



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 254875**

Present:

**GESMUNDO, C.J.,**  
*Chairperson,*

**HERNANDO,**  
**ZALAMEDA,**  
**ROSARIO,\* and**  
**MARQUEZ, JJ.**

- versus -

**JONIE SABANDAL PILEN,**  
*Accused-Appellant.*

Promulgated:

**FEB 13 2023**

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**DECISION**

**HERNANDO, J.:**

Before this Court is an appeal<sup>1</sup> seeking to reverse and set aside the Court of Appeals (CA) July 7, 2020 Decision<sup>2</sup> in CA-G.R. CEB CR. HC No. 03122, which affirmed with modification the August 17, 2018 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Maasin City, Southern Leyte, Branch 25, in Criminal Case Nos. 14-02-4022, 14-02-4024, 13-07-3934, 14-02-4023, 14-02-4025, 14-02-4026, 14-02-4027, 14-02-4028, 14-02-4030, 14-02-4032, 13-07-3936, 14-02-4031, and 13-07-3935 finding accused-appellant Jonie Sabandal

\* On official leave.

<sup>1</sup> *Rollo*, pp. 33-34.

<sup>2</sup> *Id.* at 6-32. Penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap.

<sup>3</sup> *CA rollo*, pp. 84-113. Penned by Presiding Judge Ma. Daisy Paler Gonzalez.

Pilen (Pilen) guilty beyond reasonable doubt of three counts of Murder, eight counts of Frustrated Murder, and two counts of Attempted Murder.

### **The Factual Antecedents**

Informations were filed charging Pilen with three counts of Murder and ten counts of Frustrated Murder, which read:

1. Criminal Case No. 13-07-3934 (Murder):

That on or about the 14<sup>th</sup> day of July 2013 at 7:00 o'clock in the evening, more or less, at barangay Cantutang, municipality of Padre Burgos, province of Southern Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to kill, with treachery, evident premeditation and taking advantage of superior strength, did then and there, wilfully, unlawfully and feloniously, attack, assault and stab the victim Princess Aclao Jabonero, 22 years old, with the use of a sharp pointed *bolo* which the accused had provided himself for the purpose, thereby hitting the victim on her right chest which wounds caused the instantaneous death of the victim to the damage and prejudice of her heirs and social order.<sup>4</sup>

2. Criminal Case No. 13-07-3935 (Frustrated Murder):

That on or about the 14<sup>th</sup> day of July 2013 at 7:00 o'clock in the evening, more or less, in barangay Cantutang, Padre Burgos, Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to kill in a treacherous manner, did then and there willfully, unlawfully and feloniously attack, assault, and stab one Georgia Jabonero with the use of a sharp pointed *bolo* which he provided himself for the purpose, thereby inflicting wounds on her chest, which act of the accused would have produced the crime of murder but did not produce it by reason of causes independent of the will of the accused, that is by timely and able medical assistance rendered upon the victim which prevented her death, to the damage and prejudice of said victim and of social order.<sup>5</sup>

3. Criminal Case No. 13-07-3936 (Frustrated Murder):

That on or about the 14<sup>th</sup> day of July 2013 at 7:00 o'clock in the evening, more or less, in barangay Cantutang, Padre Burgos, Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent to kill in a treacherous manner, did then and there willfully, unlawfully and feloniously attack, assault, and stab one Wenefredo F. Jabonero with the use of a sharp pointed *bolo* which he provided himself for the purpose, thereby inflicting wounds on his body, which act of the accused would have produced the crime of murder but did not produce it by reason of causes independent of the will of the accused, that is by timely and able medical assistance rendered upon the victim which prevented his death, to the damage and prejudice of said victim and of social order.<sup>6</sup>

<sup>4</sup> Records, Criminal Case No. 13-07-3934, p. 1.

<sup>5</sup> Records, Criminal Case No. 13-07-3935, p. 1; The records of the case also refer to Georgia as Georgia Ina and Georgina Ina.

<sup>6</sup> Records, Criminal Case No. 13-07-3936, p. 1.

4. Criminal Case No. 14-02-4022 (Murder):

That on July 14, 2013 at about 7:00 o'clock in the evening, more or less, in barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there, willfully, unlawfully, and feloniously, attack, assault and stab the victim Maria R. Felicilda hitting on her body mortal wounds, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, said mortal wounds caused the instantaneous death of the victim, to her damage and prejudice and of social order.<sup>7</sup>

5. Criminal Case No. 14-02-4023 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, attack, assault, and delivered stab blow on the victim Roger Fajardo Salem, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim stab wound on the left side of his body, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, by timely medical given to said victim which prevented his death, to his damage and prejudice and of social order.<sup>8</sup>

6. In Criminal Case No. 14-02-4024 (Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault, and hack the victim Lislei Ann Salem Kaindoy, a 1-year old minor, several times thereby inflicting upon the victim mortal wounds in the head, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, said mortal wounds caused the instantaneous death of the victim, to her damage and prejudice and of social order.<sup>9</sup>

7. Criminal Case No. 14-02-4025 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay, Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault and stab the

<sup>7</sup> Records, Criminal Case No. 14-02-4022, p. 1.

<sup>8</sup> Records, Criminal Case No. 14-02-4023, p. 1.

<sup>9</sup> Records, Criminal Case No. 14-02-4024, p. 1; The records of the case also refer to Lislei Ann as Leslie Ann.

victim Love Joy Casulla Acabo, with the use of a sharp pointed bolo measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim stab wound on her palm and on the left side of her chest, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, the timely medical assistance given to said victim which prevented her death, to her damage and prejudice and of social order.<sup>10</sup>

8. Criminal Case No. 13-02-4026 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault and hack the victim Aiza Salem Kaindoy several times, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim hacking wounds on the different parts of her body, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, the timely medical assistance given to said victim which prevented her death, to her damage and prejudice and of social order.<sup>11</sup>

9. Criminal Case No. 14-02-4027 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault, stab and hack the victim Jolito U. Mariño several times, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim stabbing and hacking wounds on the different parts of his body, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, the timely medical assistance given to said victim which prevented his death, to his damage and prejudice and of social order.<sup>12</sup>

10. Criminal Case No. 14-02-4028 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault and stab the victim Genara C. Chu several times, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim stabbed wounds on

<sup>10</sup> Records, Criminal Case No. 14-02-4025, p. 1.

<sup>11</sup> Records, Criminal Case No. 14-02-4026, p. 1.

<sup>12</sup> Records, Criminal Case No. 14-02-4027, p. 1.

the different parts of her body, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, the timely medical assistance given to said victim which prevented her death, to her damage and prejudice and of social order.<sup>13</sup>

11. Criminal Case No. 14-02-4030 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault and stab the victim Maximo L. Palero, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim stabbed wounds hitting on the different parts of his body, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, the timely medical assistance given to said victim which prevented his death, to his damage and prejudice and of social order.<sup>14</sup>

12. Criminal Case No. 14-02-4031 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault and stab the victim Zenaida V. Aguelo, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim stabbed wounds hitting her back, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the accused, that is, the timely medical assistance given to said victim which prevented her death, to his damage and prejudice and of social order.<sup>15</sup>

13. Criminal Case No. 14-02-4032 (Frustrated Murder):

That on July 14, 2013, at about 7:00 o'clock in the evening, more or less, in Barangay Cantutang, Municipality of Padre Burgos, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault and hack the victim April Rose Salem several times, with the use of a sharp pointed *bolo* measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, thereby inflicting upon the victim hacking wounds on her head, having performed all the acts which would have produced the crime of murder but which did not, by reason of causes independent of the will of the

<sup>13</sup> Records, Criminal Case No. 14-02-4028, p. 1.

<sup>14</sup> Records, Criminal Case No. 14-02-4030, p. 1.

<sup>15</sup> Records, Criminal Case No. 14-02-4031, p. 1.

accused, that is, the timely medical assistance given to said victim which prevented her death, to her damage and prejudice and of social order.<sup>16</sup>

Prior to his arraignment in Criminal Case Nos. 13-07-3934 to 36, Pilen filed an Urgent Motion for Accused to Undergo Psychiatric Evaluation, which was granted by the RTC in its Order<sup>17</sup> dated August 28, 2013. In the RTC's Order dated October 24, 2013, Pilen was deemed competent to stand trial.<sup>18</sup> Thereafter, he entered a plea of "not guilty" to all 13 charges. Upon termination of pre-trial, trial on the merits subsequently ensued.<sup>19</sup>

### Version of the Prosecution

During the consolidated trial of the cases, the prosecution presented the testimonies of the following private complainants: (1) Wenefredo Jabonero (Wenefredo); (2) Georgia Ina Jabonero (Georgia); (3) Roger Salem (Roger); (4) Aiza Salem Kaindoy (Aiza); (5) Love Joy Acabo (Love Joy); (6) Jolito Mariño (Jolito); (7) Genara Chu (Genara); (8) Maximo Palero (Maximo); (9) Zenaida Aguelo (Zenaida); and (10) April Rose Salem (April Rose).

Additionally, Dr. Roland Abiera (Dr. Abiera), Dr. Elpidio Sibud (Dr. Sibud), Dr. Reynaldo Tan (Dr. Tan), and Dr. Celso Borres (Dr. Borres) identified the medical certificates they issued and testified to prove the nature, number and extent of the injuries sustained by the victims. Meanwhile, Police Officer 2 Kenneth Orbeta (PO2 Orbeta) also testified that he investigated the incident.

The prosecution's version of the incident, as culled from the records,<sup>20</sup> are as follows:

On July 14, 2013, at about 7:00 p.m., Georgia, Princess Aclao Jabonero (Princess), and Love Joy were sitting outside the Jabonero residence in Barangay Cantutang, Padre Burgos, Southern Leyte, when they saw Pilen pass by Georgia asked him for ₱2.00, but he refused, told her to behave, and then left.<sup>21</sup>

A few moments later, Pilen returned and asked them what they had said about him. Out of nowhere, he lowered the zipper of his jumpsuit and drew a bolo hidden inside. Without giving them an opportunity to answer, Pilen suddenly stabbed Georgia, Princess, and Love Joy.<sup>22</sup>

<sup>16</sup> Records, Criminal Case No. 14-02-4032, p. 1.

<sup>17</sup> *Rollo*, p. 13. Records, Criminal Case No. 13-07-3934, pp. 50-51.

<sup>18</sup> Records, Criminal Case No. 13-07-3934, p. 53.

<sup>19</sup> *Id.*

<sup>20</sup> *CA rollo*, pp. 127-131.

<sup>21</sup> *Id.* at 127.

<sup>22</sup> *Id.*

Thereafter, Pilen walked away, as if nothing had happened, while the bolo was still stuck on Love Joy's hand. Love Joy then shouted at Pilen to stop, to which he replied by asking her to give his bolo back. Love Joy then pulled the bladed weapon from her hand, threw it at Pilen, and ran home as she was already bleeding from her wound.<sup>23</sup>

Meanwhile, Wenefredo, who was then inside his house, heard Pilen shouting, "I want to kill now." After a few minutes, he learned that his daughters, Georgia and Princess, had been stabbed by Pilen. He then rushed outside, where he saw Georgia in a crouching position while holding onto her chest. He immediately carried her inside and attempted to rescue Princess as well. However, before Wenefredo could even reach Princess, he saw Pilen charging towards him while brandishing a bolo. Pilen then attempted to strike Wenefredo's back. However, Wenefredo managed to evade it, but he was nevertheless hit on his right arm. Pilen went for a second attack, but Wenefredo was able to evade it once again and was only slightly hit at the side of his head. Fortunately, Wenefredo was able to go back inside their house and prevent Pilen from pursuing him.<sup>24</sup>

After the attack, Wenefredo, Georgia, and Princess were rushed to the hospital. Unfortunately, Princess was pronounced dead on arrival due to severe hemorrhage as a result of the stab wound on her chest which penetrated her back.<sup>25</sup>

Pilen's killing spree did not end there. On even date, he also attacked Genara at her house while she was washing dishes. He caught her by surprise and she had no opportunity to move because Pilen immediately stabbed her without any provocation.<sup>26</sup>

Additionally, Pilen also attacked April Rose when he saw her walking outside her house. He approached her and hacked her face out of nowhere. She tried to run away but stumbled upon a rock, allowing Pilen to catch up and hack her again on the head. He then left her and proceeded to the house of April's aunt, in search of other victims.<sup>27</sup>

When Roger, April Rose's father, found out what happened, he confronted Pilen and asked what he had done to his daughter. Pilen suddenly stabbed Roger on the left side of his body.<sup>28</sup>

Pilen's next victims were Aiza and her one-year-and-six-month-old daughter, Leslie Ann. The two were in the house of Aiza's mother when Pilen

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<sup>23</sup> Id.

<sup>24</sup> Id. at 128.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id. at 129.

<sup>28</sup> Id.

suddenly entered and viciously hacked her and her baby. They were hit several times on different parts of their bodies. Unfortunately, Leslie Ann did not survive Pilen's attacks and died at the hospital due to the fatal blows.<sup>29</sup>

On the same fateful date, Pilen also attacked Maximo and his wife while they were walking home. Unaware of who the killer was, Maximo saw Pilen and asked him who was running amok in their neighborhood. Pilen then told him that it was him and, without warning, he struck Maximo's wife with the bolo. Fortunately, the blade of the bolo was inverted and only the handle hit her. Pilen then turned to Maximo and stabbed him in his left arm and slightly in his right chest.<sup>30</sup>

Thereafter, Maximo saw Pilen head towards the house of Zenaida and witnessed him hack her on the back while the latter was about to enter her house. This was corroborated by Zenaida herself when she testified that, upon hearing about the hacking incident in their area, she quickly returned home only to find Pilen charging towards her. She tried to get inside her house but Pilen caught up with her and struck her in the back once.<sup>31</sup>

Lastly, when Jolito, Maria Felicilda (Maria), and another co-worker were on their way home, they encountered Pilen on the road. Pilen blocked their path and suddenly stabbed Jolito and Maria. Maria shouted for help and managed to walk a few steps before she fell to the ground. Pilen then turned his attention back to Jolito and hacked him several times in different parts of his body. While Jolito survived Pilen's attacks, Maria did not make it.<sup>32</sup>

Pilen was eventually arrested by PO2 Mark Joseph Rufin (PO2 Rufin). His bolo was likewise confiscated and turned over to PO2 Orbeta.<sup>33</sup>

Dr. Abiera attended to Roger, Wenefredo, Genara, Love Joy, and Georgia. He testified that, except for Georgia, the private complainants could have died from the injuries they suffered from Pilen had it not for the timely medical attendance given to them.<sup>34</sup>

Meanwhile, Dr. Sibud attended to Aiza and testified that the latter had multiple deep wounds, and if not for the timely medical intervention, she could have lost her life due to massive hemorrhage or bleeding.<sup>35</sup>

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<sup>29</sup> Id.

<sup>30</sup> Id. at 129-130.

<sup>31</sup> Id. at 130.

<sup>32</sup> Id.

<sup>33</sup> Id. at 130-131.

<sup>34</sup> Id. at 131.

<sup>35</sup> Id.



Similarly, Dr. Borres testified that his patients, April Rose and Jolito, could have died from the wounds caused by Pilen's hacking if there was no timely medical intervention extended to them.<sup>36</sup>

Lastly, Dr. Tan testified that despite Zenaida's stab wound, she could have still survived even without medical intervention.<sup>37</sup>

The injuries suffered by the private offended parties, as summarized by the RTC in its Decision,<sup>38</sup> are as follows:

| Name of Patient      | Diagnosis  | Severity  |
|----------------------|--|---|
| Roger Salem          | Stab wound on the left upper quadrant area with hemothorax penetrating the injury of the abdomen through and through gastric perforation   | The patient could have died if he was not given medical attendance.                             |
| Wenefredo Jabonero   | 2 cm stab wound right proximal, third arm with exit at right axilla; wound on the right upper arm which went through, hitting the armpit   | The patient could have died if he was not attended to for more than 24 hours.                   |
| Genara Chu           | Multiple stab wounds right upper quadrant, left upper quadrant and right flank with Grade III liver injury; victim sustained a wound on her right side between the navel and rib cage, lower right portion of her back, and another wound which hit the liver causing it to bleed, as a result of which the liver accumulated 1.5 liters of blood inside it. | The patient could have died if he was not given timely medical intervention.                    |
| Georgia Ina Jabonero | Stab wound at the left anterior chest none penetrating   | The patient will survive even without medical attendance.                                       |
| Love Joy Acabo       | Stab wound at the left chest with hemothorax; lacerated wound left hand  | As the stab wound penetrated the lungs, the patient could have died without medical attendance. |
| Jolito Mariño        | Hacking wound at the parieto temporal area around 10 centimeters scalp left and also a hacking wound at the left deltoid area, right forearm, and left and right fingers   | The patient could have died if there was no immediate medical intervention extended.            |
| April Rose Salem     | Hacking wound with 10 cm right parieto temporal area and also a transection of the upper nose/complete transection of the upper half of the bridge of the nose and an avulsion of the lower eyelid left eye  | The patient could have died without medical intervention due to massive bleeding.               |

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> CA rollo, pp. 96-102; rollo, pp. 17-19.

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|                  |  |  |
|------------------|--|--|
| Zenaida Aguelo   | Stab wound at the left posterior auxiliary area muscle deep  | With the wound located at the left side of the back, the patient could have still survived even without medical intervention.  |
| Aiza Kaindoy     | Incised wound measuring 6-8 cm of the left temporal area; incised wound measuring about 4-6 cm at the occipital region of the skull; incised wound of about 4-5 cm of the left thoracic area; incised wound measuring about 8-10 cm at the elbow joint, posterior aspect, right; incised wound measuring about 3-5 cm, posterior third of the right forearm; open fracture type II P/3 or proximal third of the ulna, right; incised wound measuring about 8-10 cm, antero-medial aspect, muscle deep, wrist joint, right; incised wound angular form; 10 cm, medial aspect of the palm, right; amputated stump, proximal distal phalanges, 1 <sup>st</sup> digit (thumb), left; incised wound measuring about 10-12cm at the proximal third of the anterior aspect of the right leg; open fracture, type II, p/3 tibia, right | Because of the presence of these multiple and deep wounds, the doctor was of the opinion that there was clear intent of the accused to harm the victim, and, if not for the timely medical intervention, the patient could have lost her life due to massive hemorrhage or bleeding. |
| Maximo L. Palero | Incised wound, left arm and left anterior chest (as shown by the Medical Certificate executed by one Dr. Fretzie C. Tomimbang). <sup>39</sup>  | Unknown  |

### Version of the Defense

Pilen was presented as the lone witness for the defense. Pilen narrated that on the day of the incident, at around 2:00 p.m., he was at his grandfather's house, taking a nap. He woke up 30 minutes later and went out to look for food. He was on his way to his older brother's house when one John Dave Marba (John) called out to him. Pilen ignored him at first but eventually decided to join John and his friends, who were a having drinking spree.

When Pilen sat down, John handed a shiny rolled object to his friend, Peter, who then lit the said object. Thereafter, Peter held Pilen's head, while two other persons held the latter's body, and forced him to sniff the shiny rolled object. Afterwards, they gave Pilen a drink. Without knowing what it was, Pilen drank the same out of courtesy. Subsequently, Pilen fell from his seat and lost consciousness. When he woke up the following morning, he found himself inside a detention cell.<sup>40</sup>

<sup>39</sup> CA rollo, pp. 87-103; Bill of Exhibits, p. 32. See rollo, pp. 17-19.

<sup>40</sup> Rollo, pp. 19-20.

### Ruling of the Regional Trial Court

In a Decision dated August 17, 2018, the RTC held that the overwhelming weight of evidence showed that Pilen committed the crime of Murder against Leslie Ann, Maria, and Princess given that the manner by which the attacks were carried out was treacherous. Meanwhile, the trial court ruled that for the cases of Roger, Love Joy, Aiza, Jolito, Maximo, Genera, April Rose, and Wenefredo, Pilen is guilty of the crime of Frustrated Murder, as the injuries they sustained could have been fatal had there been no timely medical intervention. As for Zenaida and Georgina, it found that Pilen only committed Attempted Murder because the injuries they suffered were not fatal.<sup>41</sup> Further, the RTC held that Pilen's claim of insanity was self-serving, unsubstantiated, and wanting in material proof.<sup>42</sup> The dispositive portion of the RTC Decision states:

WHEREFORE, all the foregoing premises considered, the court –

a. [F]inds the accused Jonie Sabandal Pilen GUILTY beyond reasonable doubt of MURDER in Crim. Case No. 14-02-4024, in Crim. Case No. 14-02-2022, and in Crim. Case No. 13-07-3934 and hereby sentences him to suffer and undergo the penalty of *reclusion perpetua* for each separate count of Murder. He is likewise hereby ordered to pay the legal heirs of each of his Murder victims, Leslie Ann Salem Kaindoy, Maria R. Felicilda and Princess Aclao Jabonero the following sums: P75,000.00 as civil indemnity, another P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

b. [F]inds the accused Jonie Sabandal Pilen GUILTY beyond reasonable doubt of FRUSTRATED MURDER in Crim. Case Nos. 14-02-4023, 14-02-4025, 14-02-4026, 14-02-4027, 14-02-4028, 14-02-4030, 14-02-4032 and 13-07-3936 and hereby sentences him to an indeterminate penalty of eight (8) years and one (1) day of *prision mayor* to fourteen (14) years, eight (8) months and one (1) of *reclusion temporal* for each of the eight counts of Frustrated Murder. He is likewise hereby ordered to pay each of his victims, namely Roger Salem, Love Joy Acabo, Aiza Salem Kaindoy, Jolito U. Mariño, Maximo L. Palero, Genara C. Chu, April Rose Salem and Wenefredo Jabonero the following sums: P40,000.00 as moral damages and P20,000.00 as exemplary damages.

c. Finds the accused Jonie Sabandal Pilen GUILTY beyond reasonable doubt of ATTEMPTED MURDER in Crim. Case Nos. 14-02-4031 and 13-07-3935, and hereby sentences him to an indeterminate penalty of two (2) years and four (4) months of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum for two counts of Attempted Murder. He is likewise hereby ordered to pay each of his victims, Zenaida V. Aguelo and Georgina Ina Jabanero, the following sums: P40,000.00 as moral damages and P20,000.00 as exemplary damages.

SO ORDERED.<sup>43</sup>

<sup>41</sup> CA rollo, pp. 106-107.

<sup>42</sup> Id. at 109.

<sup>43</sup> Id. at 112-113.

Aggrieved, Pilen elevated the case before the CA, raising the following assignment of errors:<sup>44</sup>

## I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE LACK OF PROOF BEYOND REASONABLE DOUBT THAT HE WAS THE AUTHOR OF THE CRIME CHARGED IN CRIMINAL CASE NO. 14-02-4032.

## II

THE TRIAL COURT ERRED IN NOT APPRECIATING INSANITY IN FAVOR OF ACCUSED APPELLANT.

## III

THE TRIAL COURT ERRED IN APPRECIATING TREACHERY DESPITE THE FACT THAT THE INFORMATIONS DID NOT SUFFICIENTLY SET FORTH THE FACTS AND CIRCUMSTANCES DESCRIBING HOW TREACHERY ATTENDED THE COMMISSION OF THE CRIMES CHARGED.

## IV

THE TRIAL COURT ERRED IN GIVING WEIGHT TO THE OPINIONS OF DR. ELPIDIO SIBUD AND DR. CELSO BORRES DESPITE THE FACT THAT THEY WERE NOT SHOWN TO BE EXPERT WITNESSES.

## V

THE TRIAL COURT ERRED IN RULING THAT THE CRIME COMMITTED AGAINST MAXIMO PALERO WAS IN THE FRUSTRATED STAGE DESPITE THE FACT THAT THE PROSECUTION DID NOT OFFER EVIDENCE TO PROVE THE CHARACTER OF HIS WOUND.<sup>45</sup>

### **Ruling of the Court of Appeals**

In its July 7, 2020 Decision,<sup>46</sup> the CA found Pilen's appeal to be partly meritorious.<sup>47</sup> The Court held that, except for the case of Leslie Ann where treachery qualified the killing to Murder, Pilen could only be convicted of Homicide in the other cases because the Informations filed against him failed to specifically aver the qualifying circumstance of treachery.<sup>48</sup> Additionally, the CA also did not find merit in Pilen's defense of insanity.<sup>49</sup>

In this regard, Pilen was found guilty of committing Murder only against Leslie Ann, and was convicted of Homicide against Princess and Maria; Frustrated Homicide against Aiza, Wenefredo, Roger, Love Joy, and Genara;

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<sup>44</sup> Id at. 73-74.

<sup>45</sup> Id.

<sup>46</sup> *Rollo*, pp. 6-32.

<sup>47</sup> Id. at 22.

<sup>48</sup> Id. at 25.

<sup>49</sup> Id. at 24.

and Attempted Homicide against Georgia, Jolito, Maximo, Zenaida, and April Rose.<sup>50</sup> The appellate court thus ruled:

**WHEREFORE**, the appeal is **DENIED**. The *Decision* of the Regional Trial Court, Branch 25, Maasin City, Southern Leyte in Criminal Case Nos. 13-07-3934 to 36, Criminal Case Nos. 14-02-4022 to 28, and Criminal Case Nos. 14-02-4030 to 32 is **AFFIRMED with MODIFICATION** as follows:

1. In Criminal Case No. 14-02-4024, the award of exemplary damages is hereby **INCREASED** to P75,000.00. In addition, the accused-appellant Jonie Sabandal Pilen is **ORDERED** to **PAY** the heirs of Leslie Ann Salem Kaindoy P50,000.00 as temperate damages. Lastly, for the duration of his sentence, he shall not be eligible for parole under R.A. No. 9346.

2. For Criminal Case Nos. 13-07-3934 and 14-02-4022, the accused-appellant Jonie Sabandal Pilen is found **GUILTY** beyond reasonable doubt of two (2) counts of the crime of homicide defined under Article 249 of the Revised Penal Code, and is hereby sentenced to suffer an indeterminate penalty of nine (9) years of *prision mayor*, as minimum, to sixteen (16) years of *reclusion temporal*, as maximum, for each of the two (2) counts of homicide. He is **ORDERED** to **PAY** the heirs of Princess Aclao Jabonero and Maria R. Felicilda the following amounts for each of the two victims: (a) P50,000.00 as civil indemnity, (b) P50,000.00 as moral damages, and (c) P50,000.00 as temperate damages.

3. For Criminal Case No. 14-02-4026, the accused-appellant Jonie Sabandal Pilen is found **GUILTY** beyond reasonable doubt of the crime of frustrated homicide defined under Article 249 in relation to Article 50 of the Revised Penal Code, and is hereby sentenced to suffer an indeterminate penalty of three (3) years of *prision correccional*, as minimum, to eight (8) years and two (2) months of *prision mayor*, as maximum. He is **ORDERED** to **PAY** Aiza Salem Kaindoy P30,000.00 as civil indemnity, P30,000.00 as moral damages, P30,000.00 as exemplary damages, and P40,000.00 as temperate damages.

4. For Criminal Case Nos. 13-07-3936, 14-02-4023, 14-02-4025, and 14-02-4028, the accused-appellant Jonie Sabandal Pilen is found **GUILTY** beyond reasonable doubt of four (4) counts of the crime of frustrated homicide defined under Article 249 in relation to Article 50 of the Revised Penal Code, and is hereby sentenced to suffer an indeterminate penalty of three (3) years of *prision correccional*, as minimum, to eight (8) years and two (2) months of *prision mayor*, as maximum, for each of the four (4) counts of frustrated homicide. He is **ORDERED** to **PAY** P30,000.00 as civil indemnity and P30,000.00 as moral damages to each of the victims, namely: Wenefredo Jabonero, Roger Salem, Love Joy Acabo, and Genara C. Chu. He is also **ORDERED** to **PAY** temperate damages in the amount of P3,000.00 to Wenefredo Jabonero, P40,000.00 to Roger Salem, and P20,000.00 to Genara C. Chu.

5. For Criminal Case Nos. 13-07-3935, 14-02-4027, 14-02-4030, 14-02-4031, and 14-02-4032, the accused-appellant Jonie Sabandal Pilen is found **GUILTY** beyond reasonable doubt of five (5) counts of the crime of attempted homicide defined under Article 249 in relation to Article 51 of the Revised Penal

<sup>50</sup> Id. at 28-29.

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Code, and is hereby sentenced to suffer an indeterminate penalty of three (3) months of *arresto mayor*, as minimum, to three (3) years of *prision correccional*, as maximum, for each of the five (5) counts of attempted homicide. He is **ORDERED** to **PAY** P20,000.00 as civil indemnity, and P20,000.00 as moral damages to each of his victims, namely: Georgia Ina Jabonero, Jolito U. Mariño, Maximo L. Palero, Zenaida V. Aguelo, and April Rose Salem. He is also **ORDERED** to **PAY** temperate damages in the amount of P2,000.00 each to Georgia Ina Jabonero, Jolito U. Mariño, and Zenaida V. Aguelo, and temperate damages in the amount of P500.00 to Maximo L. Palero.

6. The accused-appellant Jonie Sabandal Pilen is also **ORDERED** to **PAY** interest at the rate of six percent (6%) *per annum* from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, exemplary damages, and temperate damages.

**SO ORDERED.**<sup>51</sup>

Hence, the instant appeal.

In a March 17, 2021 Resolution, this Court notified the parties that they may submit their respective supplemental briefs, if they so desired.<sup>52</sup> In its July 9, 2021 Manifestation (In Lieu of Supplemental Brief),<sup>53</sup> the Office of the Solicitor General (OSG) manifested that it will no longer file a supplemental brief, there being no transactions, occurrences or events which have happened since it filed its Appellee's Brief.<sup>54</sup> Meanwhile, Pilen, through the Public Attorney's Office, averred in his August 25, 2021 Manifestation (In Lieu of a Supplemental Brief),<sup>55</sup> that he is adopting his Appellant's Brief as his Supplemental Brief.<sup>56</sup>

### Issue

The main issue to be resolved in this case is whether the CA correctly affirmed the conviction of Pilen.

### Our Ruling

After a judicious review of the records of the case, the Court affirms the conviction of Pilen for the crime of Homicide, not Murder, except for the case of Leslie Ann.

Murder is defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended, which states:

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<sup>51</sup> Id. at 25-27.

<sup>52</sup> Id. at 39.

<sup>53</sup> Id. at 41-42.

<sup>54</sup> Id. at 41.

<sup>55</sup> Id. at 53-54.

<sup>56</sup> Id. at 53.

Article 248. *Murder*. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;

x x x x

5. Evident premeditation; x x x.

From the foregoing, for an accused to be convicted of Murder, the prosecution must prove the following elements: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Art. 248 of the RPC; and (4) that the killing is not parricide or infanticide.<sup>57</sup>

Meanwhile, Art. 240 of the RPC provides what constitutes Homicide, to wit:

Article 249. *Homicide*. - Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

As will be explained below, the Court finds that, barring the case of Leslie Ann, Pilen is properly liable only for the crime of Homicide, but not for the reason specified by the appellate court.

**Pilen is deemed to have waived the defects in the Informations considering his failure to avail of the proper procedural remedies**

Jurisprudence dictates that qualifying circumstances must be sufficiently pleaded in the Information in order to not violate the accused's constitutional right to be properly informed of the nature and cause of the charge against him.<sup>58</sup> In *People v. Solar*<sup>59</sup> (*Solar*) this Court held that:

[I]t is insufficient for prosecutors to indicate in an Information that the act supposedly committed by the accused was done "with treachery" or "with abuse of superior strength" or "with evident premeditation" without specifically describing the acts done by the accused that made any or all of such circumstances present. Borrowing the words of the Court in *Dasmariñas*, 'to

<sup>57</sup> *People v. Racal*, 817 Phil. 665, 677 (2017).

<sup>58</sup> *People v. Natindim*, G.R. No. 201867, November 4, 2020.

<sup>59</sup> G.R. No. 225595, August 6, 2019.

merely state in the information that treachery was attendant is not enough because the usage of such term is not a factual averment but a conclusion of law.<sup>60</sup>

An information alleging that treachery exists, to be sufficient, must therefore have factual averments on how the person charged had deliberately employed means, methods or forms in the execution of the act that tended directly and specially to insure its execution without risk to the accused arising from the defense that the victim might make. The Information must so state such means, methods or forms in a manner that would enable a person of common understanding to know what offense was intended to be charged.<sup>60</sup>

Further, the Court in *Solar* laid down the following guidelines for the guidance of the Bench and Bar:

1. Any Information which alleges that a qualifying or aggravating circumstance — in which the law uses a broad term to embrace various situations in which it may exist, such as but are not limited to (1) treachery; (2) abuse of superior strength; (3) evident premeditation; (4) cruelty — is present, must state the ultimate facts relative to such circumstance. Otherwise, the Information may be subject to a motion to quash under Section 3 (e) (*i.e.*, that it does not conform substantially to the prescribed form), Rule 117 of the Revised Rules [on] Criminal Procedure, or a motion for a bill of particulars under the parameters set by said Rules.

Failure of the accused to avail any of the said remedies constitutes a waiver of his [or her] right to question the defective statement of the aggravating or qualifying circumstance in the Information, and consequently, the same may be appreciated against him [or her] if proven during trial.

x x x x

5. For cases in which a judgment or decision has already been rendered by the trial court and is still pending appeal, the case shall be judged by the appellate court depending on whether the accused has already waived his [or her] right to question the defective statement of the aggravating or qualifying circumstance in the Information, (*i.e.*, whether he [or she] previously filed either a motion to quash under Section 3(e), Rule 117, or a motion for a bill of particulars) pursuant to this Decision.<sup>61</sup>

Here, it is conceded that the Informations against Pilen are defective given that they failed to specify the particular acts and circumstances that would constitute the qualifying circumstance of treachery or evident premeditation. However, it is nevertheless submitted that Pilen is deemed to have waived this defect, considering his failure to avail of the proper procedural remedies.<sup>62</sup>

Based on the records, Pilen did not question the supposed insufficiency of the Information filed against him through either a motion to quash or a motion for bill of particulars. He voluntarily entered his plea during the arraignment

<sup>60</sup> Id.

<sup>61</sup> Id.

<sup>62</sup> *People v. Ukay*, G.R. No. 246419, September 16, 2020.



and proceeded with the trial. Thus, he is deemed to have waived any of the waivable defects in the Information, including the supposed lack of particularity in the description of the attendant circumstances. In other words, Pilen is deemed to have understood the acts imputed against him by the Information.<sup>63</sup>

From the foregoing, since Pilen is considered to have waived his right to question the defective statement of the aggravating or qualifying circumstance in the Information, treachery or evident premeditation may be appreciated against him if proven during trial.<sup>64</sup>

**Treachery exists when an adult person attacks and causes the death of a child of tender years**

It bears to recall that Leslie Ann was only about a year old when she was brutally hacked several times by Pilen. Moreover, the corresponding Information filed against him alleged the qualifying circumstances of treachery and evident premeditation, *viz.*:

[T]he above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously, attack, assault, and hack the victim [Leslie] Ann Salem Kaindoy, a 1-year old minor, several times thereby inflicting upon the victim mortal wounds in the head, with the use of a sharp pointed bolo measuring 18 ½ inches long including its handle, which the accused had provided himself for such purpose, said mortal wounds caused the instantaneous death of the victim, to her damage and prejudice and of social order.<sup>65</sup>

Jurisprudence teaches that the mere allegation of the victim's minority is sufficient to qualify the crime to Murder. The killing of a child is characterized by treachery regardless of whether the manner of the assault is shown in the Information, as the weakness of the victim due to his or her tender age results in the absence of any danger to the accused.<sup>66</sup> Otherwise stated, the killing of a child of tender years is deemed *ipso facto* qualified by treachery due to his or her inherent defenselessness.<sup>67</sup>

As applied in this case, both the RTC and CA correctly appreciated the qualifying circumstance of treachery in the killing of Leslie Ann, especially considering that she was only a helpless baby who had no way of defending herself. Thus, with regard to her case, Pilen was properly adjudged to have committed the crime of Murder.

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<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Records, Criminal Case No. 14-02-4024, p. 1.

<sup>66</sup> *People v. Enojo*, G.R. No. 240231, November 27, 2019.

<sup>67</sup> *People v. Pentecostes*, 820 Phil. 823, 842 (2017), citing *People v. Diaz*, 377 Phil. 997, 1005 (1999).

The Court now proceeds to discuss the crime committed by Pilen against his other victims.

**Both treachery and evident premeditation were not present when appellant attacked his neighbors**

Settled is the rule that qualifying circumstances must be proved with the same quantum of evidence as the crime itself, that is, beyond reasonable doubt.<sup>68</sup> Hence, for Pilen to be convicted of Murder, the prosecution must prove that the killing of his victims was attended by treachery or evident premeditation.

The essence of treachery is not only the swiftness and the surprise in the attack upon an unsuspecting victim but also the attendance of two concurring conditions, namely: (1) that the malefactor must have employed means, method or manner of execution that would insure his or her safety from the retaliatory act of the victim, and (2) such means, method or form of execution are consciously and deliberately adopted by the malefactor.<sup>69</sup>

The qualifying circumstance of evident premeditation, on the other hand, requires that the execution of the criminal act be preceded by cool thought and reflection upon a resolution to carry out the criminal intent during the space of time sufficient to arrive at a calm judgment. Evident premeditation needs proof of the time when the intent to commit the crime is engendered in the mind of the accused, the motive which gives rise to it, and the means which are beforehand selected to carry out that intent. All such facts and antecedents which make notorious the pre-existing design to accomplish the criminal purpose must be proven to the satisfaction of the court.<sup>70</sup>

Simply put, there is evident premeditation when the following elements concur: (1) the time when the accused determined to commit the crime; (2) an act manifestly indicating that the accused had clung to his or her determination to commit the crime; and (3) the lapse of a sufficient length of time between the determination and execution to allow him or her to reflect upon the consequences of his or her act.<sup>71</sup>

In the case at bar, a scrutiny of the facts on record indicates that the prosecution failed to prove that the above-stated conditions were present to qualify the senseless killings and attacks done by Pilen, either by treachery or by evident premeditation, to Murder.

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<sup>68</sup> *People v. Gayon*, G.R. No. 230221, April 10, 2019.

<sup>69</sup> *People v. Guro*, G.R. No. 230619, April 10, 2019.

<sup>70</sup> *People v. Recepcion*, 440 Phil. 227, 265 (2002).

<sup>71</sup> *People v. Gayon*, supra.

While the attack upon the victims could be described as being unexpected, somehow avoiding any risk to Pilen, there is, however, insufficient evidence to indicate that the means he adopted were consciously or deliberately made. Mere suddenness of the attack is not enough to show treachery. It should also be shown that the mode of attack has knowingly been intended to accomplish the wicked intent.<sup>72</sup>

Here, there is no showing that Pilen made any preparation to kill his victims in such a manner as to insure the execution of the crime or render it impossible or hard for the person attacked to resort to self-defense or retaliation. It is worthy to point out that Pilen attacked his victims in a public place where he knew that plenty of people would see him. If he wanted to make certain that no risk would come to him, he could have chosen another time and place to stab the victim. In a similar case, the Court held that “when aid was easily available to the victim, such as when the attendant circumstances show that there were several eyewitnesses to the incident, including the victim’s family, no treachery could be appreciated because if the accused indeed consciously adopted means to insure the facilitation of the crime, he or she could have chosen another place or time.”<sup>73</sup>

Neither would evident premeditation qualify the offense to Murder in the absence of clear substantiation that Pilen had definitely resolved to commit the offense and reflected on the means to bring about the execution following an appreciable length of time. Here, the records are bereft of any proof showing when and how Pilen planned and prepared to attack or kill his victims. Such facts are indispensable and the requirement of deliberate planning should not be based merely on inferences and presumptions but on clear evidence.<sup>74</sup> Thus, evident premeditation likewise cannot be appreciated against Pilen to elevate the crime to Murder.

Therefore, with the removal of the qualifying circumstances of treachery and evident premeditation, the crime committed by Pilen is Homicide, not Murder.

We now turn to the different stages of the felony, *i.e.*, consummated, frustrated, and attempted, committed by Pilen against his victims.

**Evidence for the prosecution showed that Pilen committed the crime of Homicide against Princess and Maria, Frustrated Homicide against Roger, Wenefredo, Genara, Love Joy,**

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<sup>72</sup> *People v. Recepcion*, supra at 265.

<sup>73</sup> *People v. Gayon*, supra.

<sup>74</sup> *People v. Aguila*, G.R. No. 238455, December 9, 2020.

**Jolito, April Rose, and Aiza, and  
Attempted Homicide against  
Georgia, Zenaida, and Maximo**

Art. 6 of the RPC defines the stages of a felony as follows:

ART. 6. *Consummated, frustrated, and attempted felonies.* - Consummated felonies, as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.

Additionally, jurisprudence makes a distinction between a frustrated and an attempted felony, *viz.*:

1.) In frustrated felony, the offender has performed all the acts of execution which should produce the felony as a consequence; whereas in attempted felony, the offender merely commences the commission of a felony directly by overt acts and does not perform all the acts of execution.

2.) In frustrated felony, the reason for the non-accomplishment of the crime is some cause independent of the will of the perpetrator; on the other hand, in attempted felony, the reason for the non-fulfillment of the crime is a cause or accident other than the offender's own spontaneous desistance.

**In addition to these distinctions, we have ruled in several cases that when the accused intended to kill his victim, as manifested by his use of a deadly weapon in his assault, and his victim sustained fatal or mortal wound/s but did not die because of timely medical assistance, the crime committed is frustrated murder or frustrated homicide depending on whether or not any of the qualifying circumstances under Article 249 of the Revised Penal Code are present. However, if the wound/s sustained by the victim in such a case were not fatal or mortal, then the crime committed is only attempted murder or attempted homicide. If there was no intent to kill on the part of the accused and the wound/s sustained by the victim were not fatal, the crime committed may be serious, less serious or slight physical injury.**

Thus, in order to determine whether the crime committed is attempted or frustrated parricide, murder or homicide, or only *lesiones* (physical injuries), the crucial points to consider are: a) whether the injury sustained by the victim was fatal, and b) whether there was intent to kill on the part of the accused.<sup>75</sup>

<sup>75</sup> *Etino v. People*, 826 Phil. 32, 42 (2018), citing *Palaganas v. People*, 533 Phil. 169, 193 (2006); Emphasis supplied.

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In the case at bar, there is no doubt that for the cases of Princess and Maria, Pilen consummated the crime of Homicide, having successfully completed all the elements necessary for its execution. Both Princess and Maria succumbed to their deaths because of the stab wounds they suffered from Pilen's attacks.<sup>76</sup>

Meanwhile, for the cases of Roger, Wenefredo, Genara, Love Joy, Jolito, April Rose, and Aiza, the Court finds that the crime committed was Frustrated Homicide.

The medical certificates, together with the testimonies of the attending physicians that issued them, namely, Dr. Abiera, Dr. Tan, Dr. Borres, and Dr. Sibud, adequately established the extent and severity of the injuries sustained by the said victims. The evidence provided by the prosecution revealed that Pilen had intended to kill his victims, as manifested by the type of weapon he used, the number of times he hacked them, and where he had hit them. It was sufficiently shown that, were it not for the timely medical assistance extended to them, the victims would not have survived such fatal wounds.

At this juncture, the Court disagrees with the argument of the defense that "the trial court erred in giving weight to the opinions of Dr. Sibud and Dr. Borres despite the fact that they were not shown to be expert witnesses."<sup>77</sup>

It is an elementary rule of evidence that objection to evidence must be made after the evidence is formally offered.<sup>78</sup> Thus, Section 35, Rule 132 of the 1997 Rules of Court, provides when to make an offer of evidence, to wit:

SEC. 35. *When to make offer.* — As regards the testimony of a witness, the offer must be made at the time the witness is called to testify.

Documentary and object evidence shall be offered after the presentation of a party's testimonial evidence. Such offer shall be done orally unless allowed by the court to be done in writing.

On the other hand, Sec. 36, Rule 132 of the same rules, provides when objection to the evidence offered shall be made, thus:

SEC. 36. *Objection.* — Objection to evidence offered orally must be made immediately after the offer is made.

Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.

An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

<sup>76</sup> Bill of Exhibits, pp. 6 and 15.

<sup>77</sup> *Rollo*, pp. 73-74; *CA rollo*, p. 80.

<sup>78</sup> *Magsino v. Magsino*, G.R. No. 205333, February 18, 2019.

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Based on the foregoing provisions, objection to oral evidence must be raised at the earliest possible time, that is, after the objectionable question is asked or after the answer is given if the objectionable issue becomes apparent only after the answer was given.<sup>79</sup>

In this case, the defense failed to timely raise its objections on the qualifications of Dr. Sibud and Dr. Borres as expert witnesses. Records of the case show that when the two doctors testified, the defense did not object to the admissibility of their testimonies nor conduct cross-examinations. The defense also did not oppose the Formal Offer of Exhibits of the prosecution.<sup>80</sup> Thus, for the failure of the defense to make known its objection at the proper time, the procedural error or defect was waived.<sup>81</sup>

At any rate, it must be pointed out that the admissibility of evidence should not be confused with its probative value. Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue. Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence.<sup>82</sup>

Here, this Court finds that the trial court correctly considered and gave credence to the testimonies of Dr. Sibud and Dr. Borres, which ultimately prove that the wounds of Aiza, April Rose, and Jolito were fatal, and that the only reason they did not die was because of the timely medical assistance they received. The problem of the credibility of expert witnesses and the evaluation of their testimonies are left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of abuse of discretion.<sup>83</sup> As such, the crime committed against Aiza, April Rose, and Jolito was Frustrated Homicide.

For the cases of Georgia and Zenaida, the doctors that attended to them testified that their wounds were not fatal and that they would have survived even without medical intervention.<sup>84</sup> For this reason, the crime committed against them was only Attempted Homicide.

Lastly, for the case of Maximo, the prosecution failed to present evidence to prove that the victim would have died from his wound without timely medical assistance, as his medical certificate<sup>85</sup> alone, absent the testimony of the physician who diagnosed and treated him, or any physician for that matter, is

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<sup>79</sup> *Id.*

<sup>80</sup> *CA rollo*, p. 143; *TSN*, June 27, 2016, pp. 127-132; *TSN*, February 22, 2016, pp. 153-160.

<sup>81</sup> *Magsino v. Magsino*, *supra*.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *CA rollo*, pp. 96-102; *rollo*, pp. 17-19.

<sup>85</sup> *CA rollo*, p. 95; *Bill of Exhibits*, p. 32.

insufficient proof of the nature and extent of his injury. It is settled that, “where there is nothing in the evidence to show that the wound would be fatal if not medically attended to, the character of the wound is doubtful,” then such doubt should be resolved in favor of the accused.<sup>86</sup> Thus, the crime committed against Maximo was Attempted Homicide.

In sum, the evidence for the prosecution sufficiently established that Pilen committed the crime of Homicide against Princess and Maria, Frustrated Homicide against Roger, Wenefredo, Genara, Love Joy, Jolito, April Rose, and Aiza, and Attempted Homicide against Georgia, Zenaida, and Maximo.

### **The defense of insanity cannot be appreciated in favor of appellant**

To exculpate himself from liability, Pilen invokes the defense of insanity.

The Court defines insanity as “a manifestation in language or conduct of disease or defect of the brain, or a more or less permanently diseased or disordered condition of the mentality, functional or organic, and characterized by perversion, inhibition, or disordered function of the sensory or of the intellectual faculties, or by impaired or disordered volition.”<sup>87</sup>

Since the law presumes that all persons are of sound mind, insanity is the exception rather than the general rule. It is a defense in the nature of confession and avoidance. When an accused claims insanity, he or she admits the commission of the criminal act but seeks exemption from criminal liability because of the lack of voluntariness or intelligence.<sup>88</sup>

In *People v. Paña*,<sup>89</sup> the Court had the opportunity to formulate a three-way test in determining whether the exempting circumstance of insanity may be appreciated. The three-way test provides that: (1) insanity must be present at the time of the commission of the crime; (2), insanity, which is the primary cause of the criminal act, must be medically proven; and, (3) the effect of the insanity is the inability to appreciate the nature and quality or wrongfulness of the act.<sup>90</sup>

In the case at bar, the defense failed to satisfy the tests.

As correctly observed by the RTC and CA, Pilen’s claim of insanity was self-serving, unsubstantiated, and wanting in material proof. Apart from his own statement that he had no recollection of what transpired at the time of the incident, Pilen did not provide any other witness testimony or evidence which

<sup>86</sup> *Etino v. People*, supra note 75.

<sup>87</sup> *People v. Paña*, G.R. No. 214444, November 17, 2020.

<sup>88</sup> *Id.*

<sup>89</sup> *Supra.*

<sup>90</sup> *Id.*

would prove that he was completely deprived of intelligence or reason at the time of the commission of the crime.

An accused whose mental condition is under scrutiny cannot competently testify on their state of insanity. An insane person would naturally have no understanding or recollection of their actions and behavioral patterns. They would have to rely on hearsay evidence to prove their claims as to what actually happened.<sup>91</sup>

Moreover, there was no expert witness presented by the defense to testify on the mental state of the accused from a medical standpoint. While testimonies from medical experts are not absolutely indispensable in cases involving the insanity defense, their observation of the accused are considered to be more accurate and authoritative in determining an accused's mental state. Expert testimonies enable courts to ascertain whether the behavior of the accused actually arose from a mental disease. The nature and degree of an accused's mental illness can be best identified by medical experts equipped with specialized knowledge to diagnose a person's mental health.<sup>92</sup>

Here, the defense simply claimed that Pilen was insane at the time of the incident because of the substances he was forced to take by John and his peers,<sup>93</sup> and referred to the prosecution's Exhibit "K"<sup>94</sup> which showed that Pilen tested positive for THC-metabolites, a dangerous drug, at the time of the incident.<sup>95</sup> However, as properly argued by the OSG in its Appellee's Brief, "[t]he record is bereft of any evidence demonstrating: 1) the connection of the identified substance and the alleged mental condition, and 2) that the identified substance is the cause of the violent behavior of the appellant."<sup>96</sup> Hence, it is but proper that the lower courts found Pilen's defense of insanity to be without merit.

On this score, the Court finds it perplexing as to how the counsel for the accused used drug intoxication as a defense. It is worthy to point out that under Section 25 of Republic Act No. 9165,<sup>97</sup> "[n]otwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable." However, given that this was not alleged in the Information nor raised as an argument by the prosecution in the proceedings below, the same shall not be considered against Pilen by this Court.

All told, due to the failure of Pilen to prove, through clear and convincing evidence, that as a result of a mental illness, he was unable to appreciate the

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<sup>91</sup> Id.

<sup>92</sup> Id.

<sup>93</sup> *CA rollo*, pp. 108-109.

<sup>94</sup> Bill of Exhibits, p. 22.

<sup>95</sup> *CA rollo*, pp. 77.

<sup>96</sup> Id. at 139-140.

<sup>97</sup> Comprehensive Dangerous Drugs Act of 2002.

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nature and quality of the wrongfulness of his acts at the time of the commission of the crime, his conviction must still stand.

Consequently, he must answer for the crimes he committed by imposing on him the appropriate penalties.

### **Proper penalty and award of damages**

Under Art. 248 of the RPC, one guilty of Murder shall suffer the penalty of *reclusion perpetua*. Thus, for the killing **Leslie Ann**, Pilen shall be sentenced to such penalty. As for the award of damages, following *People v. Jugueta*,<sup>98</sup> Pilen shall be ordered to pay the heirs of Leslie Ann the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as exemplary damages, ₱75,000.00 as moral damages, and ₱50,000.00 as temperate damages.

Meanwhile, the penalty for Homicide under Art. 249 of the RPC is *reclusion temporal*. In the absence of any modifying circumstance, the penalty shall be imposed in its medium period. Applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor* with a range of six (6) years and one (1) day to twelve (12) years. Thus, for the killing **Princess and Maria**, Pilen is found guilty of two counts of Homicide and shall suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum for each count of Homicide. For the award of damages, Pilen shall pay the respective heirs of Princess and Maria civil indemnity, moral damages, and temperate damages, in the amount of ₱50,000.00 each.

Moreover, Pilen is also found guilty of seven counts of Frustrated Homicide for the attacks made upon **Roger, Wenefredo, Genara, Love Joy, Jolito, April Rose**, and **Aiza**. As such, he shall suffer the indeterminate penalty of two (2) years, four (4) months, one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum for each count of Frustrated Homicide. He shall also be ordered to pay each victim the following amounts: ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages; and ₱25,000.00 as temperate damages.

Lastly, Pilen is found guilty of three counts of Attempted Homicide for the cases of **Georgia, Zenaida**, and **Maximo**, and shall thus suffer an indeterminate penalty of four (4) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum for each count of Attempted Homicide. For the award of damages, Pilen shall be required to pay each victim ₱20,000.00 as civil indemnity and ₱20,000.00 as moral damages.

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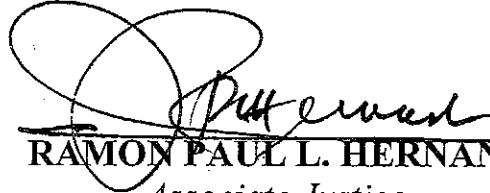
<sup>98</sup> 783 Phil. 806, 848-854 (2016).

**WHEREFORE**, the appeal is **DISMISSED**. The July 7, 2020 Decision of the Court of Appeals in CA-G.R. CEB CR. HC No. 03122 is **AFFIRMED with MODIFICATION**. Accused-appellant Jonie Sabandal Pilen is found **GUILTY** of:

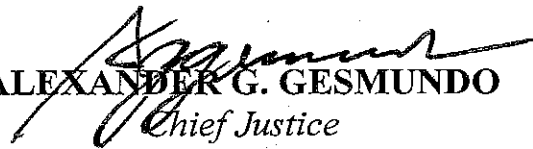
- 1) Murder in Criminal Case No. 14-02-4024 and is sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay the heirs of Leslie Ann Salem Kaindoy the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as exemplary damages, ₱75,000.00 as moral damages, and ₱50,000.00 as temperate damages;
- 2) Homicide in Criminal Case Nos. 13-07-3934 and 14-02-4022, and is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum for each count of Homicide. He is ordered to pay the respective heirs of Princess Aclao Jabonero and Maria R. Felicilda the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as temperate damages;
- 3) Frustrated Homicide in Criminal Case Nos. 13-07-3936, 14-02-4023, 14-02-4028, 14-02-4025, 14-02-4027, 14-02-4032, and 13-02-4026, and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months, one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum for each count of Frustrated Homicide. He is ordered to pay Wenefredo F. Jabonero, Roger Fajardo Salem, Genara C. Chu, Love Joy Casulla Acabo, Jolito U. Mariño, April Rose Salem, and Aiza Salem Kaindoy the following amounts: ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages; and ₱25,000.00 as temperate damages;
- 4) Attempted Homicide in Criminal Case Nos. 13-07-3935, 14-02-4031, and 14-02-4030, and is sentenced to suffer the indeterminate penalty of four (4) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum for each count of Attempted Homicide. He is ordered to pay Georgia Ina Jabonero, Zenaida V. Aguelo, and Maximo L. Palero the following amounts: ₱20,000.00 as civil indemnity and ₱20,000.00 as moral damages.

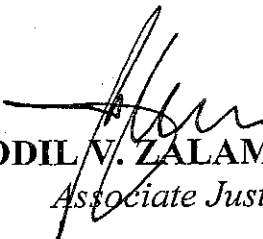
All monetary awards shall earn interest at the legal rate of six percent (6%) per *annum* from the date of finality of this Resolution until fully paid.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*  
*Chairperson*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

On official leave  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
ALEXANDER G. GESMUNDO  
*Chief Justice*