

THIRD DIVISION

[G.R. No. 133696, October 19, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICTOR CALIWAN Y PRONGO, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

It is a sad but true reality that crime and poverty would often be the pernicious pair that curse society. Here, a lowly fishball vendor and a helpful brother to a needy sister, might have well been driven by dire necessity to kill and rob another. While the dispensation of justice must be tempered with mercy especially in favor of a poverty-stricken fellow being likely pushed to the edge by the exigencies of survival, the law, nevertheless, cannot turn a deaf ear to the victims of lawlessness.

Sometime in the early hours of 09 October 1997, approximately 3:00 in the morning, while the city slept, some hardworking souls, like Salvador Sameran, a taxi driver, was plying the EDSA thoroughfare in search of passengers. Sameran had just come from Makati and was driving northwards, towards Cubao, when he saw a taxicab curiously parked at a junction in Mandaluyong City and Reliance Street. The left front door of the vehicle was ajar and a man was standing and leaning towards the driver's seat. The man placed something in his waist and then in his pocket. His interest pricked, Sameran blew his horn at the stalled vehicle, whereupon, the man, apparently not expecting the interruption, suddenly looked to his direction, affording Sameran a full view of his face. The man abruptly ran through a nearby overpass and crossed the wide stretch of EDSA towards Polymedic Hospital located at the other side of the avenue. Looking up, Sameran saw at the overpass two more persons looking at the whole incident from their high perch, and they, too, scampered. Sensing trouble, Sameran parked his taxicab some eight meters away from the stalled vehicle. Seconds later, he saw its driver alight and fall to the ground. Upon coming closer, Sameran saw that the felled driver was drenched in blood. He immediately rushed to the latter's succor, half-carrying and half-dragging him by the armpits towards his car. The good samaritan was unfortunately too late. On the cold and hard EDSA pavement, the unidentified driver, whom Sameran later learned to be Elpidio Ventura, a husband and father to five young children, breathed his last. Injured with four fatal wounds, Elpidio Ventura was later found to be divested of his day's earnings, including a \$100 bill, which, his widow later recounted, he kept in his wallet as a memento of his previous employment in Saudi Arabia.

Meanwhile, just at about the time the above events were transpiring, Abraham Baba, a security guard of the Eastgate Center, located at the other end of the EDSA overpass, was shrugging off the temptation of slumber, when, suddenly, a man jumped from the overpass into the guardhouse, jolting him awake. He told the person that he had no right to enter the compound and the man replied that he was just passing by. But a closer look at this mysterious character revealed to Baba that

this was no ordinary trespasser. The man's white T-shirt was bloodied. A brief frisk yielded an 11-inch knife, which, when removed from its scabbard, was seen to be stained with fresh blood. After cuffing the intruder, Baba called the authorities. At the Mandaluyong police station, the suspect revealed his name to be Victor Caliwan y Prongo.

Following further investigation, an information for robbery with homicide against Victor Caliwan was filed. It read:

"I N F O R M A T I O N"

"The undersigned 3rd Assistant City Prosecutor accuses VICTOR CALIWAN y PRONGON of the crime of ROBBERY WITH HOMICIDE, committed in the manner herein narrated, as follows:

"That on or about the 9th day of October, 1997, in the City of Mandaluyong, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with unidentified persons, whose true identities and present whereabouts are still unknown and mutually helping and aiding one another, armed with a kitchen knife, with intent to gain and by means of force, violence and intimidation employed upon the person of one ELPIDIO VENTURA y FELIZARDO, did, then and there willfully, unlawfully and feloniously take, steal and divest said ELPIDIO VENTURA y FELIZARDO of his day's earnings in an undetermined amount while the latter was on board his taxi; that by reason or on occasion of said robbery, the said accused, with intent to kill, did, then and there willfully, unlawfully and feloniously attack, assault and stab with a kitchen knife ELPIDIO VENTURA y FELIZARDO, thereby inflicting upon the latter stab wounds which directly caused his death.

"CONTRARY TO LAW."^[1]

When arraigned, the accused pled "not guilty" to the charge.

In court, Victor Caliwan had a different story to tell. A fishball vendor for six years, he worked from Mondays to Saturdays. The day before the fateful incident, on 08 October 1997, at 7:00 in the evening, after taking a usual rest at his employer's residence following a full day of plying the streets, Victor Caliwan was on his way to Milagros Cordero, a sister residing at a squatters' area in Malabon to provide, as before, some financial assistance to Milagros who had just given birth. Arriving in Malabon at 9:00 in the evening, Caliwan promptly handed his sister Two Hundred Pesos (P200.00) and three kilos of rice. After an exchange of pleasantries, Caliwan went to sleep, but not before requesting Milagros to wake him up at 3:00 in the early morning to be on time in accompanying his employer to Divisoria. By 3:00 in the morning of 09 October 1997, Victor Caliwan was on board a Baclaran-bound bus. Two hours later, at 5:00 in the morning, he alighted at Boni Pinatubo in Mandaluyong and was walking directly towards Sierra Madre Street when a guard stationed in front of the Eastgate Center compound approached him and poked his gun at him. The security guard took him inside the compound where he and two other companions tied and took turns in mauling him for thirty minutes before

turning him over to the authorities. When shown the bloodied knife by the security guard, he denied owning it.

Milagros Cordero also testified to corroborate the story of Caliwan being in their house at 9:00 p.m., bringing three kilos of rice and handing over to her Two Hundred Pesos (P200.00).

The trial court did not give credence to the defense put up by Caliwan. The court pronounced him guilty of the crime of robbery with homicide; *viz*:

"WHEREFORE, for all the foregoing, this Court finds the accused VICTOR CALIWAN Y PRONGO GUILTY BEYOND REASONABLE DOUBT of the crime of ROBBERY WITH HOMICIDE defined and penalized under paragraph I, Article 294 of the Revised Penal Code, as amended by Republic Act No. 7659, and sentences him to suffer the penalty of reclusion perpetua; to pay the heirs of the victim Elpidio Ventura the sum of P50,000.00 as death indemnity; the sum of P50,000.00 as moral and exemplary damages; the sum of P51,700.00 as actual or compensatory damages, and finally the sum of P1,500,000.00 as indemnity for the loss of the victim's earning capacity.

"With costs.

"SO ORDERED."^[2]

Victor Caliwan questions in this appeal the sufficiency of the evidence upon which he has been convicted.

Indeed, no testimony was given to show Victor Caliwan in the act of stabbing Elpidio Ventura and divesting him of his earnings. Neither Salvador Sameran nor Abraham Baba actually saw accused Victor Caliwan stab and then rob the defenseless Elpidio Ventura. The conviction, to stand, can only then be predicated on circumstantial evidence. In order to support a formidable conclusion of guilt, circumstantial evidence must point to a series of facts, which must form an unbroken chain of events associated with the fact in issue which, upon the application of the principle of cause and effect, would satisfy a finding of guilt beyond reasonable doubt. Circumstantial evidence can support a conviction but it is necessary that 1) there must be more than one circumstance, 2) facts on which the inference of guilt is derived must be proved, and, 3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.^[3] Circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty; and at the same time, inconsistent with the hypothesis that he is innocent; and with every other hypothesis except that of guilt.^[4] When these conditions are extant, circumstantial evidence can be as potent as direct testimony in connecting the accused with the commission of the offense.^[5]

The Court has taken a close look at the testimony of prosecution witnesses Salvador Sameran and Abraham Baba. Altogether, the circumstances testified to inevitably point to the guilt of accused-appellant to the exclusion of any other plausible possibility.

Testimony of Salvador Sameran

"A. Malapit sa EDSA, po.

"COURT: What did you see?

"A. A park taxi kasi galing ako Makati papuntang Quezon City, Your Honor.

"Q. What were you doing then?

"A. I was driving my taxi, Sir.

"Q. You stated that you saw a taxi with an open door. What else did you notice?

"A. I saw a person standing beside the driver, Sir.

"Q. What did you do after that?

"A. I park my taxi, Sir.

"COURT: You said earlier that you came from Makati and going to Quezon City. While cruising EDSA you saw a parked taxi, after you saw that taxi what did you do?

"A. I blow my horn, Your Honor.

"COURT: What else did you do if any?

"A. I parked my taxi, Your Honor.

"COURT: Please continue.

"Q. Mr. Witness in the previous questions that you were ask, after you saw the taxi parked along EDSA, what did you do?

"A. I slowed down, Sir.

"Q. What happened next?

"A. I saw a man standing outside at the left hand side of the driver, Sir.

"Q. How many in arms length is the distance of your taxi from the victim's taxi?

"A. About 8 meters, Sir.

"Q. When you saw the person 8 meters away what did you do next?

"A. I saw the taxi driver alighted from his taxi, Sir.

"COURT: What about the other man standing?

"A. When I blow my horn the man immediately run towards the overpass, Your Honor.

"COURT: Who is this man who run towards the overpass?

"A. The man standing beside the driver, Your Honor.

"Q. What about the driver, what did he do?

"A. He alighted from his taxi, Sir.

"Q. Where did he go?

"A. He fell down the pavement after he alighted, Sir.

"Q. If the person you are referring to as the accused can you identify him if he is in this courtroom?

"A. Yes, Sir.

"Q. PLEASE STAND up and tap the shoulder of the accused you are referring to?

The witness approach the accused and tap his shoulder and identified his name as V. Caliwán.

"Q. You said that you blow the horn of your taxi when you approach his taxi. What did the man do before he run towards the over pass?

"A. When I blow my horn the man faced me and we stared at each other for two minutes and I recognize his face, Sir.

"Q. Will you please tell this court what was your action then?

Witness demonstrating the action done.

"COURT: Where was he looking then?

"A. At me, Your Honor.

"Q. What was your distance with the person when you met him eye to eye?

"A. 5 meters, Sir.

"Q. Will you demonstrate?

Witness showing and making a demonstration on the distance.

"Q. Mr. Witness was the place lighted at that time?