

EN BANC

[G.R. No. 140895, July 17, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALMA BISDA Y GAUPO AND GENEROSA "JENNY ROSE" BASILAN Y PAYAN, APPELLANTS.

D E C I S I O N

PER CURIAM:

Before this Court on automatic review is the Decision^[1] of the Regional Trial Court (RTC) of Marikina City, Branch 272, convicting appellants Alma Bisda and Generosa "Jenny Rose" Basilan, of kidnapping for ransom; sentencing each of them to the extreme penalty of death by lethal injection, and ordering them to indemnify the parents of the victim Angela Michelle Soriano the amount of P100,000 as moral damages, and to pay the costs of the suit.

The Case

In an Amended Information docketed as Criminal Case No. 98-2647-MK, the appellants were charged with the felony of kidnapping for ransom committed as follows:

That on or about the 3rd of September 1998, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, did there and then willfully, unlawfully, feloniously and knowingly kidnap, detain and deprive ANGELA MICHELLE SORIANO y SAN JUAN of her liberty for six (6) days for the purpose of extorting ransom from her/or her family.

Contrary to law.^[2]

When arraigned, the appellants, assisted by counsel, entered separate pleas of not guilty.^[3]

The Evidence for the Prosecution^[4]

William Soriano, a training consultant by profession, and his wife Marymae Soriano, had two children: Kathleen Denise and Angela Michelle. They rented a house at No. 5 Col. Divino St., Concepcion, Marikina. Their landlady who lived nearby had a telephone with number 942-49-18.^[5] During the school year 1997-1998, then five-year-old Angela was in Prep at the Mother of Divine Providence School in Marikina Heights, Marikina City. The couple employed Lea and Wendy Salingatog as the *yayas* of their children. Angela met appellant Jenny Rose Basilan when the latter visited her niece Wendy in the Soriano residence. Jenny Rose was, thus, no stranger to

Angela.

About 11:00 a.m. on September 3, 1998, Angela's classes had just ended and she was on her way to her school bus which was parked outside the school campus near the exit gate. She was in her school uniform and wore black shoes. Unknown to Angela, appellants Alma and Jenny Rose were outside of the school gate waiting for her. When they saw Angela, Alma and Jenny Rose proceeded to the gate and showed a visitor's gate pass to the security guard. They approached the young girl, and told her that her parents were waiting for her at the Jollibee Restaurant. Angela initially refused to go with the two women, but because Alma held on to her hand so tightly and poked a knife at her, Angela had no choice but to go with them. They rode a tricycle and went to the Jollibee Restaurant where Jenny Rose ordered spaghetti for Angela. When Angela did not see her parents, she wondered why she went with Jenny Rose and Alma in the first place. With Angela in tow, Alma and Jenny Rose boarded a white taxi and went to a "dirty house" where they changed Angela's clothes. The girl was made to wear blouse and shorts, yellow t-shirt and a pair of panties.^[6] Alma and Jenny Rose took her earrings. They fed her with the spaghetti they earlier bought at the restaurant. Alma then left, leaving Angela and Jenny Rose in the house.

Jenny Rose sent Angela to sleep, and after a while, Alma returned. When Angela woke up, Alma and Jenny Rose served her *merienda* and allowed her to watch television. Henceforth, Angela was kept in the house. At one time, Alma and Jenny Rose tied up Angela's hands and feet, and placed scotch tape on her mouth. Angela was sometimes left alone in the house but the door was kept locked. To pass the time, Angela watched television and made drawings. Jenny Rose and Alma did not fail to feed and bathe Angela. Angela did not call her parents through the telephone number of their landlady.

In the meantime, when William arrived home shortly before noon on that day, Lea and Wendy told him that Angela had not yet arrived home from school. He rushed to the school to fetch Angela, but was informed by the school security guard that his daughter had already been picked up by two women, one of whom was registered in the visitor's slip as Aileen Corpuz. Because he did not know anyone by that name, William immediately proceeded to the registrar's office to verify the information, only to find out that "Aileen Corpuz" had earlier inquired at the said office about the possibility of transferring Angela to another school. The school staff panicked when William demanded to know how unknown persons were able to get his daughter. He then started calling his friends and relatives to help him locate Angela. He also sought the help of Rizza Hontiveros, a TV personality who promised to relay his plea to the Presidential Anti-Organized Crime Task Force (PAOCTF). The school staff also reported the incident to the Marikina Police Force which dispatched a team of investigators to the Soriano residence.^[7]

When apprised of the incident, the PAOCTF organized a team headed by then Chief Inspector Ricardo Dandan with SPO4 Tito Tuanggang, SPO1 Charles Larroza and civilian agent George Torrente, as members, to conduct surveillance operations and to recover the victim and arrest the culprits. The team proceeded to the Soriano residence and to Angela's school to conduct an initial investigation.

At about 6:00 a.m. on September 4, 1998, William's landlady went to his apartment

to tell him that a lady had called up earlier and left a message for him: "*Pakisabi na lang kay Mr. Soriano na kakausapin ko siya bukas ng umaga.*" When the landlady asked who the caller was, the voice replied, "*Hindi na importante iyon.*"^[8] William thereafter convinced his landlady to have her telephone set transferred to his residence to facilitate communication with his daughter's abductors.^[9]

Shortly before midnight that same day, George arrived at the Soriano residence and asked William if the kidnapper had already made contact. William responded that a woman had earlier called, through his landlady. George then instructed William to prolong the conversation should the kidnapper call again, to enable the agents to establish the possible location of the caller.^[10]

On September 5, 1998 at around 9:25 p.m., William received a call from an unidentified woman who told him, "*Kung gusto mo pang makita yong anak mo, maghanda ka ng five million pesos.*" He replied, "*Saan naman ako kukuha ng five million? Alam mo naman na nakatira lang ako sa apartment.*" The caller said, "*Hindi ko masasagotyan. Tatanungin ko na lang sa aking mga boss.*" William informed George of his conversation with the caller. George relayed the information by means of a hand-held radio to the other PAOCTF operatives standing by.^[11]

On September 7, 1998, at about 11:25 a.m., Marymae received a telephone call from a woman demanding for ransom money. The caller called two more times, at 7:00 p.m. and at 9:26 p.m. Marymae pleaded with the caller to reduce the ransom money to P25,000, or if that was not possible, to an amount not exceeding P50,000. The caller said, "*Hindi ko masasagot iyan. Dadaihin na lang namin ang bata sa boss namin.*" Marymae relayed the conversation to William, their other daughter Kathleen and to George.^[12]

At about noon that day, PAOCTF Chief of Operations Superintendent Michael Ray Aquino received a call from an anonymous source informing him that a woman who had talked about a ransom and had acted in a suspicious manner was spotted at the MSC Freight Service office located at No. 1303 Paz Street, Paco, Manila. Acting on the information, Ricardo, Charles, Tito and other PAOCTF operatives swooped down on the place and saw a woman, who turned out to be Alma Bisda, emerging from a small house at No. 1258 Paz Street, some fifty meters or so away from the said office. She had just bought food from an adjacent store at No. 1246 Paz Street, Paco, Manila. Surveillance operations were thereafter conducted.

At about 3:40 p.m. on September 8, 1998, George and Charles were at the Soriano residence. Ricardo and Tito were in the periphery of Alma's house, monitoring her whereabouts and movements. Alma again left her house and after locking the door, went to the small store nearby. She lifted the telephone and called someone. The telephone in the Soriano residence rang. When William lifted the receiver, he heard a voice similar to that of the woman who had called him the first time. The caller was asking where the money was. William told her that the P25,000 was ready, to which she replied, "*Hindi ko masasagot iyan, dadalhin na lang namin ang bata sa aking boss.*" William told the caller that he was willing to give P50,000 but pleaded that he be given ample time to produce the money. The woman reiterated: "*Hindi ko masasagot iyan.*"^[13]

Ricardo and Tito heard the sound of a car horn blowing while Alma was using the

telephone. Tito called up Charles and inquired whether he (Charles) heard the same sound while William was talking to the caller. After William hung up the telephone, he told George that he could hear the horn off a car blowing in the background. George then called up Ricardo by phone and relayed the information. When George inquired if Ricardo heard the sound of the horn of a car while Alma was talking over the telephone, Ricardo replied in the affirmative. The PAOCTF operatives concluded that Alma was the kidnapper.

After making the call, Alma hung up the telephone and returned to her house. The PAOCTF operatives followed. When Alma unlocked the door to the house, the operatives accosted her. She tried to escape, to no avail. Tito heard the cry of a child coming from inside the house, pleading for help: "*Tita ilabas mo ako!*"^[14] He rushed to the house and saw the victim Angela. He then carried her outside to safety. The agents searched the house for evidence and found a pair of black shoes, a pair of panties, a yellow shirt, a set of blouse and shorts with red, yellow and white stripes. The evidence was placed in a plastic bag.^[15] The victim and the suspects were thereafter brought to the PAOCTF office for proper documentation.

When informed that his daughter had already been rescued, William rushed to the PAOCTF headquarters where he and Angela were reunited. Angela identified Alma as her kidnapper. When William asked Alma why she kidnapped Angela and what she would do with the one-million-peso ransom she was demanding, she replied: "*Kuya, wag kang maghusga, pareho lang tayong biktima.*" When William asked Alma: "*Biktima, saan?*" Alma replied: "*Ang anak ko, kinidnap din nila.*"^[16]

Chief Inspector Dandan turned over to Evidence Custodian P02 Joseph Bagsao, the pieces of evidence contained in a blue Shoe Mart (SM), plastic bag which the operatives found in Alma's house: a pair of black shoes, a pair of panties, a yellow shirt, a set of white blouse and shorts with red, yellow and white stripes, all of which were sized to fit a child of 4 to 7 years of age.^[17]

On October 19, 1998, an Information for kidnapping for ransom was filed against Alma and Jane Doe.

On October 26, 1998, at around 11:00 a.m., Jenny Rose arrived at the PAOCTF Headquarters in Camp Crame, and proceeded to P02 Joseph Bagsao's office where she announced that she was one of Alma's cohorts. P02 Bagsao took Jenny Rose's fingerprints and entered the data in a fingerprint index card.^[18] Jenny Rose was thereafter placed in a police line-up. Angela, who arrived at the PAOCTF office with her father, identified Jenny Rose as one of her kidnappers. Police Chief Inspector Atty. Aurelio C. Trampe, Jr., the Legal and Investigation Division Chief of the PAOCTF, later referred Jenny Rose to the Office of the City Prosecutor of Marikina City, for preliminary investigation.^[19]

The prosecutor later amended the Information by deleting the name Jane Doe and substituting the name Jenny Rose Basilan y Payan as the second accused.

Alma's Evidence

Alma denied having kidnapped Angela for ransom. She testified that she was

married, and a resident of Block 38, Lot 38, G. Maliputo Street, Phase II, Area 4, Kaunlaran Village, Navotas, Metro Manila. She was a businesswoman who ran a local employment agency for household help. She was also engaged in the business of buying and selling *palay* grains. Her local employment agency was located in Navotas. She had another office at No. 1258 Paz Street, Paco, Manila, which served as a *bodega* for items she sent to the province, as well as items she purchased. She had an adopted daughter named Mary Rose, who, in September 1998, studied at Harris School in Antipolo. She had employed Wendy Salingatog for a time as the *yaya* of her adopted daughter. Alma was then residing in V. Luna Street, Quezon City.

Alma employed Jenny Rose as secretary in her employment agency. In payment for services rendered, Jenny Rose was sent to school at the Lyceum of the Philippines to study B.S. Business Administration. She was also given an allowance.

In September 1998, Alma was looking for a school run by nuns that would be willing to accept her adopted daughter in the middle of the school year. Jenny Rose suggested the Divine Providence School in Marikina City. In the morning of September 3, 1998, Jenny Rose brought her to the said school. They proceeded to the administration office where Alma inquired if the school would allow her adopted daughter to enroll. When Jenny Rose and Alma were about to leave, a little girl, who turned out to be Angela, approached them and asked what Jenny Rose was doing in her school. Jenny Rose introduced Angela to Alma as her niece, and informed Alma that she would be bringing Angela with her to her boarding house in España Street.

At that point, Alma asked Jenny Rose and Angela if they wanted to eat. When they agreed, the three of them proceeded to the Jollibee Restaurant near the Meralco office in Marikina City. After eating, Alma bade them goodbye and was about to leave for her office when Jenny Rose asked if she and Angela could come along with her to Cubao. She acceded to the request, and they rode a Tamaraw FX taxi. Because Angela was getting sleepy, Alma offered to bring them to Jenny's boarding house in España, and dropped them off there. Alma thereafter proceeded to her office at 1258 Paz St., Paco, Manila, where she had been holding office since January 1997, and arrived thereat at about 2:00 p.m.

At or about 8:00 p.m. of the same day, Alma passed by Jenny Rose's boarding house to give her instructions on what to do the following day. She saw Angela crying profusely. She told Jenny Rose to bring Angela home, but Jenny Rose told her that Angela's parents would be coming to fetch her. Thinking that Angela was probably bored, Alma suggested that they stay in her office in Paco so that they could watch television while waiting for Angela's parents. Jenny Rose agreed. They arrived at the said office at around 8:40 p.m. Alma left at around 10:00 p.m. and went home to her rented house in Palmera Homes, Antipolo, where she stayed until September 6, 1998.

On September 7, 1998, at around 12:00 noon, Alma arrived at her office in Paco, Manila, and found that Jenny Rose and Angela were still there. Jenny Rose assured Alma that Angela would be fetched by her parents. At around 4:00 p.m., Alma instructed Jenny Rose to go to the province to collect some debts, Jenny Rose left for the province on the same day. Alma stayed in the office because she was having her menstrual period at the time and was not feeling well. She took care of Angela while Jenny Rose was away.