

## SECOND DIVISION

[ G.R. No. 115809, January 23, 1998 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MELVIN MENDOZA Y ZAPANTA, ACCUSED-APPELLANT.**

### D E C I S I O N

#### **MENDOZA, J.:**

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").<sup>[1]</sup>

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."<sup>[2]</sup> He saw that they were at each other on the driver's seat ("Magkapatong sila sa isang upuan sa tabi ng driver").<sup>[3]</sup>

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.<sup>[4]</sup>

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 pambiling gatas para sa anak ko)."<sup>[5]</sup> According to him, a policeman, Danilo Ramos, then arrived and Wycoco turned accused-appellant over to him.<sup>[6]</sup>

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

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.<sup>[11]</sup>

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.<sup>[12]</sup> Mendoza found that some bills<sup>[13]</sup> 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.<sup>[14]</sup>

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.<sup>[15]</sup>

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

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.<sup>[20]</sup>

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.<sup>[21]</sup>

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.<sup>[22]</sup> 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.<sup>[23]</sup> 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.<sup>[24]</sup>

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