

## SECOND DIVISION

[ G.R. No. 131506, September 06, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODEL DIZON Y ABILA, ACCUSED-APPELLANT.**

### D E C I S I O N

**BELLOSILLO, J.:**

RODEL DIZON Y ABILA was charged before the Regional Trial Court of Pasig City with robbery with homicide committed on 6 June 1996 against Juanito Baful, taxi driver of *EMP Transport Services*. The Information alleged that in conspiracy with a certain Raffy, Rodel unlawfully took from his victim a Seiko gold plated watch worth P3,500.00, a gold ring worth P5,000.00 and cash of P2,500.00, and on the occasion thereof stabbed the victim to death.<sup>[1]</sup>

On 5 November 1997 the trial court convicted Rodel of the crime charged and sentenced him to *reclusion perpetua*. It also ordered him to pay the heirs of the victim P50,000.00 as death indemnity, P11,000.00 representing the total value of the stolen personal belongings and cash, P100,000.00 for moral and exemplary damages, P120.00 as expenses for the wake; and, to *EMP Transport Services*, P13,000.00 as funeral expenses and P4,450.00 as expenses for the repair of the taxi, all without subsidiary imprisonment in case of insolvency, and the costs.<sup>[2]</sup>

On 6 June 1996, at around 1:30 in the morning, Ricardo Asuncion was sleeping in his house at Dingginbayan Street, Tupas, Taguig, Metro Manila. He was suddenly awakened by a loud noise coming from the street. When he peeped through the window of his bedroom, he saw an *EMP Toyota Tamaraw FX* taxi hit his concrete fence and its left rear tire plunge into the street canal. The headlights of the taxi were on. His fence, about 3-1/2 meters away from his house, was destroyed. To get a better view of what happened, he transferred to the living room beside his bedroom fronting the street. He then saw his neighbor Rodel Dizon approach the taxi from his own house. He was only wearing pants. Rodel tried to open the doors of the taxi and shouted to the driver, "*Buksan mo, buksan mo!*" Since the doors could not be opened, Rodel went back to his house, only to return carrying a stone about one (1) foot long and eight (8) inches thick, and smashed with it the windshield of the cab on the passenger side. Then he cleared the broken windshield with his left hand wrapped in a t-shirt. He unlocked the front passenger door and went inside. The driver Juanito Baful cried out, "*Maawa kayo, maawa kayo! Marami akong anak, may sakit pa ang anak ko. Huwag po, huwag po!*" A commotion ensued, as if "*nagkakairihan sa loob.*"<sup>[3]</sup> Thereafter, Rodel alighted from the taxi with his left hand still wrapped in a t-shirt. He was not holding anything.

After Ricardo reported the incident to the Taguig Police Station, he went back to the crime scene accompanied by two (2) policemen. When they discovered that Juanito was already dead, they called for investigators. Three (3) policemen, one of whom

was SPO1 Gracio Cangco, and a photographer arrived. They recovered Juanito's wallet from his pants which contained only his driver's license and identification card, as well as a t-shirt on the hood of the taxi. They also discovered a blood trail from the taxi leading to the house of Rodel about four (4) houses away. They failed to find Rodel but learned later that the t-shirt belonged to his daughter. SPO1 Cangco's investigation led him to *Peping's Restaurant* in Pateros where he was informed that Rodel had a drinking session the night before. SPO1 Cangco also gathered that at about 1:00 o'clock in the morning of 6 June 1996 the security guard of the establishment hailed for Rodel and his companion Raffy a yellow taxi with white stripe and marked "EMP." On 10 June 1996 Rodel was arrested and a belt with an improvised bladed weapon as buckle was confiscated from him.

The postmortem examination conducted by Dr. Rosaline Cosidon, Medico-Legal Officer, revealed that Juanito Baful sustained twenty-seven (27) injuries, seventeen (17) of which were stab wounds that could have been caused by a bladed instrument.

Manolito Baful, son of the victim, testified that he last saw his father alive in Lerma, Quiapo, in the afternoon of 5 June 1996. His father at that time was wearing a ring, a necklace and a *Seiko 5* automatic gold-plated wristwatch. He did not know however how much his father was earning as a driver. He spent about P120.00 for fare when he once went to his father's wake. He added that the pain he and his siblings endured as a consequence of their father's death was very hard to quantify.

Federico Estonido, President of *EMP* Taxi Drivers' Association, testified that the Association paid P13,000.00 for the victim's burial expenses aside from the P4,450.00 spent for the repair of the taxicab.

But Rodel Dizon completely denied the accusation. His version is that at around 11:00 o'clock in the evening of 5 June 1996 he was at *Peping's Restaurant* situated in the boundary of Pateros and Taguig with Raffy Manalastas and a certain "Ayi." They went on a drinking spree until 1:00 o'clock the following morning, 6 June 1996, although Rodel insisted that he did not drink more than he could take. He also claimed that he and Raffy left the restaurant in a taxi and reached his house at about 1:10 that same morning, while Raffy also proceeded home. According further to Rodel, his wife Olivia was still awake when he arrived. She was fetching water. He told her he had a drinking session with Raffy. Since Olivia did not want to sleep yet, he alone went to sleep. At about 1:45 in the morning, Olivia woke him up saying, "Dy, Dy, si Raffy." He got up and would have gone out wearing only his underwear had not his wife reminded him to wrap himself up with a towel. Raffy was already standing at the front door of their house and telling him to hurry. When he and his wife went out of the house they noticed that there were already plenty of people in the vicinity. Then he saw a *Tamaraw FX* taxi backing out. It was the same taxi that brought him home. Raffy again told him to hurry up, this time telling him that he had been held up. Upon hearing this, Rodel returned to his house, put on his pants and went out again. Then he saw that the taxi had ditched into the street canal and Raffy, with some four (4) to five (5) persons, was standing near the passenger side. Rodel went near the taxi and asked the driver to get out. But the driver refused, so he got a big stone and broke the windshield. The driver pleaded, "*Maawa na kayo,*" and handed back to Raffy the latter's bracelet, wristwatch and *RayBan* sunglasses. Then the driver kicked the door of the taxi and a commotion ensued. Raffy together with Angel and "Boyong" went inside the taxi, while Rodel was pulled away by his

wife and led to their house. He never had the chance to go near the taxi afterwards.

After a few minutes, Raffy followed them to their house where he recounted that he had fallen asleep in the taxi and was suddenly awakened when he felt something being taken from his back. To his dismay, he discovered that his watch, bracelet and *RayBan* sunglasses were all gone. The driver told him that his companion, referring to Rodel, had taken them. So, Raffy calmly ordered the driver to go back to the house of Rodel.

Olivia and Nonito Dugay, a neighbor, corroborated the version of Rodel, with Olivia adding that in the afternoon of 7 June 1996 Ricardo Asuncion demanded P10,000.00 from her for the damage caused to his fence otherwise he would testify against her husband.

On the strength of the categorical assertion of Ricardo that it was Rodel alone whom he saw approaching the taxi, smashing its windshield, opening its door and then boarding it, and that afterwards he heard "*parang nagkakairihan*" inside, the trial court held the accused guilty for the death of Juanito Baful. Deducing that the victim had some earnings at least at the time he was robbed and killed, the trial court also found the accused guilty of robbery complexed with homicide.

Accused-appellant now assails his conviction by the trial court since Ricardo failed to witness the actual stabbing; neither did Ricardo see him holding anything after emerging from the taxi, such that he could not have taken the money and other personal belongings of the victim. Moreover, accused-appellant insists that there is no evidence whatsoever that the victim had money, and maintains that his only participation in the incident was smashing the windshield of the cab to give a chance to Raffy, Angel and "Boyong" to assault Juanito.

After a thorough examination of the facts, the Court is convinced that accused-appellant was responsible for the death of Juanito Baful and his guilt has been established beyond reasonable doubt. Appellate courts do not generally disturb the findings of the trial court which are given great weight and respect since it had the opportunity to observe the demeanor of the witness or witnesses during the trial.<sup>[4]</sup> There is no showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could have affected the result of this case;<sup>[5]</sup> consequently, no reason exists to accord a contrary treatment to the testimony of Ricardo. Thus, according to the trial court, "a witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent is a credible witness. The t-shirt, the belt with the improvised bladed weapon as its buckle, the seventeen (17) uniform stab wounds from one and the same weapon, plus the trail of blood tell it all and leave no room for doubt whatsoever x x x that the accused was the perpetrator of the dastardly act of stabbing to death Juanito Baful y Albarrio."<sup>[6]</sup>

Ricardo Asuncion, who was awakened by a loud thud emanating from the street, saw Rodel Dizon approach the taxi and then summon the driver to alight therefrom. Ricardo was only four (4) to five (5) meters away from them and the headlights of the taxi were on. When the driver refused and since the doors of the cab were locked, accused-appellant broke the windshield with a stone. Then he boarded the taxi. Juanito pleaded, "*Maawa kayo, maawa kayo! Marami akong anak, may sakit pa*

*ang anak ko. Huwag po, huwag po!"* A commotion ensued as if "nagkakairihan sa loob." Thereafter, accused-appellant got out from the vehicle, and then there was silence. Ricardo vividly narrated the incident thus -

Q: Do you know a certain person by the name of Rodel Dizon?

A: Yes, sir x x x x We are neighbors, sir x x x x As far as I know, they just transferred to our place sometime in February of 1996, sir.

Q: You have met him since he transferred?

A: Not necessarily, sir. But I usually see him there x x x x I just see him around "*palakad-lakad*" because we are neighbors, sir.

Q: On June 26, 1996, did you happen to meet this person Rodel Dizon?

A: Actually we did not meet, but I saw him during the actual incident, sir x x x x At first I was awakened by a loud (thud) of a vehicle, sir. Our fence was destroyed.

Q: Upon waking up, what did you do?

A: I peeped through the window, sir.

Q: Where is this window of your house in relation to the street, Dingginbayan?

A: The distance from our house is approximately four to five meters, sir x x x x I saw the vehicle with its rear end in the canal because the vehicle fell off the canal with its headlights on. And our fence was destroyed, sir x x x x

Q: By the way, what is that vehicle or "*sasakyan*?"

A: Taxi, sir x x x x Toyota FX, EMP Taxi, sir.

Q: Upon seeing that taxi in that situation you described, what did you do?

A: I saw Rodel approaching, sir. I saw that because the lights were on x x x x

Q: Will you kindly go down the witness stand, approach this person whom you mentioned as Rodel Dizon and point to him?

INTERPRETER: Witness going down the witness stand and approaching a man inside the courtroom whom

when asked identified himself as Rodel Dizon, the accused in this case x x x x

Q: In relation to the front of the taxi? Where did he come from?

A: From his house, sir.

Q: And how were you able to see him, tell the Court?

A: I saw him "*na sumampa siya sa bakud namin.*" Then I saw him opening the window on the driver side, sir.

Q: x x x what was the make of your "bakud" x x x x

A: Made of hollow blocks, sir.

Q: After that, what happened?

A: He went to the passenger seat and was trying to open the taxi but he cannot (sic). He was shouting "*buksan mo, buksan mo*" x x x x when he cannot (sic) open it because he tried to open all the doors at the back seat but he cannot (sic) open them, then he took a distance ....

Q: When he failed to open the taxicab, what happened?

A: He went back to his house, sir x x x x When he went back, he was carrying a big stone, sir.

Q: Will you kindly demonstrate to the Court what you call "*malaking bato*?"

PROSECUTOR: Can we stipulate, Compañero, one foot?

ATTY. PONCE: Yes, one foot.

Q: How about the thickness?

PROSECUTOR: Eight inches.

Q: After that, what happened?

A: And then he lifted the stone and threw it in front of the taxi. He threw it against the windshield of the vehicle on the passenger side, sir x x x x He opened that lock of the taxi. He opened the door then he entered the taxi, sir. At that point, the person inside the taxi was begging for mercy (*nagmamakaawa*) x x x x He said "Maawa kayo, maawa kayo. Marami akong anak, may sakit pa ang anak ko. Huwag po, huwag po" x x x x He