A She asked where were Remedios Zuasola and Antonio Zuasola

Q Since you were asked where the couple was at that time, what was your answer?

A I told her that they were at work.

Q After you answered that Remedios Zuasola and Antonio Zuasola were at work at that time, what happened next?

A She said she was selling pants materials on installment.

Q

And since you know that she was selling pant materials, did you buy some pant materials?

A No.

Q So, after knowing that you were not buying any pant material, what happened next?

A Later on she went away but said she will come back.

Q Did she, in fact, go back to the house of Antonio Zuasola?

A Yes.

Q And when was that when she went back?

A On August 15 she came back with an elderly lady.

Q

Can you still recall and positively identify this elderly lady if you can see that lady again?

A Yes, I can still identify her.

Q And will you please identify to the Court who was this elderly lady who went with Marilou Maglasang to the house of Antonio Zuasola on August 15, 1985?

A Yes, I can point to her.

Q Please point to her.

A (Pointed to accused Sarah Judilla).

Q Please inform the Court what were Marilou Maglasang and Sarah Judilla doing in the house of Antonio Zuasola on August 15, 1985?

A They offered their pant materials which they were selling and since Remedios Zuasola was at home, they talked with her.

Q Did you notice Remedios Zuasola buying pant materials from the two ladies?

A No.

Q So, after Remedios Zuasola declined from having any further conversation with them, what happened next?

A

Remedios Zuasola left for work and after about 15 meters, more or less, the two ladies left but again said they will come back later just in case Remedios Zuasola will change her mind.

Q And did they, in fact, come back after August 15, 1985?

A Yes, they returned to the house.

Q And when was this Madame Witness if you can recall?

A August 17, 1985.

Q

Please inform this Honorable Court who went back to the house of Antonio Zuasola?

A The same young lady and the elderly lady.

Q You refer to accused Sarah Judilla as the elderly lady and Marilou Maglasang as the young lady who went back to the house on August 17, 1985?

A Yes.

Q And what were they doing in the house of Antonio Zuasola on August 17, 1985?

A

They still offered to sell on credit pant materials. However, since the sister of Antonio Zuasola, Soledad Daison was there so they were the ones who talked about the matter.

Q Did you notice Soledad Daison buying pant materials from the two ladies, Marilou Maglasang and Sarah Judilla?

A No.

Q Now, what happened next?

A 15 minutes after, more or less, they left but again said they will come back.

Q Did they, in fact, go back to the house of Antonio Zuasola as they promised?

A Yes.

Q And when was this? If you don't mind, please tell the court?

A They went back on August 19, 1985.

Q Who went back to the house of Antonio Zuasola on August 19, 1985?

A The same young lady and elderly lady.

Q

Do you refer again to accused Sarah Judilla and Marilou Maglasang as the two ladies who went back to the house of Antonio Zuasola on August 19, 1985?

A

Yes.

Q Will you please inform the Court why they went back to the house of Antonio Zuasola on August 19, 1985?

A They went back in the hope that some pant materials will be bought from them.

Q On that day can you inform the Court where was Remton Zuasola?

A He was at home.

Q While Marilou Maglasang and Sarah Judilla were in the house of Antonio Zuasola on that day, what were they doing? Please tell the Court.

A Marilou Maglasang requested that they will just get inside the house since we were already acquainted with each other.

Q Once inside, what happened next?

A Later on this young girl bought "puso" and some viand.

Q Now, where was Sarah Judilla then, the elderly lady?

A She remained in the house.

Q While Marilou Maglasang was buying "puso" and some viand and Sarah Judilla was in the house, what was Sarah Judilla doing?

A We talked about the hard times.

Q Were Marilou Maglasang and Sarah Judilla able to eat in the house of Antonio Zuasola?

A Yes, they were able to buy "puso" and viand and they were able to eat in the house. I even gave them plates to eat on.

Q While Marilou Maglasang and Sarah Judilla were eating in the house of Antonio Zuasola, did you notice any other incident?

A Yes, I noticed.

Q And please inform the Court what was that incident?

A

A man appeared telling us that Antonio Zuasola met an accident.

Q Can you identify that man who suddenly appeared in the house of Antonio Zuasola on August 19, 1985?

A I don't know him.

Q Can you still identify him today if ever he is in the courtroom?

A Yes, I can identify him because at present I know him already.

Q Please point him out if he is in the courtroom today?

A He is the one (pointing to Wilfredo Sala).

Q After you were informed by Wilfredo Sala that Antonio Zuasola featured in an accident and he was in the hospital, what did you do?

A I was afraid and I panicked. However, the two ladies told me that they will help me with my problem.

Q After you were told by the two ladies that they will help you with the problem, what did you do next?

A

I was thinking of going with them and I was even scolded by Fredo (referring to Wilfredo Sala) because I took a long time to decide and he said it would seem that I cannot help in the predicament.

Q Do you know the name of the hospital where Antonio Zuasola was allegedly taken after the accident?

A Yes, Southern Islands Hospital.

Q Now, where was Remton Zuasola then at that time?

A He was with me.

Q Did you, in fact, arrive at Southern Islands Hospital?

A Yes.

Q What mode of transportation did you and the accused and I am referring to Wilfredo Sala, Sarah Judilla and Marilou Maglasang use in going to the hospital?

A PU cab.

Q Who contacted a PU?

A There was a waiting PU car on the road.

Q Was Remton Zuasola in the PU with you and the accused when you went to the hospital?

A Yes.

Q When you arrived at the Southern Islands Hospital, what happened next?

A

While we were on board the PU Marilou Maglasang inquired what ward was Antonio Zuasola admitted and Wilfredo Sala answered Ward 5.

Q Did you, in effect go to Ward 5 of the Southern Islands Hospital?

A Yes.

Q At that time when you went to Ward 5 of the Southern Islands Hospital, where was Remton Zuasola?

A This Remton Zuasola was left with a certain man because Marilou Maglasang and Sarah Judilla told me to just leave the child with the man.

Q Please tell the Court who was that man with whom you left Remton Zuasola per instructions of Marilou Maglasang and Sarah Judilla?

A I don't know him.

Q Do you see him in Court today?

A Yes.

Q Please point to that man to whom you entrusted Remton Zuasola on the way to Ward 5 of the Southern Islands Hospital?

A (pointed to accused Wilfredo Sala).

. . . .

Q

Why did you entrust Remton Zuasola to accused Wilfredo Sala?

A Because this young lady told me that children are not allowed to enter the wards.

Q Where was Wilfredo Sala at that time when you delivered Remton Zuasola to him?

A He was at the door of the Information Section of the hospital.

Q And who was with you when you went to Ward 5?

A Marilou Maglasang and Sarah Judilla accompanied me because I do not know where Ward 5 is.

Q When you arrived at Ward 5 were you able to locate or find Antonio Zuasola there as told to you by Wilfredo Sala?

A When I arrived at Ward 5 I did not see Antonio Zuasola.

Q Since Antonio Zuasola was not in Ward 5, what did you do?

A We went outside and when we reached the place where I left the child and Wilfredo Sala, they were both nowhere.

Q

So, what did Sarah Judilla and Marilou Maglasang do knowing that Wilfredo Sala and Remton Zuasola were no longer there?

A I said -- What shall I do when Wilfredo Sala and Remton Zuasola are not there anymore? And the two ladies

told me -- We will look for them.

Q And were you able to find Wilfredo Sala and Remton Zuasola?

A No, because the two ladies just left me and did not come back anymore.

Q Since the two ladies, Marilou Maglasang and Sarah Judilla, did not go back and report to you, what did you do?

A I went to the Fuente Osmeña Police Station to report the matter.

Jesus Canillo's testimony continued where Emeteria Siega's testimony left off. He testified:[34]

Q One of the accused here is Marilou Maglasang also known as "Malou", do you know her also?

A Yes because she was brought to our house by Wilfredo Sala.

Q Will you tell the court when for the first time did you come to know Marilou Maglasang?

A In the month of July 1985 although I cannot remember the date.

Q When did you meet her for the first time?

A July 1985.

Q Where did you meet her?

A They went to our house. She was together with Wilfredo Sala and she was introduced by Wilfredo to us to be his wife.

Q After Marilou Maglasang was introduced by Wilfredo Sala to you as his wife, what did you say?

A I told Wilfredo Sala he must be joking because I know his wife because one time he showed me a picture of their wedding.

Q

After you made this comment, what did Wilfredo Sala say?

A He said finally [that] Marilou was his paramour.

...

Q On August 19, 1985 more particularly in the afternoon of that day, do you recall where were you at that time and day?

A I was at home.

Q Where is your house located?

A Awihao, Toledo City.

Q What province?

A Cebu.

Q Will you please tell the court what was that unusual incident?

A He arrived there with a child.

Q To whom do you refer to as "he"?

A Wilfredo Sala.

Q What happened when he arrived bringing along with him a child?

A

He told me, "I have here a child who is my child with my paramour." Since he has no son, he stole the child and he asked my help because he will bring the child to Manila and rear him there.

Q And what happened next after he told you that he will bring the child to Manila?

A He told me he will just leave the child with me because he will secure money first and will get the child on Wednesday.

. . . .

Q So after he said he will leave the child to you and your wife, what happened next?

A He left P20.00 for the milk and a nursing bottle.

Q And after that what happened next?

A The following day they went back to our house on August 20, 1985 which was a Tuesday.

COURT:

Q When you say "they" whom are you referring to?

A Wilfredo Sala and Marilou Maglasang riding on a motorcycle.

ATTY. SISON:

Q You made mention of Marilou Maglasang, is she the same Marilou Maglasang whom you met sometime July together with Wilfredo Sala?

A Yes.

Q If she's in the courtroom today present, will you point to her.

A (Witness pointing to accused Marilou Maglasang).

....

Q You said that on the following day, August 20, 1985 Wilfredo Sala and Marilou Maglasang went to your house. My question is -- what were they doing there?

A

They went there bringing 4 cans of milk and they told me to be patient because they would not be able to get the child on Wednesday but they will get him on Monday when they shall be able to get money.

Q Who, in particular, among the two, Marilou Maglasang and Wilfredo Sala who told you to be patient because they cannot get the child yet?

A The two of them.

Melquiades Acusar's testimony gave the ending of the elaborate plot to kidnap Roslyn Claire Paro-an, detailing the participation of the conspirators, particularly that of accused-appellant. Melquiades Acusar told the court: [35]

Q Are you the same Melquiades Acusar who was formerly one of the accused in this case and who has been discharged as state witness?

A Yes, sir.

....

Q

What about Marilou Maglasang, will you please inform this Court whether you know accused Marilou Maglasang?

A Yes, I know her.

Q Will you please inform this Court why you happened to know her?

A I know Marilou Maglasang because her aunt, Juliana Maglasang is the owner of the lot where we planted Tangkong.

....

Q

Now if ever you know all these accused mentioned here and if ever they are present in the courtroom today, can you point who among the persons present will answer those names?

A Yes, I can point them, sir.

....

Q Please point to accused Marilou Maglasang.

A That one, sir.

(Witness pointing to Marilou Maglasang)

....

Q On August 23, 1985, can you still recall where were you then at that particular date?

A Yes, I remember.

Q Please inform the Court where were you on that day?

A On August 23, 1985 I was working as Construction Worker at the construction located at Candaman, Mandaue City.

....

Q What was that unusual incident, please inform the Court?

A Wilfredo Sala, my neighbor, suddenly appeared at the construction site.

Q What time of the day did this Wilfredo Sala appear in your job site?

A At 3:00 o'clock in the afternoon.

Q Do you know the reason why Wilfredo Sala went to see you at your place of work?

A When I asked him, he told me that I will accompany him to Ermita Beach because he is going to see my brother who is living there, Ernesto Acusar.

Q Please inform the Court what was his reason?

A

When I asked him the reason of seeing my brother at Ermita Beach, he told me that he has a friend who has a family trouble because the wife of his friend is having a paramour.

Q What about that friend, what happened next, what other information did Wilfredo Sala informed you?

A When I asked him who that friend is, he told me that his friend is the uncle of Marilou Maglasang.

Q What about this friend who is the uncle of Marilou Maglasang, what relation has this with the intended meeting with Ernesto Acusar?

A He told me that his friend wanted his son to be kidnapped because the wife of the uncle of Marilou did not ask permission to get the child from the latter.

Q Did you indeed accompany Wilfredo Sala at Ermita Beach on that afternoon of August 23, 1985?

A Yes, I accompanied him after 5:00 in the afternoon when I was off from my work.

....

Q When you reached Highway Seno at Mandaue City, did you see anyone whom you know?

A Yes.

Q Please inform this Court who was that person?

A Wilfredo Sala and Marilou Maglasang.

Q And of course you are referring to Marilou Maglasang, who is one of the accused in this case?

A Yes.

Q From Highway Seno, Mandaue City, where did you, Wilfredo Sala and Marilou Maglasang go?

A We went to Ermita Beach.

Q Did you, Wilfredo Sala and Marilou Maglasang meet Ernesto Acusar there?

A Yes.

....

Q Will you please inform this Court, if you can still recall what were those questions asked by your brother to Wilfredo Sala?

A My brother, Ernesto Acusar asked Wilfredo Sala who were those persons and what was that incident about?

Q And then what did Wilfredo Sala answered?

A Wilfredo Sala answered that the father of the child to be kidnapped is the uncle of Marilou Maglasang.

Q Why, what does Wilfredo Sala wants Ernesto Acusar to do with respect to the child of the uncle of Marilou Maglasang?

A Wilfredo Sala wanted the child to be kidnapped.

Q During the period where Wilfredo Sala and Ernesto Acusar were talking, where was Marilou Maglasang?

A Marilou Maglasang was sitting beside Wilfredo Sala.

Q After that meeting between Wilfredo Sala, Ernesto Acusar, Marilou Maglasang and you, what happened next?

A Marilou Maglasang also told my brother, Ernesto Acusar that you have nothing to worry because the father of the child is my uncle.

Q What other information if there were still any?

A Marilou Maglasang said further that they were told by her uncle to get the child.

....

Q On the afternoon of that day, August 25, 1985, was there an unusual incident that took place in your house?

A Yes, there was.

Q Please inform this Court what was that incident?

A After I rested at about 1:00 in the afternoon, Danilo Itang arrived and called me.

Q And do you refer to Danilo Itang who is one of the accused in this case?

A Yes.

Q Why did Danilo Itang call you that afternoon at about 1:00 o'clock?

A

When I asked him his purpose in coming to my house Danilo Itang told me that he was instructed by Wilfredo Sala to inform me that Wilfredo Sala would like me to accompany him in going to Ermita Beach, Cebu City at 2:00 o'clock in the afternoon.

Q And did you meet Wilfredo Sala at 2:00 that afternoon?

A Yes.

Q Where did you meet Wilfredo Sala that afternoon?

A I met him in front of his house when he went out from his house with his motorcycle.

Q What happened to that meeting of yours with Wilfredo Sala that very afternoon?

A

Wilfredo Sala told me that we will go to Ermita Beach, he will ride on his motorcycle and on my part I will just ride on a passenger jeepney towards Ermita Beach, Cebu City.

Q Did you notice anybody who was with Wilfredo Sala at that time when you arrived at Ermita beach?

A Yes.

Q Please inform this Court who was the companion of Wilfredo Sala?

A

Marilou Maglasang.

Q What happened at Ermita Beach when you, Wilfredo Sala, Marilou Maglasang were there?

A They were talking with my younger brother.

Q Were you able to hear the discussion between Wilfredo Sala and Ernesto Acusar, your younger brother?

A Yes, I heard.

Q Please inform the Court what was that about?

A I heard that they have said that the child is the son of the uncle of Marilou Maglasang.

. . . .

Q After you received this revolver Mr. Witness, what did you do with this?

A Wilfredo Sala instructed me to go immediately to Ermita Beach and deliver this firearm to my younger brother.

Q When you delivered this firearm to your brother, were there other persons present?

A Yes.

Q

Please inform this Court who were those persons present at the time you gave this firearm to your brother?

A The companions of my brother.

Q Do you know them?

A Yes, I know them.

Q Then what happened next?

A Not long after Wilfredo Sala arrived.

Q You said that Wilfredo Sala arrived, was Wilfredo Sala with someone else?

A Yes.

Q Please inform this Court who was with Wilfredo Sala at that time?

A Marilou Maglasang.

....

Q What did Wilfredo Sala and Marilou Maglasang do that morning at Ermita Beach?

A Wilfredo Sala said to my brother Ernesto Acusar that: "Juan, since you have already a firearm it is up to your two companions to look for their firearms."

Q Who is this "Juan"?

A

My brother, Ernesto Acusar.

Q

After Wilfredo Sala told your brother Ernesto Acusar who is also called Juan that since he has already a firearm and it is up to his companions to look for their firearm, what happened next?

A My brother told his companions to look for firearms so they left the house and went away while my brother Ernesto Acusar was left behind.

Q What about Wilfredo Sala where was he?

A

He told my brother that he (Wilfredo Sala) will just go ahead to Southern Islands Hospital because he has with him our two neighbors at Consolacion, namely: Edwin Sala and Danilo Itang, and they might keep waiting.

Q Did Wilfredo Sala left the house of Ernesto Acusar that morning?

A Yes.

Q Who was with him?

A Marilou Maglasang.

....

Q When you arrived in front of the waiting shed of the Southern Islands Hospital, did you see persons whom you personally knew?

A Yes.

Q Will you please inform this Honorable Court who were those persons you saw and whom you personally knew?

A They were Wilfredo Sala, Marilou Maglasang, Edwin Sala and Danilo Itang.

....

Q And then what happened next?

A Wilfredo Sala instructed Ernesto Acusar that he (Ernesto Acusar) and his two companions will go directly to Espina Village.

Q What about you, where were you then?

A At first I was in front of Wilfredo Sala but later on Wilfredo Sala told me to go to the corner of Espina Village and stay there for awhile because he will follow.

....

Q Did you in fact arrive at the corner of Espina Village?

A Yes.

Q Later on what happened?

A Not long after Wilfredo Sala arrived.

Q Did you notice someone together with Wilfredo Sala?

A Yes.

Q Who was that, can you tell the Court?

A Marilou Maglasang.

....

Q How long did you stay in that area?

A Half an hour.

Q Why were you standing or why were you there?

A Wilfredo Sala told me to stand there and to see and watch the arrival of a yellow panel.

Q And was there actually a yellow panel that arrived at the area where you were standing?

A No, sir. And I waited there for about 30 minutes.

Q What happened there after you were standing for 30 minutes already?

A Since there was no yellow panel that arrived, I went across the street. I approached and asked permission from Wilfredo Sala to go home.

....

Q After you were given permission to go home, where did you go?

A

Before I left the place, Wilfredo Sala told me that if they will be successful in kidnapping the child of the uncle of his paramour, he (Wilfredo Sala) will make a downpayment of P300.00 to my brother and his companions. He promised me that he will give me P1,000.00 that coming Saturday.

....

Q After that information where did you go?

A I left the place and walked towards B. Rodriguez Street. After I passed the bridge, near the TB Pavilion while walking, a CIS agent arrested me.

....

Q When you arrived at the office of the CIS, what transpired?

A I was imprisoned.

Q How long were you imprisoned on that day?

A

When I arrived at the CIS office, it was already 10:00 in the morning, I was immediately put to prison until 5:00 in the afternoon, Wilfredo Sala and his companions were already there.

....

Q You said that Wilfredo Sala was already there together with his companions, will you please inform the Honorable Court, who were the companions of Wilfredo Sala?

A Marilou Maglasang and Sarah Judilla and Emily Gomez.

....

Q Do you know the reason why Wilfredo Sala, Marilou Maglasang, Sarah Judilla and Emily Gomez were with you at the CIS office, do you know the reason?

A Yes.

Q Please inform this court the reason why Wilfredo Sala and his companions were there?

A

When I asked Wilfredo Sala why her sister Sarah Judilla was implicated, he told me that it was because when they kidnapped the child of Tony, Sarah Judilla was with them.

Accused-appellant Maglasang denied that she was in any way involved in the kidnapping of Remton and the attempt to kidnap Roslyn Claire Paro-an. She insisted that she was merely trying to sell textiles when she went to the residence of the Zuasolas. However, the rule in evidence which the Court has always applied is that positive identification prevails over the simple denial of the accused. Accused-appellant's denial was unsubstantiated compared to the clear, positive, and convincing testimonies of the prosecution witnesses. Moreover, it is well-settled that the trial court's evaluation of the credibility of the testimonies given by witnesses before it must be accorded great respect owing to its opportunity to observe and examine the witnesses' conduct and demeanor on the witness stand.[36] In this case, the trial court found the testimonies of the prosecution witnesses credible:[37]

The straight-forward testimonies of all the prosecution witnesses, and their natural and sincere demeanor on the witness stand earned the credence of this Court. Mrs. Siega who is an old woman, Antonio Zuasola and Remedios Zuasola and Jesus Canillo without batting an eyelash positively identified from among the crowd in the courtroom accused Wilfredo Sala, Marilou Maglasang and Sarah Judilla as the conspirators and their respective roles in the kidnapping of minor Remton Zuasola. Not one of these government witnesses had ill-motive against the said accused and the defense failed to show any reason why the aforementioned witnesses for the State would falsify their testimonies. On the witness stand, Canillo was seething with anger in recalling how his family and home was unnecessarily dragged by the accused in their diabolical plan.

It is true that the testimony of a co-conspirator is not sufficient for the conviction of the accused unless such

testimony is supported by other evidence. Such testimony comes from a polluted source and, therefore, must be received with caution. As an exception, however, the testimony of a co-conspirator, even if uncorroborated, will be considered sufficient if given in a straightforward manner and it contains details which could not have been the result of deliberate afterthought.[38] In this instant case, Melquiades Acusar first gave his extrajudicial confession implicating accused-appellant and the other accused before T/Sgt. Ariston L. Era of the PC-CIS on October 15, 1985.[39] He reiterated his confession on the witness' stand during which the defense was given the opportunity to cross-examine him. His testimony coincides with the testimonies of the other prosecution witnesses, namely, Antonio Zuasola, Emeteria Siega, and Jesus Canillo. As the trial court noted, Melquiades' testimony was straightforward, spontaneous, and sincere. We have no reason to reverse these findings of the trial court. We hold that it correctly convicted her of the kidnapping of Remton Zuasola and the attempted kidnapping of Roslyn Claire Paro-an.

The fact that the trial court acquitted Danilo Ytang and Edwin Sala of the crimes of which they were charged does not belie the credibility of Melquiades Acusar's testimony. The legal maxim *falsus in uno, falsus in omnibus* has never been regarded as mandatory or inflexible in application.[40] Courts may believe one part of the testimony of a witness and disbelieve another part depending on its inherent credibility or the corroborative evidence in the case. They are not really required to accept or reject the whole testimony of a particular witness.[41] It is noteworthy that Melquiades' testimony as to the participation of accused-appellant in the conspiracy to commit the crimes was corroborated by the testimonies of the other prosecution witnesses. The same cannot be said of the participation of Danilo Ytang and Edwin Sala. The only evidence which implicated them in the commission of the crimes was Melquiades' testimony. The trial court did not err when it convicted accused-appellant of the crimes of which she was charged while acquitting Danilo Ytang and Edwin Sala for insufficiency of evidence.

Second. Accused-appellant contends she should have been acquitted on the ground at least of reasonable doubt. She argues that the trial court not only mistakenly relied on the positive identification by the prosecution witnesses but also ignored her explanation why she was near the scene of the crime at the time of the commission of the attempted kidnapping. She claims that she was an unwitting participant in the scheme to perpetrate the crimes.

Contrary to accused-appellant's contention, the trial court correctly relied on the positive identification by the prosecution witnesses. Emeteria clearly and categorically testified that it was accused-appellant who went to the Zuasola residence on four (4) occasions and tricked her into entrusting Remton to accused Sala on the pretext that children were not allowed to enter the hospital. Melquiades Acusar, on the other hand, explained the participation of accused-appellant in the planning and execution of the crimes. Jesus Canillo identified accused-appellant as Wilfredo Sala's companion when they visited Remton in his house. The testimonies of these witnesses prove beyond doubt the guilt of accused-appellant.

Moreover, accused-appellant failed to explain her presence near the scene of the crime at the time of the attempted kidnapping. She claimed that, on August 27, 1985, she was in front of the Southern Islands Hospital because she had her eyes checked.[42] When confronted with the hospital record for August 27, 1985, however, she admitted that she was not a patient in the hospital.[43] Accused-appellant made no attempt after that to show that she was really in the hospital on that day to explain her presence near the scene of the crime. The trial court correctly considered her testimony unworthy of belief and disregarded her defense of denial and alibi.

Third. Finally, it is contended that the trial court erred in convicting accused-appellant of the crime of kidnapping for ransom when there is no allegation in the information that the kidnapping of Remton was committed for the purpose of extorting ransom. She likewise claims that the imposition of the death penalty has been prohibited by the 1987 Constitution and, thus, she can no longer be convicted of the crimes of which she was charged since

there is no longer any penalty prescribed for the said crimes pursuant to the maxim "nullum crimen, nulla poena sine lege."

The first contention is correct. Kidnapping is defined and penalized by Art. 267 of the Revised Penal Code as follows:

Any private individual who shall kidnap or detain another, or in any manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:

- If the kidnapping or detention shall have lasted more than five days;
- If it shall have been committed simulating public authority;
- If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made;
- If the person kidnapped or detained shall be a minor, female, or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above mentioned were present in the commission of the offense.

The elements of the kidnapping have been established by the prosecution in Criminal Case No. CBU-6028, to wit: (a) accused-appellant is a private individual; (b) she kidnapped or detained Remton and deprived the latter of his liberty; (c) the act of kidnapping or detention is illegal; and (d) in the commission of the offense, the following circumstances were present, namely, (i) the kidnapping lasted for more than five (5) days and (ii) the person kidnapped or detained was a minor.[44]

However, the qualifying circumstance that the kidnapping was for the purpose of extorting ransom was not alleged in the information. The rule is that qualifying circumstances must be properly pleaded in the indictment in order not to violate the accused's constitutional right to be properly informed of the nature and cause of the accusation against him.[45] Hence, accused-appellant can only be convicted of simple kidnapping.

Accused-appellant's argument that the ban on the imposition of the death penalty under the 1987 Constitution bars the courts from convicting her of the crimes of which she was charged is without merit. The Constitution provides for the reduction of the death penalty to reclusion perpetua in cases where it had been imposed prior to its effectivity. In fact, Congress has already reimposed the death penalty for heinous crimes under R.A. No. 7659.

The penalty for simple kidnapping is reclusion perpetua to death. There being no aggravating or mitigating circumstance attending the commission of the crime of kidnapping, the lower penalty of reclusion perpetua is the proper penalty to be imposed on accused-appellant.[46] As for the crime of attempted kidnapping, the prosecution has proven that accused-appellant and the other accused commenced the kidnapping of Roslyn Claire Paro-an directly by overt acts but did not perform all the acts of execution due to the timely intervention of the PC-CIS agents.[47] Thus, the penalty lower by two (2) degrees than that prescribed by law for the crime of consummated kidnapping should also be imposed on accused-appellant.[48] Prison mayor is the penalty two (2) degrees lower than reclusion perpetua to death.[49] The duration of prison mayor is from 6 years and 1 day to 12 years. Applying the Indeterminate Sentence Law, accused-appellant should be sentenced to a penalty of 6 months and 1 day to 6 years of prison correccional, as minimum, to 6 years and 1 day to 12 years of prison mayor, as maximum. The trial court did not err in sentencing accused-appellant to suffer a penalty of imprisonment from 6 years and 1 day to 8 years for the attempted kidnapping of Roslyn Claire Paro-an.

WHEREFORE, the decision of the Regional Trial Court, Branch X, Cebu City, is AFFIRMED with

MODIFICATION. Accused-appellant Marilou Maglasang is hereby sentenced to suffer the penalty of reclusion perpetua in Criminal Case No. CBU-6028, and imprisonment from 6 years and 1 day to 8 years of prision mayor in Criminal Case No. CBU-6027.

SO ORDERED.

Bellosillo (Chairman), Puno, Quisumbing, and Buena, JJ., concur.

[1] Per Judge Leonardo B. Cañares.

[2] Record of Crim. Case No. CBU-6028, p. 3, and Record of Crim. Case No. CBU-6027, pp. 1-2.

[3] Order dated November 12, 1985, Record of Crim. Case CBU-6027, p. 39.

[4] Sworn Statement of Melquiades Acusar, Record of Crim. Case CBU-6027, p. 53.

[5] TSN, November 18, 1985, p. 3.

[6] TSN, October 14, 1985, pp. 2-3.

[7] Antonio Zuasola's Testimony, Id., pp. 6-9.

[8] Steamed rice wrapped in coconut leaves.

[9] Emeteria Siega's Testimony, TSN, October 14, 1985, pp. 10-25.

[10] Jesus Canillo's Testimony, TSN, December 20, 1985, pp. 2-6.

[11] Exh. E.

[12] Antonio Zuasola's Testimony, TSN, November 18, 1985, pp. 10-16.

[13] Melquiades Acusar's Testimony, TSN, December 13, 1985, pp. 4-7.

[14] Exh. K, Record of Crim. Case No. CBU-6028, p. 113.

[15] Jesus Canillo's Testimony, TSN, December 20, 1985, pp. 4-7.

[16] Melquiades Acusar's Testimony, TSN, December 13, 1985, pp. 8-13.

[17] Antonio Zuasola's Testimony, TSN, November 18, 1985, p. 20.

[18] Exhibit H, Records of Crim. Case No. CBU-6027, p. 112..

[19] Melquiades Acusar's Testimony, TSN, December 13, 1985, pp. 13-18.

[20] Antonio Zuasola's Testimony, TSN, November 18, 1985, pp. 20-26.

[21] Sgt. Ariston Era `s Testimony, TSN, January 30, 1986, pp. 3 and 7.

[22] Exh. L, Record of Crim. Case No. CBU-6028, p. 114.

[23] Jesus Canillo's Testimony, TSN, December 20, 1985, pp. 7-9.

[24] Antonio Zuasola's Testimony, TSN, November 18, 1995, p. 26.

[25] Marilou Maglasang's Testimony, TSN, April 4, 1986, pp. 2-9.

- [26] Marilou Maglasang's Testimony, TSN, May 27, 1986, pp. 3-5.
- [27] A local wine made of fermented coconut juice.
- [28] Marilou Maglasang's Testimony, TSN, April 7, 1986, pp. 6-14.
- [29] Art. III, §19(1).
- [30] Rollo, p. 118.
- [31] Revised Penal Code, Art. 8.
- [32] *People v. Lising*, 285 SCRA 595 (1998); *People v. Hayahay*, 279 SCRA 567 (1997); *People v. Gayon*, 269 SCRA 587 (1997).
- [33] TSN, October 14, 1985, pp. 7-24.
- [34] TSN, December 20, 1985, pp. 4-6.
- [35] TSN, December 13, 1985, pp. 3-9; 15-24.
- [36] *People v. Bracamonte*, 257 SCRA 380 (1996).
- [37] 37 RTC Decision, p. 14; Rollo, p. 113.
- [38] *People v. Cuya, Jr.*, 141 SCRA 351 (1986).
- [39] Record of Crim. Case No. CBU-6028, p. 104.
- [40] *People v. Godoy*, 250 SCRA 676 (1995).
- [41] *People v. Dulay*, 217 SCRA 103 (1993).
- [42] Marilou Maglasang's Testimony, TSN, April 4, 1986, p. 9 & TSN, April 7, 1986, p. 3.
- [43] Cross-examination of Marilou Maglasang, TSN, April 7, 1986, pp. 4-6.
- [44] See Luis B. Reyes, Revised Penal Code, Book Twelfth Ed., pp. 513-514; *People v. Santiano*, G.R. No. 123979, December 3, 1998.
- [45] Constitution, Art. III, §14(2); *People v. Ambray*, G.R. No. 127177, February 25, 1999; *People v. Garcia*, 281 SCRA 463 (1997).
- [46] Revised Penal Code, Art. 63(2).
- [47] Art. 6, *supra*.
- [48] Art. 51, *supra*.
- [49] Art. 61(2), *supra*.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.