



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SPECIAL SECOND DIVISION

PEOPLE OF THE G.R. No. 238748
PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

EDGAR GALLARDO y
BARRIOS, Accused-Appellant.

CARPIO, J.,* Chairperson,
PERLAS-BERNABE,
CAGUIOA,
A. REYES, JR., and
J. REYES, JR., JJ.

Promulgated:

18 MAR 2019

[Handwritten Signature]

RESOLUTION

PERLAS-BERNABE, J.:

In a Resolution¹ dated November 19, 2018, the Court affirmed the Decision² dated July 17, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07547 finding accused-appellant Edgar Gallardo y Barrios (Gallardo) guilty beyond reasonable doubt of three (3) counts of the crime of Qualified Rape, the pertinent portion of which reads:

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the July 17, 2017 Decision of the CA in CA-G.R. CR-HC No. 07547 and **AFFIRMS** said Decision finding accused-appellant Edgar Gallardo y Barrios **GUILTY** beyond reasonable doubt of the crime of Qualified Rape, defined and penalized under Article 266-A, in relation to Article 266-B of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility

* Designated Acting Chief Justice per Special Order No. 2644 dated March 15, 2019.

¹ Rollo, pp. 47-48. Signed by Division Clerk of Court Maria Lourdes C. Perfecto.

² Id. at 2-24. Penned by Associate Justice Carmelita Salandanan Manahan with Associate Justices Elihu A. Ybañez and Socorro B. Inting, concurring.

for parole for each count, and to pay AAA the following amounts: (a) ₱100,000.00 as civil indemnity; (b) ₱100,000.00 as moral damages; and (c) ₱100,000.00 as exemplary damages. Moreover, 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 full payment.³

Aggrieved, Gallardo filed a Motion for Reconsideration.⁴ However, during the pendency of such motion, the Court received a letter⁵ dated February 20, 2019 from the Bureau of Corrections informing the Court of Gallardo's death on February 19, 2019 at the New Bilibid Prison Hospital, Muntinlupa City, as evidenced by the Notice⁶ dated February 19, 2019 issued by the said hospital attached thereto.

As will be explained hereunder, there is a need to reconsider and set aside said Resolution dated November 19, 2018 and enter a new one dismissing the criminal cases against Gallardo.

Under prevailing law and jurisprudence, Gallardo's death prior to his final conviction by the Court renders dismissible the criminal cases against him. Article 89 (1) of the Revised Penal Code provides that criminal liability is **totally extinguished** by the death of the accused, to wit:

Article 89. *How criminal liability is totally extinguished.* – Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;

x x x x

In *People v. Culas*,⁷ the Court thoroughly explained the effects of the death of an accused pending appeal on his liabilities, as follows:

From this lengthy disquisition, we summarize our ruling herein:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability[,] as well as the civil liability[,] based solely thereon. As opined by Justice Regalado, in this regard, "the death of the accused prior to final judgment terminates his criminal liability and only the civil liability directly arising from and based solely on the offense committed, *i.e.*, civil liability *ex delicto* in *sensu strictiore*."

³ Id. at 47.

⁴ Dated February 13, 2019. Id. at 49-57.

⁵ Id. at 60. Signed by Chief of Inmate Documents and Processing Division C/Supt. Marites D. Luceño.

⁶ Id. at 61. Signed by Medical Officer III Benevito A. Fontanilla, M.D.

⁷ G.R. No. 211166, June 5, 2017, 825 SCRA 552.

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2. Corollarily, the claim for civil liability survives notwithstanding the death of accused, if the same may also be predicated on a source of obligation other than delict. Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission:

- a) Law
- b) Contracts
- c) Quasi-contracts
- d) x x x
- e) Quasi-delicts

3. Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule 111 of the 1985 Rules on Criminal Procedure[,] as amended. This separate civil action may be enforced either against the executor/administrator or the estate of the accused, depending on the source of obligation upon which the same is based as explained above.

4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.⁸


Thus, upon Gallardo's death prior to his final conviction, the criminal actions against him are extinguished inasmuch as there is no longer a defendant to stand as the accused; the civil actions instituted therein for the recovery of the civil liability *ex delicto* are *ipso facto* extinguished, grounded as they are on the criminal actions. However, it is well to clarify that Gallardo's civil liability in connection with his acts against the victim may be based on sources other than delicts; in which case, the victim may file a separate civil action against Gallardo's estate, as may be warranted by law and procedural rules.⁹

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the Court's Resolution dated November 19, 2018 in connection with this case; (b) **DISMISS** Criminal Case Nos. 10-0420, 10-0421, and 10-0422 before the Regional Trial Court of Las Piñas City, Branch 254 by reason of the death of accused-appellant Edgar Gallardo y Barrios; and (c) **DECLARE** this case **CLOSED** and **TERMINATED**. No costs.


⁸ Id. at 554-555, citing *People v. Layag*, 797 Phil. 386, 390-391 (2016).

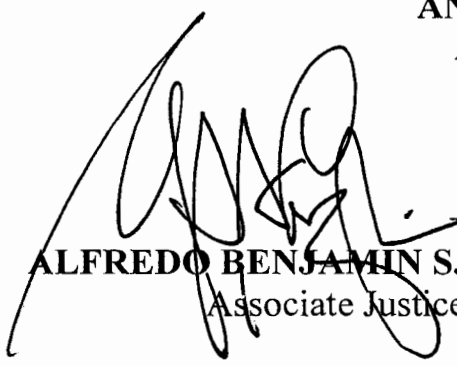
⁹ See id. at 556; citations omitted.

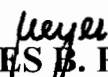
SO ORDERED.

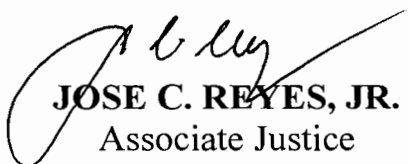

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Acting Chief Justice
Chairperson

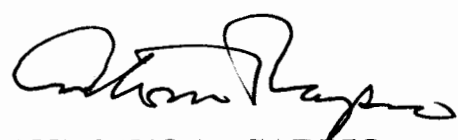

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice



JOSE C. REYES, JR.
Associate Justice

CERTIFICATION

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


ANTONIO T. CARPIO
Acting Chief Justice
(Per Section 12, Republic Act No. 296,
The Judiciary Act of 1948, as amended)

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MARIA LOURDES C. PERFECTO
Division Clerk of Court
Second Division