

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JONAS PANTOJA Y ASTORGA, ACCUSED-APPELLANT.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Charged with the crime of Murder before the Regional Trial Court of Pasig City, Branch 163, Taguig City Station, Jonas[1] Pantoja y Astorga (JONAS) was, after trial, found guilty beyond reasonable doubt, in a Decision[2] dated 2 September 2013, in Criminal Case No. 143350. The fallo thereof reads as follows:

“WHEREFORE, premises considered, Jonas Pantoja y Astorga is hereby found GUILTY beyond reasonable doubt of the crime of murder, defined and penalized under Article 248 of the Revised Penal Code, and, there being no mitigating or aggravating circumstances, is hereby meted the penalty of reclusion perpetua without eligibility for parole conformably with Republic Act No. 9346.

Accused is ordered to pay the heirs of the (sic) Francis Earl Fabiala the amounts of P65,244.00 by way of actual damages, P75,000.00 as civil indemnity and P50,000.00 as moral damages. Interest at the rate of six (6%) percent per annum shall be applied to the award of all damages from the finality of judgment until fully paid.

SO ORDERED.”[3]

JONAS was indicted under an Information,[4] the inculpatory averments of which state:

“That, on or about the 22[nd] day of July 2010, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a bladed weapon (kitchen knife), a deadly weapon, with treachery, and taking advantage of his superior strength, did, then and there willfully, unlawfully, treacher-ously, and feloniously, attack, assault and repeatedly stab one Francis Earl Fabiala y Ferriol, who was 6 years of age at the time of commission of the offense, which is an act also considered to be cruelty against children, hitting the latter on the different parts of his body; thereby inflicting upon him fatal injuries which caused his death; to the damage and prejudice of the heirs of the said victim.

CONTRARY TO LAW.”[5]

Upon arraignment, JONAS pled not guilty[6] to the offense. During the pre-trial conference, the parties agreed on the court a quo's jurisdiction thereover and that the accused was the same person charged therein. Trial on the merits then ensued.

The factual milieux,[7] as proffered by the prosecution, are as follows:

Around past 8:00 o'clock in the morning of 22 July 2010, Cederina Pantoja (Cederina) was washing the dishes while her son, JONAS, was seated at the balcony of their house. From time to time, Cederina would glance at JONAS but at a certain point, she noticed he was gone.

Posthaste, Cederina went outside to look for JONAS. She saw that the front door of the house of Glenda Fabiala (Glenda), their neighbor, was open. Cederina then heard the cry of a child. She was anxious because Glenda's

door was usually closed. Cederina entered the latter's house and proceeded to the second floor where the cry was emanating.

Thereat, Cederina saw JONAS holding a knife while the bloodied body of Glenda's son, Francis Earl Fabiala (Evo[8]), lay sprawling on the floor. Cederina got the knife from JONAS and asked him why he stabbed Evo. JONAS did not respond. Cederina led JONAS outside Glenda's house. Once outside, Cederina shouted for help but nobody responded until she saw Glenda. Cederina told Glenda to help Evo. Glenda immediately went inside her house. Their neighbor, a certain Dexy, helped her bring Evo to the hospital. Cederina later on learned of Evo's demise. She forthwith asked forgiveness from Glenda.

As it happened, Glenda requested an autopsy[9] on Evo's cadaver. Dr. Voltaire Nulud, a Medico-Legal Officer, issued his Medico-Legal Report disclosing the following finding:

“Cause of Death is STAB WOUND, TRUNK.”[10]

As a result of Evo's premature death, his family incurred various expenses in the amount of P65,244.00.[11]

Professing his innocence, JONAS[12] averred that he could not recall what happened on 22 July 2010 at around 8:30 o'clock in the morning. In actual fact, he was not even aware that he was being accused of killing Evo.

JONAS asseverated that in 2003, he was initially confined at the Philippine General Hospital when he started to exhibit violent behavior. He was likewise intermittently confined at the National Center for Mental Health (NCMH) and allowed to be discharged whenever his condition would improve.

Due to his mental illness, he started taking medications albeit when he felt fine, he would stop taking them. Whenever he threw away his medicines, he and his mother would quarrel. There were times that his illness would resurface.[13]

On 14 July 2010, he escaped from the NCMH.[14] He slept on the streets but was eventually able to reach his house.

Cederina corroborated JONAS' testimony on its material points. She averred that indeed her son was suffering from schizophrenia as shown by a Clinical Abstract[15] issued by the PGH.

Finding JONAS guilty of the crime charged, the court a quo rendered the impugned 2 September 2013 Decision.

Unflustered, JONAS (now, appellant) interposed the present appeal, asserting that:

I THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED NOTWITHSTANDING THAT HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

II THE TRIAL COURT GRAVELY ERRED IN NOT APPRECIATING THE EXEMPTING CIRCUMSTANCE OF INSANITY IN FAVOR OF THE ACCUSED-APPELLANT.

III THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF ABUSE OF SUPERIOR STRENGTH AND TREACHERY.

We affirm the conviction of appellant albeit with modification.

In the main, the Appeal is anchored on the defense of insanity. Invariably, appellant avows that since he was deprived of reason, he could not have consciously and deliberately employed the means, method and manner of execution to ensure the commission of the crime without any danger on his person as well as intentionally used excessive force. This being so, he must be exonerated from the crime charged. Assuming arguendo that his mental

illness was not completely proven, his schizophrenic behavior should at least be considered a mitigating circumstance under Paragraph 9, Article 13 of the Revised Penal Code (RPC), which reads:

“ART. 13. Mitigating Circumstances. – The following are mitigating circumstances:

x x x x x

9. Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of consciousness of his acts.

x x x x x”

Au fond, appellant asserts that he should be acquitted of the subject offense or in the alternative, be convicted of Homicide only.[16]

Must appellant be exonerated from the crime of murder due to insanity or should he be convicted of homicide only taking into account Paragraph 9 of Article 13?

Insanity, as an exempting circumstance, is capsulized in Article 12 of the RPC—

“ART. 12. Circumstances which exempt from criminal liability. – The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (delito), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

x x x x x”

Case law instructs that the defense of insanity is in the nature of confession and avoidance because an accused invoking the same admits to have committed the crime but claims that he or she is not guilty because of such insanity. As there is a presumption in favor of sanity, anyone who pleads the said defense bears the burden of proving it with clear and convincing evidence. Accordingly, the evidence on this matter must relate to the time immediately preceding or simultaneous with the commission of the offense/s with which he is charged.[17]

Insanity exists when there is a complete deprivation of intelligence while committing the act, i.e., when the accused is deprived of reason, he acts without the least discernment because there is a complete absence of power to discern, or there is total deprivation of freedom of the will. Mere abnormality of the mental faculties is not enough, especially if the offender has not lost consciousness of his acts. Insanity is evinced by a deranged and perverted condition of the mental faculties and is manifested in language and conduct. Thus, in order to lend credence to a defense of insanity, it must be shown that the accused had no full and clear understanding of the nature and consequences of his or her acts.[18]

Applying the foregoing jurisprudential touchstones, appellant must not only prove insanity but must likewise show that he was schizophrenic immediately preceding or simultaneous with the commission of the offense for which he is being charged.

Lamentably, appellant failed to demonstrate the same. He merely relied on his and his mother's testimonies. Appellant's documentary evidence miserably failed to bolster his defense of insanity at the time crucial to this case, i.e., the time immediately preceding or simultaneous with the killing of Evo. On this score, We ingeminate the court a quo's well-reasoned discourse, viz—

“A perusal of the records of the case reveals that (appellant's) claim of insanity is unsubstantiated and wanting in material proof. Testimonies from both prosecution and defense witnesses show no substantial evidence that (appellant) was completely deprived of reason or discernment when he perpetrated the brutal killing of Francis Earl.

The complained incident occurred on July 22, 2010. In addition to his and his mother's oral testimony in open court, he offered in evidence the following:

Exh. “1” - Letter from the National Center for Mental Health addressed to Cederina Pantoja

Exhs. “2” & “2-A” - Patient's Identification Card of Jonas Pantoja

Exh. “3” - Jonna or Jona Pantoja's Clinical Record

Exh. “4” - Patient's Identification Card at the Philippine General Hospital

Exh. “5” - Certificate of Live Birth of Jonna Pantoja

Exhs. “6” & “6-C” - Doctor's prescription

Exhibit “1” (Exh. “E” for the prosecution) merely shows that NCMH wrote Cederina Pantoja informing her that (appellant) escaped from the hospital on July 14, 2010; and according to Cederina, he was able to go home to their house the following day, July 15, 2010. The fact that (appellant) was able to escape, unnoticed, from the NCMH and to return home alone negates any claim that he was deprived of intelligence prior to the commission of the crime charged.

Exhibit “2”, what appears to be an Identification Card issued by the NCMH to (appellant), does not indicate the date when it was issued and does not bear any doctor's signature.

Exhibit “2-A” is what appears to be a check-up slip where it is shown that check-ups were undertaken from October 5, 2009 to August 21, 2010. The document does not show that it pertains to (appellant), what the patient's complaint was, the examining physician's diagnosis and who the examining physician was.

Exhibit “3” is titled “Clinical Abstract” and while it shows the name (appellant) as the patient and the diagnosis to be “paranoid schizophrenia”, the date of admission was February 18, 2007, which very obviously is far detached from the date of the complained incident which is July 22, 2010.

Ditto for Exhibits “4” and “6”, an I.D. issued by the PGH to (appellant) showing the date of issue as of May 4, 2003; and a prescription slip dated May 11, 2003.

Exhibit “6-B” and “6-C” are what appear to be doctor's prescription and are dated February 23, 2006 and January 11, 2010, respectively.”[19]

Plain as day, the foregoing pieces of evidence merely evince appellant's alleged mental condition long before the commission of the crime. His confinement at the NCMH prior to the commission of the crime makes no difference since it is not by itself a proof of insanity. Records are bereft of any showing that he was adjudged insane by the institute.[20]

Given this disquisition, appellant's defense of insanity remained unsubstantiated. Ergo, the court a quo unerringly convicted him of murder. Evidence reflects that the qualifying circumstance of treachery attended the killing of Evo. The Supreme Court's disquisition in *People v. Umawid*[21] is quite edifying—

The concept of treachery in criminal law is well-established – there is treachery when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. Based on the foregoing, it may then be deduced that two (2) conditions must

concur for treachery to be appreciated: first, the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and, second, the means of execution was deliberate or consciously adopted.

In this relation, jurisprudence states that an unexpected and sudden attack which renders the victim unable and unprepared to put up a defense is the essence of treachery. Likewise, it has been held that the killing of a child is characterized by treachery even if the manner of the assault is not shown because the weakness of the victim due to her tender age results in the absence of any danger to the accused.” (Emphasis Ours)

Taking Our cue from the foregoing doctrinal precept, We hold and so rule that since the qualifying circumstance of abuse of superior strength concurs with treachery, the former is absorbed in the latter.[22]

Manifestly, appellant's theory that he should only be convicted of homicide, is specious. If at all, the mitigating circumstance of insanity has the effect only of lowering the penalty and not of changing the crime of Murder to Homicide.

May We then lower appellant's penalty in the present case?

We rule in the negative.

Jurisprudence dictates that in cases where the plea of insanity is rejected, this mitigating circumstance may be credited only if the records are clear that the accused had been suffering from a chronic mental disease that affected his intelligence and willpower for quite a number of years prior to the commission of the act he was being held for.

The Clinical Abstract[23] and initial report on the mental condition of appellant submitted by the NCMH[24] dated 18 February 2007 and 21 February 2011, respectively, reveal that he is truly suffering from a mental illness.

The Clinical Abstract divulges—

“8. Brief History of Present Illness/OB History:

1½ years PTC Patient was diagnosed to have a psychiatric problem and was admitted at PGH W7. His father claims that the patient was noted to have sleeplessness, irritability, blank stares, and bouts of violent behavior, i.e.(.) the patient would throw object to the floor, bang the walls and table. The patient's condition eventually improved at the hospital and was eventually discharged. He was allegedly given chlormazine (chlorpromazine?) as maintenance. The patient regained functional capacity and was able to work at several jobs. The patient was ok until...

3 months PTA the patient stopped taking medication since he claims he was already well.

2 weeks PTC the patient was noted to again have previous signs and symptoms as previously mentioned. He also claimed that there was someone after him and this caused him to always carry or look for a knife as “protection”.

On the day of Admission the patient was brought to the ER and was seen by psychiatry. Patient was assessed and was prescribed Chlorpromazine 200mg/tab ½ tab BID; Clonazepam 2mg/tab ¼ tab OD, Biperiden, 2mg/tab 1 tab for EPS. The patient was advised OPD follow-up. The patient took the medication and was noted to improve. The patient was then sent home but a few hours later, he suddenly attacked his sibling and his mother. He tried to strangle them. He was then restrained and brought to the emergency room again.”[25]

Upon the other hand, the initial report discloses the following findings—

“BRIEF BACKGROUND HISTORY:

As per NCMH records, the patient had initial admission at this center on May 29, 2009. He was referred for admission by physician-on-duty of Philippine General Hospital where he has been consulting since 2003. He was allegedly irritable, provoking fights with parents and neighbors. Thereafter(,) he had two more admissions, i.e.(,) July 17, 2009 and July 7, 2010. On his latest admission, he absconded on his 8th hospital day. On July 22, 2010 his mother reported that he's at home and signed the discharged (sic) slip. Right after discharge, he was incarcerated for the crime of "Murder."

While in jail, he was noted to have poor sleep, always involved in verbal altercation and hiding sharp objects. He also appeared to be suffering from an unsound mental condition, which effectively renders him unable to fully understand the charge against him hence the court order for his mental examination and confinement.

x x x x x

ASSESSMENT AND REMARKS:

Based on history, mental status examination, observations and psychological test, the patient was found to be suffering from Bipolar Affective Disorder, current episode manic with psychotic symptoms. This mental disorder is characterized by elevated, expansive or irritable mood prominent or sustained for at least one week, at least three of the following (or four if the mood is only irritable) that interferes with personal functioning in daily living; increased activity or physical restlessness, increased talkativeness, flight of ideas, loss of normal social inhibition, decreased need for sleep, grandiosity, distractibility, reckless behavior and marked sexual energy or indiscretions. There is also significant impairment in functioning in areas of work, social relations and self-care. Concomitant psychotic features include hallucinations and delusions,[26]"

To Our mind, the foregoing documents pass the muster that appellant has a history of mental illness. Such illness diminished the exercise of his will power without however depriving him of the consciousness of his acts.[27]

Still and all, mitigating circumstance would not have the effect of lowering the penalty considering that the imposable penalty of reclusion perpetua is single and indivisible, and as such, may not serve to lower the penalty.[28]

Anent the award of damages, We find that modification is in order. We hew to the decisional precedent drawn from the following—

"Insofar as actual or compensatory damages are concerned, Article 2199 of the Civil Code of the Philippines provides as follows:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

As we have consistently pronounced, in conformity the foregoing provision, there must be pleading and proof of actual damages suffered for the same to be recovered. In addition to the fact that the amount of loss must be capable of proof, it must also be actually proven with a reasonable degree of certainty, premised upon competent proof or the best evidence obtainable. The burden of proof of the damage suffered is, consequently, imposed on the party claiming the same who should adduce the best evidence available in support thereof, like sales and delivery receipts, cash and check vouchers and other pieces of documentary evidence of the same nature. In the absence of corroborative evidence, it has been held that self-serving statements of account are not sufficient basis for an award of actual damages. Corollary to the principle that a claim for actual damages cannot be predicated on flimsy, remote, speculative, and insubstantial proof, courts are, likewise, required to state the factual bases of the award.xxx"[29] Emphasis Ours)

In this case, it appears that only the amount of P35,000.00 is covered by receipts[30] while the rest of the expenses are merely contained in a piece of paper prepared by Glenda, denominated as Breakdown of Expenses

regarding the death of FRANCIS EARL FABIALA.[31] Ineludibly, only the amount of P35,000.00 may be awarded as actual damages.

WHEREFORE, the Decision of the Regional Trial Court of Pasig City, Branch 163, Taguig City Station, in Criminal Case No. 143350, is hereby AFFIRMED WITH MODIFICATION in that accused-appellant Jonas Pantoja y Astorga (JONAS) is ORDERED to pay actual damages in the amount of P35,000.00.

SO ORDERED.

Diamante, and Salandanan-Manahan, JJ., concur.

[1] See the Certificate of Live Birth of JONAS where his name is spelled JONNA, Exhibit “5,” Original Record, p. 265.

[2] Id., pp. 311-322.

[3] Original Record, p. 322.

[4] Id., p. 1.

[5] Ibid.

[6] Id., p. 51.

[7] TSN, 31 July 2012, pp. 6-13; 4 February 2013, pp. 4-9; 23 October 2012, pp. 4-7.

[8] Also spelled Ebo.

[9] Original Record, p. 234.

[10] Id., p. 236.

[11] Id., pp. 237-241.

[12] TSN, 8 April 2013, 3-17.

[13] TSN, 8 April 2013, p. 10.

[14] Original Record, p. 231.

[15] Id., p. 263.

[16] See Brief for the Accused-Appellant, Rollo, pp. 52-56.

[17] See *People v. Umawid*, 725 SCRA 597, 605 (9 June 2014). (Emphasis supplied)

[18] Ibid.

[19] Original Record, pp. 319-320.

[20] See *People v. Opuran*, 425 SCRA 654, 668 (17 March 2004).

[21] 725 SCRA 597, 607 (9 June 2014).

[22] See *People v. Dadao*, 714 SCRA 524, 539 (22 January 2014).

[23] Original Record, p. 263.

[24] Id., pp. 40-43.

[25] Original Record, p. 263.

[26] Original Record, pp. 40-42.

[27] See *People v. Villanueva*, 534 SCRA 147, 154 (25 September 2007).

[28] See *People v. Linsie*, 711 SCRA 125 , 140 (27 November 2013). (Emphasis supplied)

[29] *People v. Balino*, 729 SCRA 52, 65 (2 July 2014).

[30] Original Record, pp. 237-239.

[31] Id., p. 241.

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