# TENTH DIVISION

# [ CA-G.R. CR-HC NO. 06492, March 20, 2015 ]

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

## D E C I S I O N

**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 22nd 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, treacherously, 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 schizoprenia 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**
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> **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.**
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> **II**
>
> **THE TRIAL COURT GRAVELY ERRED IN NOT APPRE-CIATING THE EXEMPTING CIRCUMSTANCE OF INSA-NITY 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 circum-stance 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 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 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 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 under-standing 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 simul-taneous 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 imme-diately 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 prose-cution 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:

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|---|---|---|
| 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]