

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELVIN MENDOZA Y ZAPANTA, ACCUSED-APPELLANT.***G.R. No. 115809. January 23, 1998*

Ponente: MENDOZA, J.

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This is an appeal from the decision rendered on October 7, 1993 by the Regional Trial Court, Branch 105 of Quezon City in Criminal Case No. Q-92-28652, finding accused-appellant Melvin Mendoza y Zapanta guilty of robbery with homicide and sentencing him to suffer the penalty of reclusion perpetua, to pay the heirs of the victim, Danilo Manalus, the amount of P61,000.00, as actual damages, and P100,000.00 as moral damages, including costs.

The facts are as follows.

Danilo Manalus, a taxi driver, was stabbed to death near the Pangilinan Compound along Congressional Avenue, Barangay Bahay Toro, Quezon City at about 10:30 p.m. on February 15, 1992. The alleged assailant, now accused-appellant, was apprehended at the scene of the crime by a tricycle driver, Bonifacio Wycoco, subsequently turned over to the police and charged, together with a certain John Doe, with robbery with homicide as penalized by Art. 294(1) of the Revised Penal Code.

Upon being arraigned, accused-appellant pleaded not guilty. The other accused was at large and so trial proceeded against the accused-appellant alone.

The prosecution presented seven witnesses, among whom were Wycoco, the tricycle driver, and Louie Jose, another tricycle driver.

Wycoco testified that, on the date and time in question, while driving his tricycle along Congressional Avenue in Quezon City, he came upon three men who were shouting “hold-up.” He saw accused-appellant (whom he subsequently identified in court) on top of the victim holding a sharp knife thrust into the taxi driver’s body (“nakasaksak sa katawan ng taxi driver”).[1]

From where he was, he saw through the open right front door on the passenger’s side of the taxi the driver fending off the attacks of accused-appellant who was using a fan knife or “balisong.”[2] He saw that they were at each other on the driver’s seat (“Magkapatong sila sa isang upuan sa tabi ng driver”).[3]

Wycoco grabbed accused-appellant by the collar and tried to pull him away. As accused-appellant resisted, Wycoco hit him on the left leg with a lead pipe, causing him to fall on his knees and preventing him from fleeing from the scene.[4]

Witness Louie Jose came upon the two. He testified that he tied both hands of the accused-appellant. Jose asked accused-appellant, “Why did you say it is a hold-up (sic),” to which the latter responded “I am getting despondent because I do not have money to buy milk for my child (“Naaaburido ako dahil sa wala akong pambili ng gatas

para sa anak ko).”[5] According to him, a policeman, Danilo Ramos, then arrived and Wycoco turned accused-appellant over to him.[6]

According to Wycoco, Ramos searched the accused-appellant and found money stained with blood[7] and a fan knife.[8] Another knife, a large one normally for kitchen use, was found on the floor of the taxi.[9] The victim was taken to the Quezon City General Hospital but he was dead on arrival.[10]

NBI Medico-Legal Officer Dr. Floresto Arisala testified on the results of his post-mortem examination of the victim’s cadaver. His autopsy showed that the victim sustained three stab wounds, with the one located at the left mid-chest being fatal. The fatal wound was caused by a sharp, single-bladed instrument, 2.0 cm. wide and approximately 11.0 cm long.[11]

SPO1 Abraham Mendoza was sent to the Quezon City General Hospital after the police had been informed of the stabbing incident. The security officer of the Hospital, Mario Bermudez, turned over to SPO1 Mendoza P910.00 in cash in various denominations.[12] Mendoza found that some bills[13] were bloodstained. He conducted an ocular inspection of the crime scene and found blood on the street. He also investigated accused-appellant and the two witnesses. Wycoco and Jose gave written statements, but accused-appellant refused to give one.[14]

Witness Mario Bermudez, security officer of the Quezon City General Hospital, testified that the money he turned over to SPO1 Mendoza came from Wycoco and Jose.[15]

NBI Forensic Chemist Mary Ann T. Arañas examined the blood found on the fan knife, kitchen knife, paper and maong pants[16] taken from the taxi of the victim. She found that they all tested positive for human blood, type B.[17] Finally, Tranquilino Manalus, the father of the victim, testified and provided documentary evidence[18] showing that the net expenses for the victim’s wake and funeral amounted to P61,000.00.[19]

Accused-appellant testified in his behalf. He claimed that on February, 1992 he worked as a mason at a construction project in the Tandang Sora Public Market, receiving a daily wage of P150.00. After getting his pay in the amount of P900.00 on February 15, 1992, he cleaned up and went to SM City to buy shoes. At 10 p.m., not being able to find a cheap pair, he decided to go home to Tandang Sora. He hailed a taxi driven by Danilo Manalus. The taxi proceeded to Quezon City Circle, turned on Visayas Avenue and then on Congressional Avenue. Along the way, accused-appellant claimed he noticed the taxi’s meter to be fast and he complained to the driver. He said that as a result he and the driver had a heated exchange. The taxi stopped about three meters from the Pangilinan Compound and the driver told the accused-appellant to alight. Accused-appellant said he decided to leave but, as he was getting off, the driver suddenly held him by the left shoulder and angrily demanded payment of the fare. Accused-appellant said he told the driver not to worry as he would pay, whereupon the driver, after calling him stupid (“Gago ka pala”), stabbed him. He was hit in the lower part of his stomach. A scuffle ensued. He claimed he was able to pin the driver against the steering wheel and wrest the knife from him. He then stabbed the taxi driver several times with the knife.[20]

After this, according to accused-appellant, he shouted for help. He claimed that, seconds later, a man hit him with a lead pipe on the legs, pulled him out of the taxi, and apprehended him. His hands were tied but he did not resist. While he was made to sit in the gutter, he said someone searched him and got his money amounting to P912.00. He was told to count the money. Thereafter, he was taken to the hospital and then to the police headquarters, where he was beaten up by the police. He was asked for the names of his relatives and told to implicate Dondon Zapanta, his cousin, in the crime.[21]

Accused-appellant denied there was a “hold-up.” He claimed he was merely forced to defend himself from the taxi driver’s attack.

The trial court found the testimonies of the prosecution witnesses to be credible and rejected the accused-appellant's claim of self-defense. It therefore rendered judgment finding the accused guilty. Hence this appeal.

Accused-appellant makes two assignments of errors. First, he contends that the trial court erred in giving credence to the testimony of prosecution witnesses who did not have personal knowledge that a robbery was committed. The contention has no merit.

In cases of robbery with homicide as defined in Art. 294(1) of the Revised Penal Code, the principal purpose of the accused must be shown to be to commit robbery, the homicide being committed either by reason of or on occasion of the robbery.[22] Now the elements of robbery with violence or intimidation of persons are (a) that the subject is personal property belonging to another; (b) that such property is unlawfully taken; (c) that the taking must be with intent to gain; and (d) that the taking must be through violence against or intimidation of any person.[23] Accused-appellant argues in support of his first assignment of error that:

there [is] no direct evidence on record which will prove beyond doubt the existence of robbery, or even the original criminal design of accused-appellant to commit robbery against Danilo Manalus. Admittedly, all that the prosecution witnesses can testify of their own personal knowledge were the facts and circumstances surrounding the alleged stabbing of Danilo Manalus, which was however, admitted by accused-appellant as being done by him in self-defense.[24]

It may be that Wycoco's knowledge is limited to the stabbing of the victim. However, when taken in relation to the other evidence of the prosecution, Wycoco's testimony shows that the violence resulting in homicide was committed in the course of a robbery. The key piece of evidence clearly showing robbery in this instance comes from the accused-appellant himself. He was asked by Louie Jose, "Why did you say it is a hold-up?" In response accused-appellant spontaneously answered, "I am getting despondent because I do not have money to buy milk for my child." ("Naaaburido ako dahil sa wala akong pambili ng gatas para sa anak ko").[25]

The test of admissibility for evidence as a part of the *res gestae* is stated with congruency by Justice Ricardo J. Francisco thus:

...whether the act, declaration or exclamation is so intimately interwoven or connected with the principal fact or event which it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negatives any premeditation or purpose to manufacture testimony.[26]

Tested by this standard, the extra-judicial admission of accused-appellant was clearly part of the *res gestae* and therefore correctly admitted by the trial court as evidence against the accused-appellant.[27]

Indeed, when taken together with accused-appellant's actions during the stabbing incident, his statement establishes the first three elements of robbery. First, the statement evidences accused-appellant's intent to rob by showing his underlying motive for stabbing Manalus. Second, it proves that the money taken from the accused-appellant when he was searched after the incident by Wycoco and Jose belonged to the victim. It belies accused-appellant's claim that he had money on that day because he had been paid his wage as a construction worker. Thirdly, when considered with the direct testimony of Wycoco and Jose as to how they found the bloodstained money on the accused-appellant's person after the stabbing,[28] the evidence proves that the element of unlawful taking had passed and that the accused-appellant had come to gain full possession of the victim's money unlawfully and that he would have escaped had it not been for the timely arrival of Wycoco.

The establishment of the last two elements renders inutile accused-appellant's second assignment of error that the trial court erred in concluding that the bloodied money belonged to the victim Danilo Manalus considering that there was no direct evidence that a robbery had indeed taken place. Taken together with other evidence already

considered, it is evident that there was strong circumstantial evidence showing that the bloodstained money recovered from the accused-appellant actually belonged to the victim, Danilo Manalus. As the trial court observed:

Further, the stains on the money, which the accused admits to have come from the blood of the victim, can only signify that the motive was to rob the victim of his collected fare. The claim of the accused that it was taken from his left pocket and then returned to him for counting is too contrived to be believable. How could he have done so when his hands were tied at that time?[29]

There is little in the record to distrust the testimony of the prosecution witnesses. Bonifacio Wycoco and Louie Jose freely and readily gave positive, straightforward and objective accounts of the events surrounding the occasion of the subject crime. Wycoco's written statement, given to the police, substantially and materially tallied with his testimony in court. Moreover, there is no evidence that either Wycoco or Jose was actuated by improper motives to testify against accused-appellant. It is noteworthy that accused-appellant did not deny his extra-judicial admission to witness Jose that he committed the crime because he needed money.

There is every reason to give to the testimonies of Wycoco and Jose full evidentiary weight and credit, consistent with the rule that, where the defense fails to prove that witnesses are moved by improper motives, the presumption is that they are not so moved and their testimonies are therefore entitled to full weight and credit.[30]

Above all, it should be borne in mind that an accused who admits inflicting a fatal injury on his victim and invokes self-defense must rely on the strength of his own evidence.[31] Against the clear and damning evidence of the prosecution accused-appellant in this case offered nothing but his own sole testimony to prove self-defense. Even then, inconsistencies in the accused-appellant's testimony are not isolated. Accused-appellant, among other lapses, failed to deny or explain the presence of the bloodstained kitchen knife[32] found inside the taxi, in addition to the fan knife ("balisong"),[33] which suggest that accused-appellant had a companion in assaulting the driver. In fact, a John Doe was charged in the information filed below.[34] Neither has accused-appellant provided additional evidence other than his verbal testimony about the stab wound he supposedly received from the victim.

Indeed, the evidence satisfies the Rules of Court criteria for circumstantial evidence sufficient to support conviction, to wit: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[35]

However, the award of damages should be modified. Other than the necessary expenses entailed by the burial and wake of the victim, such as funeral services[36] and food, the trial court erred in awarding actual damages for other unnecessary or vague items described by the victim's father such as miscellaneous expenses and video coverage amounting to P21,500.[37] The award of actual damages should therefore be reduced to P39,500. In accordance with recent rulings,[38] the heirs of the victim are in addition entitled to a civil indemnity of P50,000. The award of moral damages in the amount of P100,000 is excessive and should likewise be reduced to P50,000.00[39]

WHEREFORE, the decision of the Regional Trial Court is **AFFIRMED**, with the **MODIFICATION** that accused-appellant is ordered to pay the heirs of the Danilo Manalus the sum of P50,000 as indemnity for the death of Manalus, while the awards of actual and moral damages are reduced to P39,500 and P50,000.00 respectively.

SO ORDERED.

Regalado, Puno, and Martinez, JJ., concur.

[1] TSN, pp. 3-5, May 26, 1992.

[2] Exh. D.

[3] TSN, pp. 10-11, May 26, 1992.

[4] Id., p. 5.

[5] TSN, pp. 27-28, April 22, 1992 (English translation trial court's).

[6] TSN, pp. 6-7, May 26, 1992.

[7] Exh. K; Ibid.

[8] Exh. D; Ibid.

[9] Exh. E; Ibid.

[10] Ibid.

[11] TSN, pp. 3-6, July 1, 1992.

[12] Exhs. K and K-1 to K-22.

[13] Exhs. K-6, K-9, K-10, and K11.

[14] TSN, pp. 9-16, July 1, 1992.

[15] TSN, pp. 3-5, July 22, 1992.

[16] Exhs. D, E, F and G respectively.

[17] TSN, p. 11, April 22, 1992.

[18] Exhs. L and M.

[19] TSN, pp. 3-7, Aug. 26, 1992.

[20] TSN, pp. 8-13, Oct. 28, 1992; TSN, pp. 2-7, Feb. 24, 1993.

[21] TSN, pp. 8-12, Feb. 24, 1993; TSN, pp. 2-11, April 21, 1993.

[22] *People v. Ponciano*, 204 SCRA 627, 638-639 (1991); See *People v. Alberca*, 257 SCRA 613, 633 (1996); *People v. Balanag*, 236 SCRA 474, 482-483 (1994).

[23] Revised Penal Code, Art. 293 and 294; *People v. Cabiles*, 248 SCRA 207, 219-220 (1995); See also 2 Luis B. Reyes, Revised Penal Code 545 (13th ed., 1993).

[24] Rollo, p. 36.

[25] TSN, pp. 27-28, April 22, 1992.

[26] Ricardo J. Francisco, *Evidence* 304 (1994).

[27] Rules Of Court, Rule 130, §42.

[28] TSN, pp. 6-7, May 26, 1992.

[29] Rollo, p. 22.

[30] *People v. Panganiban*, 241 SCRA 91, 100 (1995).

[31] *People v. Tidong*, 225 SCRA 324, 337 (1993).

[32] Exh. E.

[33] Exh. D.

[34] Rollo, p. 6.

[35] Rules of court, Rule 133, §4; *People v. Alberca*, 257 SCRA 613 (1996); *People v. Ramos*, 240 SCRA 191 (1995).

[36] Exh. L: Contract with Saint Vincent Memorial Homes for P18,500.

[37] Exh. M: “2:00 A.M. Miselaneous” (sic), P1,000.00; “from Hospital to Rey Funeral Homes”, P2,000.00; “Libing Jeepney (20) 150.00 cash”, P3,000.00; “Video Coverage”, P2,500.00; “Pasiam 2/19/92 to 2/27/92”, P3,000.00; “Pang apat na pung araw forty days”, P10,000.00.

[38] *People of the Philippines v. Benjamin Cayabyab y Bagayan*, G.R. No. 123073, June 19, 1997; *People of the Philippines v. Lyndon V. Macoy*, G.R. Nos. 96649-50, July 1, 1997; *People v. Austria*, 260 SCRA 106 (1996).

[39] *People v. Cayabyab*, *supra*; *People v. Quilaton*, 205 SCRA 279 (1992).

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