



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

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

**G.R. No. 241248**

- *versus* -

Present:

**RENATO DE GUZMAN, ROMEO CABICO, MICHAEL DOMINGO, RENELITO VALDEZ, BRINGLE BALACANAO and BOBOY TAMONANG,**

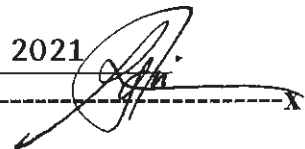
**LEONEN, J.,\***  
**HERNANDO,**  
 Acting Chairperson,  
**INTING,**  
**DELOS SANTOS,** and  
**LOPEZ, J., JJ.**

*Accused.*

**MICHAEL DOMINGO and BRINGLE BALACANAO,**  
*Accused-Appellants.*

Promulgated:

**June 23, 2021**



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**DECISION**

**DELOS SANTOS, J.:**

*Conspiracy transcends mere companionship, and mere presence at the scene of the crime does not in itself amount to conspiracy. Even knowledge of, or acquiescence in, or agreement to cooperate is not enough to constitute one a party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose.<sup>1</sup>*

**The Case**

Before the Court is an ordinary appeal filed by Michael Domingo (Domingo) and Bringle Balacanao (Balacanao; collectively, accused-

\* On official leave.

<sup>1</sup> *Macapagal-Arroyo v. People*, 790 Phil. 367, 419 (2016).

appellants), assailing the Decision<sup>2</sup> dated March 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09361, which affirmed the Decision<sup>3</sup> dated October 18, 2016 of the Regional Trial Court (RTC) of Santiago City, Isabela, Branch 35, in Criminal Case No. 35-5696, finding accused-appellants and Renelito Valdez (Valdez), guilty of the special complex crime of Robbery with Homicide, with the aggravating circumstance of Rape, as defined and penalized under Article 294 (1) of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 7659.<sup>4</sup>

### Facts of the Case

Accused Renato De Guzman (De Guzman), Romeo Cabico (Cabico), Boboy Tamonang (Tamonang), Valdez, Domingo, and Balacanao (collectively, accused) were initially charged under two (2) Informations for the crimes of Robbery with Rape and Robbery with Homicide before the RTC, docketed as Criminal Case Nos. 35-5695 and 35-5696, respectively. However, in an Order<sup>5</sup> dated September 3, 2008, the trial court ordered the dismissal of Criminal Case No. 35-5695 and the amendment of the Information in Criminal Case No. 35-5696. Thus, on September 15, 2008, the Fourth Assistant Provincial Prosecutor of Isabela issued an Amended Information,<sup>6</sup> which reads:

That on or about the 2<sup>nd</sup> of April 2007, in the municipality of Ramon, Province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, two (2) of whom were armed with firearms and a bladed instrument with intent to gain and by means of force, violence and intimidation, that is, by pointing the said firearm and the said bladed instrument upon the persons of Spouses [BBB] and [AAA],<sup>7</sup> and at gun point, did then and there willfully, unlawfully and feloniously, take, steal and bring away a wrist watch valued at ₱1,000.00, and cash money in the amount of ₱2,500.00 belonging to the said spouses [BBB] and [AAA] all in the total amount of ₱3,500.00, against their will and consent, to the damage and prejudice of the said owners, in the aforesaid total amount of ₱3,500.00

<sup>2</sup> *Rollo*, pp. 2-23; penned by Associate Justice Magdangal M. De Leon, with Associate Justices Rodil V. Zalameda (now a Member of the Court) and Renato C. Francisco, concurring.

<sup>3</sup> *CA rollo*, pp. 58-68; penned by Judge Efren M. Cacatian.

<sup>4</sup> AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES; approved on December 13, 1993.

<sup>5</sup> Records (Criminal Case No. 35-5696), pp. 36-a and 36-b.

<sup>6</sup> *Id.* at 39; Docketed as Criminal Case No. 35-5696 for Robbery with Homicide.

<sup>7</sup> In conformity with Administrative Circular No. 83-2015 (*Subject Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names/Personal Circumstances*), the complete names and personal circumstances of the victim's family members or relatives, who may be mentioned in the court's decision or resolution, have been replaced with fictitious initials.

That on the occasion of said robbery, the said accused, in pursuance of their conspiracy, with intent to kill, shot for several times [BBB] inflicting upon him fatal gunshot wounds which directly caused his death, and with lewd design had carnal knowledge with [AAA], against her will and consent.

CONTRARY TO LAW.<sup>8</sup> (Emphasis in the original)

On January 13, 2009, accused Domingo and Valdez pleaded not guilty to the charge of Robbery with Homicide and Rape.<sup>9</sup> On September 15, 2009, accused Balacanao also pleaded not guilty to the crimes charged, while the rest of the accused remained at large.<sup>10</sup>

Thereafter, trial on the merits ensued.

### ***Version of the prosecution***

According to the prosecution, the facts surrounding the incident are as follows:

On April 2, 2007 at around 9:00 in the evening, AAA was in their home at Villa Marcos, Ramon, Isabela, sewing clothes, while her husband, BBB was watching television together with a four-year old child named CCC, when Valdez followed by Cabico suddenly entered their house. Valdez pointed a knife at AAA while Cabico pointed a gun at BBB and demanded money from them.<sup>11</sup> When AAA replied that they do not have any money, Valdez started to ransack their belongings. Cabico on the other hand, was hitting BBB with his gun. They were able to take ₱2,500.00 from AAA's belt bag and BBB's wristwatch worth ₱1,000.00.<sup>12</sup> Thereafter, Valdez dragged AAA to a room and raped her several times. After putting back her clothes, Valdez brought AAA out of the room. BBB knew what happened to his wife, thus, seeing an opportunity to escape, he shouted "*Takbo na!*" and they ran outside their house. However, De Guzman, who was waiting outside their house, shot BBB, and all the accused ran away.<sup>13</sup> AAA cried for help. BBB's brothers, DDD and EEE, arrived and tried to help in bringing BBB to the hospital. However, when the barangay captain arrived, he told AAA that her husband is already dead. AAA started crying out loud.<sup>14</sup>

<sup>8</sup> Records (Criminal Case No. 35-5696), p. 39.

<sup>9</sup> Id. at 44, 46.

<sup>10</sup> Id. at 74.

<sup>11</sup> TSN, May 12, 2009, pp. 3-6.

<sup>12</sup> TSN, June 16, 2009, pp. 4-6.

<sup>13</sup> TSN, May 12, 2009, pp. 7-12.

<sup>14</sup> TSN, June 16, 2009, pp. 10-11.

### *Version of the defense*

On the other hand, Domingo, Valdez, and Balacanao invoked denial and alibi as their defense.

According to Balacanao, in the evening of April 2, 2007, he was at home in Raniag, Ramon, Isabela, with his wife, child, and De Guzman, his father-in-law. He went to bed at around 9:00 in the evening and woke up at 5:00 in the morning the following day. He claimed that he did not recall any unusual incident in the morning of April 3, 2007. Balacanao also admitted that he knew BBB and AAA because of their son.<sup>15</sup> However, on cross-examination, Balacanao recanted his previous statement and testified that De Guzman was not in their house on the night of April 2, 2007 and it was only his mother-in-law who was with them during that time.<sup>16</sup>

Valdez, on the other hand, claimed that he was at home with his children in Bugallon Proper, Ramon, Isabela, on the night of the incident. He also alleged that he slept at around 8:00 in the evening and woke up at 5:00 the following morning.<sup>17</sup>

As to Domingo, he also claimed that he was at home in Centro Ramon, Isabela, with his son and sister-in-law, watching television. After watching the news, he went to bed at around 8:00 in the evening and woke up at around 5:00 the following morning. At around 6:00 in the morning of April 3, 2007, Domingo went to the house of a certain Hernando Valenzuela, and learned that BBB was killed the previous night. He together with one Olan de Guzman went to the house of AAA and BBB.<sup>18</sup>

### **Ruling of the RTC**

In a Decision<sup>19</sup> dated October 18, 2016, the RTC found all the accused guilty of the crime of Robbery with Homicide and Rape. The *fallo* reads:

WHEREFORE, in view of all the foregoing considerations, the [c]ourt finds accused Renelito Valdez, accused Michael Domingo and accused Bringle Balacanao GUILTY beyond reasonable doubt of the crime charged, and they are hereby sentenced to suffer the penalty of *reclusion perpetua* and to pay jointly and severally the legal heirs of the victim Php.75,000.00 as civil liability; Php.50,000.00 as moral damages and Php.50,000.00 as exemplary damages.

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<sup>15</sup> TSN, January 28, 2014, pp. 3-5.

<sup>16</sup> Id. at 9-10.

<sup>17</sup> Supra note 13, at 3-4.

<sup>18</sup> TSN, November 4, 2015, pp. 2-5.

<sup>19</sup> CA *rollo*, pp. 58-68.

Likewise, the above-named accused are ordered to pay jointly and severally [AAA] as victim of rape, Php.75,000.00 as moral damages and Php.75,000.00 as exemplary damages.

SO ORDERED.<sup>20</sup>

In so ruling, the RTC held that the fact that all the accused were together that fatal night of April 2, 2007 in the crime scene is indicative of their common criminal design to commit the crime charged against them. Indeed, they did their individual roles in attaining their criminal purpose and intent that fatal night, at the expense and prejudice of the victim spouses. Therefore, all the accused should be held liable for the consequences of their criminal acts taken together because, evidently, they connived and conspired with each other to commit the crime charged against them. On the other hand, the defenses of denial and alibi of all the accused cannot overcome the testimony of the eyewitness, AAA.<sup>21</sup>

Aggrieved, accused-appellants filed their notice of appeal<sup>22</sup> before the trial court, but was denied. Thus, they filed their appeal before the CA.

### **Ruling of the CA**

In a Decision<sup>23</sup> dated March 27, 2018, the CA affirmed the Decision and found no reason to disturb the factual findings of the trial court.

According to the CA, compared to appellate magistrates who merely deal and contend with cold and inanimate pages of the transcript of stenographic notes and the original records brought before them, the trial judge confronts the victim or his heirs, the accused and their respective witnesses. He personally observes their conduct, demeanor, and deportment while responding to the questions propounded by both the prosecutor and defense counsel. Moreover, it is also the trial judge who has the opportunity to pose clarificatory question to the parties. Tersely put, when a trial judge makes his findings as to the issue of credibility, such findings bear great weight, at times even finality, on the appellate court. Accused-appellants assail the credibility of prosecution witness AAA, who not only witnessed the robbery and the attack on her husband, but was also a victim of rape in the same incident. Definitely, the trial court's assessment of AAA's credibility is entitled to great respect.<sup>24</sup>

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<sup>20</sup> Id. at 67-68.

<sup>21</sup> Id. at 67.

<sup>22</sup> Id. at 15.

<sup>23</sup> *Rollo*, pp. 2-23.

<sup>24</sup> Id. at 13-14.

With regard to the discrepancies in the identity of the accused, the CA held that no one can expect a flawless testimony from AAA who, in a single night, was robbed of valuables, violated in the presence of her husband, who was subsequently killed by a single gunshot.<sup>25</sup>

Lastly, the CA held that contrary to accused-[appellant]'s posture that the trial court failed to prove conspiracy, their flight from the scene of the crime, together with Tamonang and De Guzman, who shot BBB, as well as Valdez and Cabico who entered the house and robbed the couple of their valuables and raped AAA, clearly indicated that they were in cahoots with the other accused. If accused-appellants were not in cahoots with the other accused, their natural instinct would have propelled them to come to the aid of the victims, as Balacanao knew the couple.<sup>26</sup>

Undeterred, accused-appellants filed their notice of appeal. On October 10, 2018, the Court issued a Resolution<sup>27</sup> notifying the parties that they may submit file their respective Supplemental Briefs. Both parties manifested that they will no longer submit Supplemental Briefs and instead adopt and re-plead all the arguments raised in their respective Briefs to avoid being repetitive.<sup>28</sup>

In their Brief, accused-appellants posit the following issues:

### **Issues**

#### I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED BY GIVING CREDENCE TO THE DOUBTFUL AND INCONSISTENT TESTIMONY OF THE PRIVATE COMPLAINANT.

#### II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THE IDENTITY AND PARTICIPATION OF THE ALLEGED PERPETRATORS.

#### III.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT CONSPIRACY ATTENDED THE COMMISSION OF THE CRIME CHARGED.

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<sup>25</sup> Id. at 17-18.

<sup>26</sup> Id. at 19.

<sup>27</sup> Id. at 49.

<sup>28</sup> Id. at 41-42; 52-53.

## IV.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE WEAKNESS OF THE PROSECUTION EVIDENCE, BRUSHING ASIDE THE ACCUSED-APPELLANTS' DEFENSE[S] OF DENIAL AND ALIBI.<sup>29</sup>

*Arguments of accused-appellants*

In their Brief,<sup>30</sup> accused-appellants contend that the testimony of AAA, the prosecution's main witness, failed to establish with certainty the overt acts indicating their alleged participation in the robbery and killing of BBB, as AAA was uncertain of the names and identities of accused-appellants as shown in her testimony.<sup>31</sup> They also allege that AAA's testimony is implausible to establish the identification of accused-appellants as the perpetrators of the crime and unworthy of being given credence and weight.<sup>32</sup> They further allege that the prosecution failed to prove the existence of conspiracy. As the prosecution did not have any concrete evidence pointing to a finding that accused-appellants participated in the robbery of AAA and BBB and the shooting of BBB, or at the very least, a finding that they have held weapons used as a means to commit robbery, their alleged presence at the scene of the crime should not be deduced as part of the evil design of Valdez, Cabico, and De Guzman. The only conduct for which accused-appellants were implicated was their alleged act of running away after De Guzman shot BBB.<sup>33</sup> Lastly, accused-appellants admit that although the defenses of denial and alibi are inherently weak, however, the evidence of the prosecution is weaker. It is the burden of the prosecution to establish a strong case to prove their culpability beyond moral certainty and is no longer the burden of accused-appellants to build a strong defense to prove their innocence.<sup>34</sup>

*Arguments of the prosecution*

In their Manifestation with Recommendation of Acquittal,<sup>35</sup> the Office of the Solicitor General (OSG) maintains that there was insufficient evidence to prove that accused-appellants were part of the conspiracy to rob AAA and BBB.<sup>36</sup> The OSG argues that although AAA's testimony inarguably places accused-appellants at the scene of the crime, it does not define with certitude their role in the conspiracy, or if they conspired with the other accused at all.<sup>37</sup> It cannot be clearly inferred from AAA's

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<sup>29</sup> Id. at 11.

<sup>30</sup> CA rollo, pp. 39-54.

<sup>31</sup> Id. at 44-45.

<sup>32</sup> Id. at 48.

<sup>33</sup> Id. at 51.

<sup>34</sup> Id. at 52-53.

<sup>35</sup> Id. at 74-85.

<sup>36</sup> Id. at 76.

<sup>37</sup> Id. at 82.

testimony what transpired between the accused outside the spouses' house before BBB was shot. That meeting must have a concrete link to the crime for it to bear upon accused-appellants' supposed role as conspirators.<sup>38</sup> Accused-appellants cannot be considered conspirators even if they fled the scene when BBB was shot. AAA was unsure whether accused-appellants saw De Guzman shot BBB, it may be inferred that they ran away upon hearing the gunshot.<sup>39</sup> Since, the prosecution failed to establish with moral certainty the degree of culpability of accused-appellants, the OSG recommends that accused-appellants Domingo and Balacanao, be acquitted of the crime charged.<sup>40</sup>

### **Ruling of the Court**

The appeal is impressed with merit.

The core issue for the Court's consideration is whether or not the CA erred in affirming the conviction of herein accused-appellants for robbery with homicide aggravated by rape.

As a general rule, We accord respect to the factual findings of the trial court as it is in a better position to evaluate the testimonial evidence. The rule finds an even more stringent application where the said findings are sustained by the CA. This rule, however, admits of exceptions, to wit:

But where the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which can affect the result of the case, this Court is duty-bound to correct this palpable error for the right to liberty, which stands second only to life in the hierarchy of constitutional rights, cannot be lightly taken away.<sup>41</sup>

### ***The existence of conspiracy***

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.<sup>42</sup>

In *People v. Lago*,<sup>43</sup> the Court held:

The elements of conspiracy are the following: (1) two or more persons came to an agreement; (2) the agreement concerned the

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<sup>38</sup> Id.

<sup>39</sup> Id. at 82-83.

<sup>40</sup> Id. at 83.

<sup>41</sup> *Quidet v. People*, 632 Phil. 1, 12 (2010).

<sup>42</sup> Article 8 of the Revised Penal Code.

<sup>43</sup> 411 Phil. 52 (2001).



commission of a felony; and (3) the execution of the felony was decided upon. Proof of the conspiracy need not be based on direct evidence, because it may be inferred from the parties' conduct indicating a common understanding among themselves with respect to the commission of the crime. Neither is it necessary to show that the two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or objective to be carried out. The conspiracy may be deduced from the mode or manner in which the crime was perpetrated, it may also be inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.<sup>44</sup>

Thus, the act of one is the act of all.

In the case at bar, both the trial court and the CA found accused-appellants guilty of the crime of robbery with homicide aggravated by rape. The CA held that the prosecution was able to establish conspiracy, to wit:

Appellants fault the trial court for finding them liable under a conspiracy when their participation in the crime charged was never proven. Contrary to their posture, their flight from the scene of the crime, together with [Tamonang] and [De Guzman] who shot [BBB], as well as [Valdez] and [Cabico] who entered the house and robbed the couple of their valuables and raped [AAA], clearly indicated that they were in cahoots with the other accused.

If, indeed appellants were not in cahoots with the other accused, their natural instinct would have propelled them to come to the aid of [BBB] and [AAA], based on the fact that [Balacanao] knows the couple as he is friends with their son while [Domingo] knows the couple as his sibling is married to nephew/niece of [AAA].<sup>45</sup>

We are not convinced.

We have held that knowledge of, or acquiescence in, or agreement to cooperate is not enough to constitute one party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose.<sup>46</sup> In this regard, We have discoursed in *Macapagal-Arroyo v. People*:

We also stress that the community of design to commit an offense must be a conscious one. **Conspiracy transcends mere companionship, and mere presence at the scene of the crime does not in itself amount to conspiracy. Even knowledge of, or acquiescence in, or agreement to cooperate is not enough to constitute one a party to conspiracy, absent any active participation in the commission of the crime with a view to**

<sup>44</sup> Id. at 59.

<sup>45</sup> *Rollo*, p. 18.

<sup>46</sup> *Macapagal-Arroyo v. People*, 790 Phil. 367, 419 (2016).

**the furtherance of the common design and purpose. Hence, conspiracy must be established, not by conjecture, but by positive and conclusive evidence.**

In terms of proving its existence, conspiracy takes two forms. The first is the **express form**, which requires proof of an actual agreement among all the co-conspirators to commit the crime. However, conspiracies are not always shown to have been expressly agreed upon. Thus, we have the second form, the implied conspiracy. An **implied conspiracy** exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.<sup>47</sup> (Emphases ours)

In the case at bar, the trial court gave weight to the testimony of AAA that after Cabico and Valdez have ransacked their house and Valdez had satisfied his lust, she and BBB tried to escape and ran towards the door. When they were outside, she allegedly saw the four (4) other accused standing in front of their house. Thereafter, all of the accused ran away after De Guzman shot her husband. AAA testified in this wise:

Direct Examination – Fiscal Eric D. Banasan

Q: Now, in getting out from your house, where did you passed?

A: In our front door, sir.

Q: As between you and your husband, who went out first?

A: My husband, sir. And I followed him.

Q: How about Renelito Valdez and Romeo Cabico who entered your house, where were they when you went outside the house?

A: They went outside the house ahead of us, sir.

Q: Now, when you were outside your house already, what happened there?

A: When we were outside, sir, Renato De Guzman shot my husband, sir.

Q: Did you see Renato De Guzman shot your husband?

A: Yes, sir.


Q: How far were you?

A: From here to the post, measuring about 3 to 4 meters.

Q: And what firearm did Renato De Guzman used in shooting your husband?

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<sup>47</sup> Id. at 419-420.



- A: Renato used shotgun (DISABOG) because I saw 7 ammunitions used.
- Q: How many burst of gunfire did you hear?  
A: One (1) only.
- Q: Aside from Renato De Guzman who was waiting outside, who else were waiting outside?  
A: Bringle Balacanao, Boboy Tamonang and Michael Domingo, sir.
- Q: How about Renelito Valdez and Romeo Cabico, where were they when Renato de Guzman shot your husband?  
A: They were running away, sir.
- Q: They were running away after Renato De Guzman shot your husband?  
A: Yes, sir.
- Q: So all of them were running away after your husband was shot?  
A: Yes, sir.
- Q: Including Michael Domingo?  
A: Yes, sir.<sup>48</sup>

Thus, the trial court and the CA concluded that accused-appellants' flight from the scene of the crime together with the other accused clearly indicated that they conspired to commit the crime charged. However, the act of running away from the crime scene can be a subject of various interpretations. As correctly argued by the OSG, [o]wing to AAA's inconclusive testimony, accused-appellants' presence at the house of AAA and BBB may be due to various reasons. It is thus, possible that the trial court is correct that their presence is indicative of a joint criminal design, but this is just one possibility among others. Did accused-appellants serve as lookouts? This is likewise possible. It is also probable they had no idea of the unfolding crime and they were just called to go there. They may have gone there too on their own accord and nonchalantly met the other accused there.<sup>49</sup>

During the clarificatory hearing, AAA further testified that:


Atty. Roda:

- Q: And you were still crying at the time when you run out [of] your house?  
A: Yes, ma'am.
- Q: So your eyes were covered in tears?  
A: Yes, ma'am.

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<sup>48</sup> TSN, June 16, 2009, pp. 8-9.

<sup>49</sup> *Rollo*, pp. 81-82.



- Q: Despite that fact you were still able to identify Renato de Guzman as the person who shot your husband?  
A: I saw him, ma'am because I know him very much.
- Q: While these 2 persons Renelito Valdez and Romeo Cabico were inside your house, you did not see any of the other accused?  
A: Yes, ma'am but when I went out of the house, I saw them,
- Q: Who again did you see Madam witness when you went outside your house?  
A: Renato de Guzman, Bringle Balacanao, Romeo Cabico, Boboy Tamonang and Michael Domingo.
- Q: You mentioned the names of the other accused who are also in court, can you still remember Madam witness the position of these persons you mentioned were they standing, were they sitting, what exactly were they doing?  
A: They were standing ma'am when I saw them.
- Q: All of them?  
A: They were standing and they run away.<sup>50</sup>

x x x x

Atty. Calacal: I still have some questions, your Honor.

- Q: You said a while ago that you saw the other four (4) accused when you were running to go outside your house and these 4 accused was likewise running away from your house, is that correct?  
A: Yes, ma'am.
- Q: If that is true Madam witness, who among these 4 persons was the farthest for you?  
A: They were following after the other.
- Q: So among these 4 Madam witness, who was the person nearest to you?  
A: Bringle Balacanao, ma'am.
- Q: And before Bringle Balacanao who was the person?  
A: Boboy Tamonang.
- Q: And before Tamonang, who is the person?  
A: Michael Domingo.
- Q: And the person farthest from you Madam witness, who was that?  
A: Romeo Cabico.
- Q: At that time Madam witness the only source of light was a 20 watts lights bulb, is it not?  
A: Yes, ma'am but we have another light in front of our house.
- Q: And what kind of light was that Madam witness?

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<sup>50</sup> TSN, October 5, 2016, pp. 3-4.


- A: Electric bulb also 25 watts.
- Q: And with that source of light[,] you were able to identify all these accused?
- A: Yes, ma'am.
- Q: But at that time they were already running away from you?
- A: Yes, ma'am they were running away. They were about to run away, ma'am.
- Q: So all that you saw was their back?
- A: I saw them because they are near to me.
- Q: Madam witness, by the way, do you remember having executed a sworn statement?
- Court:
- Q: Before you saw them running away outside, do you know if anyone of them or all of them helped Renato de Guzman after shooting your husband?
- A: No more, sir they just run away.
- Q: Before they run away, did anyone of them harm, box, or hit you[r] husband after he was shot by Renato de Guzman?
- A: No, sir they did not see because they run away.
- Q: So those four (4) do not know if your husband was shot by Renato?
- A: I do not know that anymore, sir because I was already hysteric. (sic)
- Q: Can you tell the court if those 4 persons before they run away from that scene if they heard that gun report once fired by Renato de Guzman?
- A: They heard it, sir because they were very near the place.<sup>51</sup>

From the foregoing, the alleged participation of accused-appellants cannot be ascertained with certainty, as AAA merely saw them running away from the scene of the crime. Although there was a positive identification of accused-appellants, there was no conclusive evidence to prove the existence of conspiracy among the accused or was there any overt act on the part of accused-appellants as to the commission of the crime. As testified by AAA, she only saw accused-appellants running away after De Guzman shot her husband. As We have said, conspiracy transcends mere companionship and mere presence at the crime scene does not in itself amount to conspiracy.<sup>52</sup> Since the prosecution failed to establish conspiracy with positive and conclusive evidence, necessarily, herein accused-appellants must be acquitted of the crimes charged.

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<sup>51</sup> Id. at 6-8.

<sup>52</sup> Supra note 46.



As the Court held in *Orodio v. Court of Appeals*:<sup>53</sup>

The fact that petitioner fled from the scene after the shooting does not suffice to prove the conspiracy there being no evidence to convince us that his running away from the scene had been interwoven with a pre-conceived plan or agreement to kill the victim. Fear of implication in the crime could have been a plausible reason for the petitioner's act of fleeing.<sup>54</sup>


Finally, while accused-appellants invoked the defense of alibi, the weakest of all defenses, this becomes entirely irrelevant in light of the prosecution's failure to establish their guilt with moral certainty and beyond reasonable doubt. The prosecution cannot profit from the weakness of accused-appellant's alibi, rather, it must rely on the strength of its evidence and establish the guilt of the accused beyond reasonable doubt.<sup>55</sup>

Given the foregoing, the Court finds it unnecessary to discuss the other assigned errors in accused-appellants' Brief.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated March 27, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09361 is hereby **REVERSED** and **SET ASIDE**. Accused-appellants Michael Domingo and Bringle Balacanao are **ACQUITTED** of the crime charged and are ordered released, unless they are detained for some other lawful cause. *Costs de officio*.

The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to implement this Decision and to report to this Court immediately the action taken thereon not later than five (5) days from receipt hereof.

**SO ORDERED.**

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

<sup>53</sup> G.R. No. L-57519, September 13, 1988, 165 SCRA 316.

<sup>54</sup> Id. at 326.

<sup>55</sup> *People v. Gonzales*, 396 Phil. 11, 31 (2000).

**WE CONCUR:**

(On Official Leave)  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

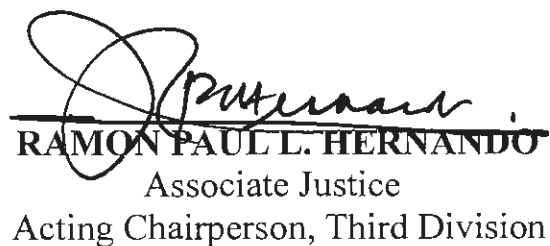
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

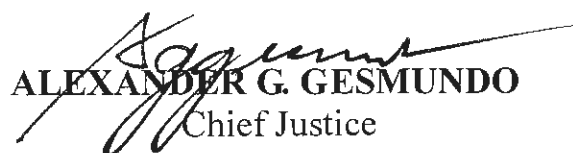
**ATTESTATION**

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

  
**RAMON PAUL L. HERNANDO**  
Associate Justice  
Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice