



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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**RE: INVESTIGATION REPORT
 ON THE ALLEGED
 EXTORTION ACTIVITIES OF
 PRESIDING JUDGE
 GODOFREDO B. ABUL, JR.,
 BRANCH 4, REGIONAL TRIAL
 COURT, BUTUAN CITY,
 AGUSAN DEL NORTE**

A.M. No. RTJ-17-2486
 [Formerly A.M. No. 17-02-45-RTC]

Present:

PERALTA, *C.J.*,
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 GESMUNDO,
 REYES, JR.,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ,
 DELOS SANTOS,
 GAERLAN, and
 BALTAZAR-PADILLA, ** JJ.*

Promulgated:

September 8, 2020

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RESOLUTION

HERNANDO, J.:

In this Motion for Reconsideration, the Court is presented with the opportunity to revisit and re-assess from another perspective its earlier pronouncements that the death of a respondent in an administrative case,

* On leave.

which is a form of cessation from public service, pending its final resolution, does not automatically cause the dismissal of the proceeding.

In the assailed September 3, 2019 Decision, the Majority declared that:

Death of the respondent judge during the pendency of his administrative case shall not terminate the proceedings against him, much less absolve him, or cause the dismissal of the complaint if the investigation was completed prior to his demise. If death intervenes before he has been dismissed from service, the appropriate penalty is forfeiture of all retirement and other benefits, except accrued leaves.¹

To recap, a complaint was filed against Judge Abul, then Presiding Judge of Branch 4, Regional Trial Court of Butuan City, Agusan Del Norte, alleging that he extorted large amounts of money ranging from ₱200,000.00 to ₱300,000.00 from the detainees of the Provincial Jail of Agusan in exchange for their release from prison or the dismissal of their criminal cases. The Office of the Court Administrator (OCA) conducted an investigation after it received a letter from Rev. Father Antoni A. Sanial exposing Judge Abul's alleged illegal activities. During its investigation, the OCA confirmed that Judge Abul indeed engaged in extortion activities, a grave misconduct constituting a violation of the Code of Judicial Conduct, and recommended that Judge Abul be fined the amount of ₱500,000.00 to be deducted from his retirement gratuity.²

However, while the administrative case was pending review by this Court, Judge Abul met an untimely death³ when he was targeted by an unidentified motorcycle-riding shooter while he was about to depart from his house. Fortunately, his spouse survived the ambush, although she also sustained gunshot wounds.⁴

In a *Per Curiam* Decision⁵ dated September 3, 2019, the Court, by a Majority vote,⁶ found sufficient grounds to hold Judge Abul administratively liable for Misconduct. Significantly, the Majority found that notwithstanding

¹ *Rollo*, p. 137.

² *Id.* at 104-119.

³ Died on August 5, 2017 by multiple gunshot wounds at 68 years old; *id.* at 91, 95-97.

⁴ *Rollo*, pp. 95-96.

⁵ *Id.* at 137-147.

⁶ Chief Justice Lucas P. Bersamin, Associate Justices Antonio T. Carpio, Diosdado M. Peralta (now Chief Justice), Estela M. Perlas-Bernabe, Francis H. Jardeleza, Jose C. Reyes, Jr., Rosmari D. Carandang, and Henri Jean Paul B. Inting voted with the majority. The Dissent of Associate Justice Ramon Paul L. Hernando was joined by Associate Justices Alfredo Benjamin S. Caguioa, Andres B. Reyes, Jr., Alexander G. Gesmundo, Amy C. Lazaro-Javier, and Rodil V. Zalameda. Associate Justice Marvic M.V.F. Leonen wrote a strong Separate Opinion.

Judge Abul's death before the resolution of his administrative case, the complaint against him should not be dismissed considering that he was fully afforded due process during the investigation stage and that the Court's jurisdiction over the case survives his death. The Court emphasized that grave misconduct is a serious offense punishable with dismissal from the service, forfeiture of all or part of the benefits, and perpetual disqualification from reappointment or appointment to any public office, including government-owned and controlled corporations, except accrued leave credits. Yet, in view of Judge Abul's passing, the Majority deemed it proper to impose the accessory penalty of forfeiture of all retirement and allied benefits, except accrued leaves, upon him.⁷

The Court is now poised to resolve the Motion for Reconsideration⁸ filed by the aggrieved surviving spouse of Judge Abul, Bernadita C. Abul (Bernadita),⁹ on the aspect of survivorship benefits and given the fact that Judge Abul "is no longer in the position to assail the findings of the *majority*, finding him GUILTY of Gross Misconduct, and imposing on him the penalty of FORFEITURE of all his benefits including retirement gratuity, to plead his innocence or to express his remorse[.]"¹⁰

After much deliberation and careful consideration, the Court resolve to grant the Motion for Reconsideration. To be sure, this resolution is berthed on strong grounds and constitutional precepts, particularly on the individual's rights to presumption of innocence and due process.

It is well to point out at this juncture that in criminal cases, the rule is that the death of an accused after conviction but during the pendency of his/her appeal shall result in the dismissal of the criminal case. This dismissal is triggered by the presumption of innocence accorded every accused as well as by his/her right to due process under the Constitution. As the said principles are instrumental to criminal as well as to civil cases, these should likewise be applied to administrative proceedings such as the one at bench. "[S]ince death of an accused extinguishes personal criminal liability as well as pecuniary penalties arising from the felony when the death occurs before final judgment in criminal cases, the standard for an administrative case should be similar or less punitive[.]"¹¹ "If this is the standard for criminal cases wherein the quantum [of proof] is beyond reasonable doubt, then a lower standard for

⁷ *Rollo*, pp. 145-146.

⁸ *Id.* at 186-194.

⁹ *Id.* at 186-189.

¹⁰ *Id.* at 186.

¹¹ See Dissenting Opinion of J. Hernando, p. 3; *id.* at 170.

administrative proceedings such as the case at bar should be followed, even if the quantum of proof therein is substantial evidence.”¹²

Thus, the Court so now holds that the death of a respondent in an administrative case before its final resolution is a cause for its dismissal. Otherwise stated, the non-dismissal of a pending administrative case in view of the death of the respondent public servant is a transgression of his or her Constitutional rights to due process and presumption of innocence. Simply put, upon the death of the respondent public servant awaiting final judgment, the dismissal of the administrative case against him/her should necessarily follow.

We explain the reasons for reversing Our previous ruling.

The bundle of precedents had relied on public policy, that is, public office is public trust. Thus, in administrative cases, the death of a respondent public official during its pendency is not a cause for its dismissal except in the following instances: a) the respondent was denied due process; b) there are attendant exceptional circumstances which would merit equitable and humanitarian consideration; and c) depending on the kind of penalty imposed.¹³

However, if viewed from the Constitutional lens, particularly that the respondent in the administrative case, similar to the accused in criminal cases, likewise enjoys the rights to presumption of innocence and due process, the Court now deems the dismissal of the instant administrative case proper based on the following grounds: (1) pending final judgment in the administrative case, the respondent enjoys the right to be presumed innocent; (2) the rule in criminal cases that death of an accused extinguishes personal criminal liability as well as pecuniary penalties arising from the felony when the death occurs before final judgment should likewise be applied in administrative cases; (3) the essence of due process necessitates the dismissal of the administrative case; and (4) humanitarian reasons also call for the grant of death and survivorship benefits in favor of the heirs.

The First Ground: Presumption of Innocence

Article 3, Section 14 of the 1987 Constitution provides that “in all criminal prosecutions, the accused shall be presumed innocent until the

¹² Id. at 4; id. at 171.

¹³ *Gonzales v. Escalona*, 587 Phil. 448, 465 (2008).

contrary is proved x x x"¹⁴ Certainly, until an accused is finally adjudged guilty by proof beyond reasonable doubt, there is a presumption of his/her innocence. Thus, considering that only substantial evidence¹⁵ is required in administrative cases, a respondent therein should likewise be presumed innocent if his/her death preceded the finality of a judgment, as in the case of Judge Abul who can no longer submit additional evidence to support his position due to his passing. The presumption of innocence in his favor should stand precisely because his death preceded the promulgation of final judgment.

The Second Ground: Extinguishment of Liability Upon Death

With regard to the extinguishment of criminal liability, Article 89 (1) of the Revised Penal Code states:

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; xxx¹⁶

Based on the aforementioned provision, the death of the accused extinguishes his/her personal criminal liability. Additionally, the pecuniary penalties of the accused will only be extinguished if he/she dies before final judgment is rendered. If the standard for criminal cases wherein the quantum of proof is proof beyond reasonable doubt, then a lower standard for administrative proceedings such as the case at bench should be applied, since the quantum of proof therein is only substantial evidence.¹⁷

Although the Court previously pronounced in *Gonzales v. Escalona*¹⁸ that an administrative case, which is not strictly personal in nature, is not automatically dismissible upon the death of the respondent because public office is public trust, this public policy should not override the presumption of innocence of an accused. It is illogical to consider that mere public policy can defeat one's constitutionally enshrined substantive right to be presumed innocent, as mentioned earlier. If death extinguishes the criminal and civil

¹⁴ 1987 CONSTITUTION, Article 3, §14.

¹⁵ RULES OF COURT, Rule 133, § 5.

¹⁶ REVISED PENAL CODE, Article 89(1).

¹⁷ That amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion; *Office of the Court Administrator v. Yu*, 807 Phil. 277, 293 (2017).

¹⁸ *Supra* note 3.

liabilities arising from criminal cases, then why should more rigid measures or penalties be imposed in mere administrative cases?

A revisit of jurisprudence is necessary to demonstrate the Court's rationale in resolving an administrative case despite the death or retirement (another form of cessation from public service) of the respondent before the release of final judgment.

In *Kaw v. Judge Osorio*,¹⁹ the Court held that as it was not substantially proven, the respondent judge may not be held liable for extortion and graft and corruption. Regardless, he was found accountable for violating Canons 2 and 5 of the Code of Judicial Conduct. The Court ordered that a ₱40,000.00 fine should be deducted from his retirement benefits instead since he mandatorily retired before the penalty of dismissal or suspension could be imposed upon him.

In *Re: Evaluation of Administrative Liability of Judge Lubao*,²⁰ Judge Lubao was only imposed a fine by reason of his retirement despite having committed several serious, less serious, and light offenses²¹ while he was still in service which would have merited the penalty of dismissal and forfeiture of all his benefits.

In *Re: Financial Audit on the Accountabilities of Restituto Tabucon, Jr.*,²² Tabucon failed to remit some Judiciary Development Fund collections because he used the money to sustain his family's needs. He eventually restituted the said amounts after he obtained a loan from a friend. The Court ruled that his infraction constituted gross dishonesty, if not malversation. However, because dismissal from the service is no longer possible due to Tabucon's compulsory retirement, the Court held that forfeiture of all his retirement and other benefits may be too harsh under the circumstances. Since he restituted his shortages, a ₱10,000.00 fine was imposed upon Tabucon instead.

In *Liwanag v. Lustre*,²³ the Court found substantial evidence showing that the respondent judge committed gross misconduct when he sexually molested the complainant. While the OCA recommended his dismissal from the service and forfeiture of all his retirement benefits, the Court modified the penalty by

¹⁹ 469 Phil. 896 (2004).

²⁰ 785 Phil. 14 (2016).

²¹ Judge Lubao was found guilty of the following offenses: gross misconduct; violation of Supreme Court rules, directives and circulars; undue delay in rendering a decision or order; and undue delay in the submission of monthly reports.

²² 504 Phil. 512 (2005).

²³ 365 Phil. 496 (1999).

imposing instead a fine because he already retired. It further stated that the OCA's recommendation to forfeit all of the judge's retirement benefits, "while directed at respondent, might adversely affect innocent members of his family, who are dependent on him and his retirement gratuity."²⁴ Hence, the Court deemed it best to impose a fine in the amount of ₱40,000.00.

In *Geocadin v. Peña*,²⁵ Judge Peña was adjudged guilty of grave misconduct. Since he was afflicted with serious illnesses, he failed to present his evidence during the investigation. The Court noted that there is a presumption of innocence in his favor and that due to his condition, he deserved compassion and humanitarian consideration. Withal, the Court imposed a penalty of reprimand and forfeiture of three months' worth of salary to be deducted from his retirement benefits.

In *Re: Judicial Audit Conducted in Regional Trial Court, Branch 1, Bangued, Abra*,²⁶ although Judge Villarta failed to properly perform his duties as revealed during the judicial audit which the OCA confirmed, he was not able to explain his inaction in the cases assigned to him due to his death. Thus, the Court directed the release of his previously withheld retirement benefits to his heirs.

In *Agarao v. Parentela, Jr.*,²⁷ Judge Parentela was found guilty of immorality, a serious offense penalized with dismissal from the service and forfeiture of all or part of the benefits as the Court may determine. Since the respondent judge passed away before a decision on his case could be rendered, the Court ordered the forfeiture of one half of all of his retirement benefits excluding his accrued leave credits.

In *Loyao, Jr. v. Caube and Quisadio*,²⁸ the Court pronounced that notwithstanding its jurisdiction over respondent Caube and the finding that he committed malfeasance, his death precluded the imposition of dismissal from the service upon him. Given that he can no longer serve the said penalty, the Court declared the case as closed and terminated.

In *Limliman v. Judge Ulat-Marrero*,²⁹ the respondent judge was charged with grave misconduct and conduct unbecoming of a judge. Pending a formal investigation, the magistrate passed away. The Court dismissed the

²⁴ Id. at 510.

²⁵ 195 Phil. 344 (1981).

²⁶ 388 Phil. 60 (2000).

²⁷ 421 Phil. 677 (2001).

²⁸ 450 Phil. 38 (2003).

²⁹ 443 Phil. 732 (2003).

administrative case as the judge's death barred the continuance of the investigation, wherein factual issues needed to be resolved which necessitated a formal inquiry and reception of evidence.

In *Sexton v. Casida*,³⁰ "the respondent, who in the meantime died, was found guilty of act unbecoming a public official and acts prejudicial to the best interest of the service, and fined [the amount of] ₱5,000.00, deductible from his terminal leave pay."

In *Re: Judicial Audit Conducted in the Municipal Trial Court of Tambulig and the 11th Municipal Circuit Trial Court of Mahayag-Dumingag-Josefina, both in Zambaonga del Sur*,³¹ the Court found respondent Judge Salvanera guilty of gross inefficiency, gross ignorance of the law, and violations of pertinent administrative circulars of the Court. However, the Court dismissed the case in view of his death and even released his full retirement benefits to his heirs.

In *San Buenaventura v. Migriño*,³² the respondent was found guilty of simple neglect of duty. The Executive Judge who investigated the case recommended the imposition of a fine equivalent to two months' worth of salary. The OCA modified the penalty to a fine equivalent to one-month salary for humanitarian consideration and by reason of the death of the respondent. Upon final determination, the Court adopted the recommendation of the OCA to just impose a fine.

Finally, in *Bayaca v. Ramos*,³³ the Court, although it could have imposed a fine upon Judge Ramos for being negligent in his duties, nonetheless dismissed the administrative case in view of his death before the promulgation of the decision. Furthermore, the Court noted the pronouncements in the following cases:

In *Baikong Akang Camsa vs. Judge Aurelio Rendon*,³⁴ this Court, citing previous cases, discussed the different implications and effects of the death of a respondent while an administrative complaint is still pending with the Court, viz.:

³⁰ 508 Phil. 166 (2005).

³¹ 509 Phil. 401 (2005).

³² 725 Phil. 151 (2014).

³³ 597 Phil. 86 (2009).

³⁴ 427 Phil. 518 (2002).

In *Hermosa vs. Paraiso*,³⁵ the respondent, a branch clerk of court of the then Court of First Instance of Masbate, was charged with irregularities while in office. The matter was referred to an Investigating Judge considering that there were persons mentioned in the complaint who had been questioned. The Investigating Judge, in his report of 18 August 1973, recommended that the respondent be exonerated of the charges for lack of sufficient evidence. On 01 August 1974, while the case was pending before the Court, the respondent died. The Court, nevertheless, resolved the case so that the respondent's heirs might not be deprived of any retirement benefits due to them and ordered the dismissal of the case for lack of substantial evidence.

In *Mañozca vs. Judge Domagas*,³⁶ the respondent judge, who was charged with gross ignorance of the law for having erroneously granted a demurrer to evidence, died while the case was being evaluated by the OCA for appropriate action. The Court, on the basis of what appeared on record, no factual matter being in serious dispute that would require a formal investigation, resolved to impose a fine of P5,000.00 on the respondent judge, stressing that he had been previously sanctioned by the Court for gross ignorance of the law.

In *Apiag vs. Judge Cantero*,³⁷ the respondent judge was charged with gross misconduct for allegedly having committed bigamy and falsification of public documents. The case was referred to the Executive Judge of the Regional Trial Court of Toledo City for investigation, report and recommendation. An investigation was imperative considering that factual issues, including the circumstances of the respondent's first marriage to the complainant, were inextricably involved. Upon receipt of the report of the Investigating Judge, who recommended that the respondent judge be suspended for one (1) year without pay, the Court referred the matter to OCA for evaluation, report and recommendation. The OCA, in its memorandum, recommended that the respondent judge be dismissed from the service. The respondent judge died while the case was still being deliberated upon by the Court. The Court there held –

However, we also cannot just gloss over the fact that he was remiss in attending to the needs of his children of his first marriage – children whose filiation he did not deny. He neglected them and refused to support them until they came up with this administrative charge. For such conduct, this Court would have imposed a penalty. But in view of his death

³⁵ 159 Phil. 417 (1975).

³⁶ 318 Phil. 744 (1995).

³⁷ 335 Phil. 511 (1997).

prior to the promulgation of this Decision, dismissal of the case is now in order.³⁸

Considering these cases, it is undeniable that in spite of the death or retirement of the respondents while their administrative cases were pending, only the penalty of fine or deduction from their benefits was eventually imposed upon them. More importantly, some complaints were actually dismissed in view of the respondents' deaths. Furthermore, the respondents' retirement or death/survivorship benefits were not at all automatically forfeited. Evidently, the Court exercised its sound discretion in the imposition of penalties based on the prevailing circumstantial landscape.

The Third Ground: Due Process

The instant administrative complaint against the late Judge Abul should be dismissed in view of the Constitutional principle of due process, which is one of the recognized exceptions to the general rule that the death of the respondent does not preclude a finding of administrative liability.³⁹ To reiterate, *Gonzales v. Escalona*⁴⁰ states that the exceptions are: "*first*, the observance of respondent's right to due process;⁴¹ *second*, the presence of exceptional circumstances in the case on the grounds of equitable and humanitarian reasons;⁴² and *third*, it may also depend on the kind of penalty imposed."⁴³

If We were to sustain Our earlier ruling to forfeit all of his retirement benefits, Judge Abul can no longer file any motion or pleading to question the ruling because of his death. Likewise, he can no longer exercise his right to due process, nor can he exhaust other possible remedies available to him. Similarly, he cannot ask for clemency in the future, an option which other respondents who did not meet the same fate can take advantage of if the circumstances permit. In other words, had death not supervened, Judge Abul could have exerted efforts to protect his rights in keeping with the principle of due process. Thus, it is only right to dismiss the administrative case against

³⁸ *Bayaca v. Ramos*, supra note 33 at 99-101. Citations omitted.

³⁹ *Gonzales v. Escalona*, supra note 13, citing *Loyao, Jr. v. Caube*, 450 Phil. 38 (2003).

⁴⁰ Supra note 13.

⁴¹ *Gonzales v. Escalona*, supra note 13, citing *Limliman v. Judge Ulat-Marrero*, supra note 42, which cited *Camsa v. Judge Rendon*, 427 Phil. 518 (2002) and *Apiag v. Judge Cantero*, 335 Phil. 511 (1997).

⁴² *Gonzales v. Escalona*, supra note 13, citing *Limliman v. Judge Ulat-Marrero*, supra note 41 which cited *Judicial Audit Report, Branches 21, 32 & 36, et. al.*, 397 Phil. 476 (2000) and *Hermosa v. Paraiso*, 159 Phil. 417 (1975).

⁴³ *Gonzales v. Escalona*, supra note 13, citing *Limliman v. Judge Ulat-Marrero*, supra note 41. which cited *Report on the Judicial Audit Conducted in RTC, Br. 1, Bangued, Abra*, 388 Phil. 60 (2000); *Apiag v. Judge Cantero*, 335 Phil. 511 (1997), *Mañozca v. Judge Domagas*, 318 Phil. 744 (1995); and *Loyao, Jr. v. Caube*, 450 Phil. 38 (2003).

him, particularly since the spirit of due process encompasses all stages of the case, that is, from the investigation phase until the finality of the decision. In other words, a respondent public officer should be given the opportunity to be heard throughout the whole proceedings. Indeed, “[t]he essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side, or an opportunity to seek a reconsideration of the action or ruling complained of.”⁴⁴

Besides, the Constitution did not limit or qualify as to what kind of case, whether criminal, civil or administrative, should the principle of due process be applied to. To further assume an already deceased respondent to “participate” in the administrative proceedings would be absurd, precisely because he/she already lost the opportunity to be heard. Hence, to continue adjudicating his/her case amidst his/her death would be a denial of due process.

The Fourth Ground: Humanitarian Reasons

The other exception is the presence of exceptional circumstances on the ground of equitable and humanitarian reasons. Based on this ground, the instant administrative case should be dismissed and death and survivorship benefits should be released to Judge Abul’s heirs, as his passing preceded the rendition of a judgment on his administrative case.

Relevantly, Judge Abul’s wife, Bernadita, wrote the Court a letter dated September 13, 2017.⁴⁵ She asserted that she is a housemaker with no other source of income and that ever since Judge Abul’s preventive suspension from office, their family suffered financial difficulties. She then requested the release of the amount pertaining to Judge Abul’s accrued leave benefits and other assistance which could be extended to them in order to help their family meet their daily needs and to fund her son’s education in medical school.

It should also be noted that Bernadita’s letter dated September 13, 2017 informing the Court of Judge Abul’s death preceded the submission of the OCA’s Report and Recommendation on February 20, 2018 and the promulgation of the *Per Curiam* Decision on September 3, 2019. Apart from this, it is an undeniable fact that Judge Abul was murdered mere days after he turned 68 years old.⁴⁶ He would have already reached the compulsory age of

⁴⁴ *Ledesma v. Court of Appeals*, 565 Phil. 731 (2007) citing *Libres v. National Labor Relations Commission*, 367 Phil. 181 (1999).

⁴⁵ *Rollo*, p. 91.

⁴⁶ Judge Abul’s date of birth is on August 1, 1949.

retirement for judges,⁴⁷ specifically seventy (70) years old, **prior** to the release of the September 3, 2019 *Per Curiam* Decision, if not for his untimely demise.

To emphasize, Judge Abul's mistakes should not unduly punish his heirs, especially if they had no part in or knowledge about the alleged extortions. Judge Abul's liability should be considered personal and extinguished upon his death. Similarly, it should not extend beyond his death, and its effects should not be suffered by his heirs, for to do so would indirectly impose a harsh penalty upon innocent individuals. These same individuals already have to accept the sudden death of a loved one, the breadwinner at that. Such is already more than enough for any family to bear. The non-dismissal of Judge Abul's administrative case and forfeiture of all of his death and survivorship benefits would just unnecessarily add to the grief of his bereaved family. Thus, the Court, faced with this opportunity to reconsider its prior ruling, should finally dismiss the instant complaint considering the aforementioned grounds.

In connection with this, pertinent to the death of a member of the Judiciary while still in actual service, Sections 2 to 3-A of Republic Act (RA) No. 9946⁴⁸ state that:

'SEC. 2. In case a Justice of the Supreme Court or Court of Appeals, the Sandiganbayan or of the Court of Tax Appeals, or a Judge of the regional trial court, metropolitan trial court, municipal trial court in cities, municipal trial court, municipal circuit trial court, shari'a district court, shari'a circuit court, or any other court hereafter established, dies while in actual service, regardless of his/her age and length of service as required under Section 1 hereof, his/her heirs shall receive a lump sum of five (5) years' gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, representation and other allowances such as personal economic relief allowance (PERA) and additional compensation allowance received by him/her as such Justice or Judge: *Provided, however*, That where the deceased Justice or Judge has rendered at least fifteen (15) years either in the Judiciary or in any other branch of Government, or both, his/her heirs shall instead be entitled to a lump sum of ten (10) years gratuity computed on the same basis as indicated in this provision: *Provided, further*, That the lump sum of ten (10) years gratuity shall be received by the heirs of the Justice or the Judge who was killed because of his/her work as such: *Provided*, That the Justice or Judge has served in Government for at least five (5) years regardless of age at the time of death. When

⁴⁷ Republic Act No. 9946, An Act Granting Additional Retirement, Survivorship, and Other Benefits to Members of the Judiciary, Amending For the Purpose Republic Act No. 910, As Amended, Providing Funds Therefor and For Other Purposes (2009).

⁴⁸ Id.

a Justice or Judge is killed intentionally while in service, the presumption is that the death is work-related.

SEC. 3. Upon retirement, a Justice of the Supreme Court or of the Court of Appeals, the Sandiganbayan or of the Court of Tax Appeals, or a Judge of the regional trial court, metropolitan trial court, municipal trial court in cities, municipal trial court, municipal circuit trial court, shari'a district court, shari'a circuit court, or any other court hereafter established shall be automatically entitled to a lump sum of five (5) years' gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, representation and other allowances such as personal economic relief allowance (PERA) and additional compensation allowance he/she was receiving on the date of his/her retirement and thereafter upon survival after the expiration of five (5) years, to further annuity payable monthly during the residue of his/her natural life pursuant to Section 1 hereof: *Provided, however,* That if the reason for the retirement be any permanent disability contracted during his/her incumbency in office and prior to the date of retirement, he/she shall receive a gratuity equivalent to ten (10) years' salary and the allowances aforementioned: *Provided, further,* That should the retirement under Section 1(1) hereof be with the attendance of any partial permanent disability contracted during his/her incumbency and prior to the date of retirement, he/she shall receive an additional gratuity equivalent to two (2) years lump sum that he/she is entitled to under this Act; *Provided, furthermore,* That if he/she survives after ten (10) years or seven (7) years, as the case may be, he/she shall continue to receive a monthly annuity as computed under this Act during the residue of his/her natural life pursuant to Section 1 hereof: *Provided, finally,* That those who have retired with the attendance of any partial permanent disability five (5) years prior to the effectivity of this Act shall be entitled to the same benefits provided herein.

Upon the death of a Justice or Judge of any court in the Judiciary, if such Justice or Judge has retired, or was eligible to retire optionally at the time of death, the surviving legitimate spouse shall be entitled to receive all the retirement benefits that the deceased Justice or Judge would have received had the Justice or Judge not died. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage.'

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'SEC. 3 – A. All pension benefits of retired members of the Judiciary shall be automatically increased whenever there is an increase in the salary of the same position from which he/she retired.'

According to A.M. No. 17-08-01-SC, in case of permanent disability due to death while in actual service, a judge is entitled to the following benefits:

B. 1 Where government service is at least 15 years, regardless of age

-
- (1) Lump sum gratuity of 10 years, to be received by the heirs (*Section 2*)⁴⁹
 - (2) Full survivorship pension benefits (*Section 1*),⁵⁰ to be received by the surviving legitimate spouse upon survival of the gratuity period of 10 years (*Section 3, first paragraph*);⁵¹
 - (3) Automatic increase of pension benefits (*Section 3-A*).⁵²

Provided, The same benefits shall apply in respect to a justice or judge, who, with at least 5 years of government service, was killed due to his/her work as such.

B. 2 Where government service is less than 15 years, regardless of age —

- (1) Lump sum gratuity of 5 years, to be received by the heirs (*Section 2*)⁵³
- (2) Pro-rated pension benefits (*Section 1*),⁵⁴ to be received by the surviving legitimate spouse upon survival of the gratuity period of 10 years (*Section 3, first paragraph*);⁵⁵
- (3) Automatic increase of pension benefits (*Section 3-A*).⁵⁶

XXX

XXX

XXX

E. Survivorship Pension Benefits

The legitimate surviving spouse of a Justice or Judge who (1) has retired or was eligible to retire optionally at the time of death, and (2) was receiving or would have been entitled to receive a monthly pension, shall be entitled to receive the said benefits that the deceased Justice or Judge would have received had the Justice or Judge not died, ***Provided, That the justice or judge who, regardless of age, died or was killed while in actual service shall be considered as retired due to permanent disability. Provided, further, That the survivorship benefit shall be pro-rated if the deceased justice or judge had rendered government service for***

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

less than 15 years. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage.⁵⁷

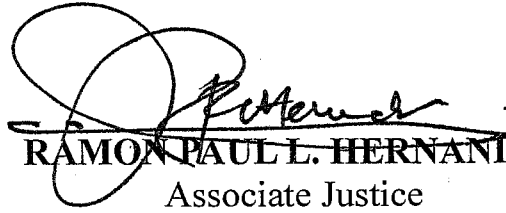
Based on the foregoing, Judge Abul's heirs should be given death benefits granted under Section 2 of RA No. 9946. If Judge Abul served for at least 15 years, his heirs should receive a lump sum equivalent to ten (10) years. Alternatively, if he served for less than 15 years, the lump sum should be equivalent to five (5) years. Subsequently, after the gratuity period of ten (10) years has passed, his heirs are entitled to survivorship benefits, specifically, full monthly pension (if Judge Abul rendered at least 15 years of service) or pro-rated monthly pension (if he served for less than 15 years).

To recapitulate, these are the salient points for the dismissal of the case at bench: 1) because of Judge Abul's death, the administrative complaint against him should be dismissed in accordance with the Constitutional principles of due process and presumption of innocence; and 2) taking into account the instant Motion for Reconsideration, Judge Abul's heirs should be granted the death benefits and survivorship pension benefits due to his death while in actual service. This is considering that prior to his demise, no definite ruling was rendered and no corresponding penalty was imposed upon him. Equally important is the Court's belief in equitable and humanitarian considerations, especially when the case involves an inevitable occurrence like death.

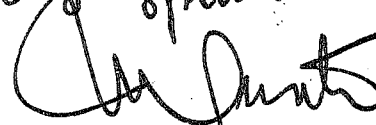
WHEREFORE, the Motion for Reconsideration is hereby **GRANTED**. The September 3, 2019 Decision is **REVERSED** and **SET ASIDE**. The instant administrative complaint against the late Judge Godofredo B. Abul, Jr. is **DISMISSED**. Accordingly, the corresponding death and survivorship benefits are ordered to be **RELEASED** to the heirs of the late Judge Godofredo B. Abul, Jr.

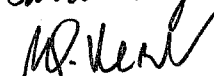
⁵⁷ A.M. No. 17-08-01-SC, Re: Requests for Survivorship Pension Benefits of Spouses of Justices and Judges Who Died Prior to the Effectivity of Republic Act No. 9946, September 19, 2017.


SO ORDERED.

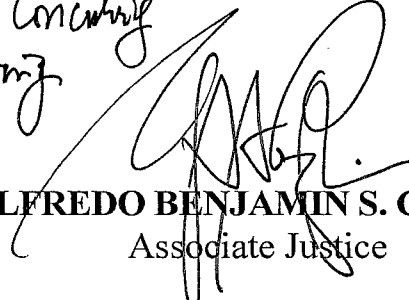

RAMON PAUL L. HERNANDO
Associate Justice

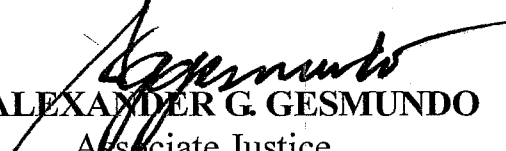
WE CONCUR:

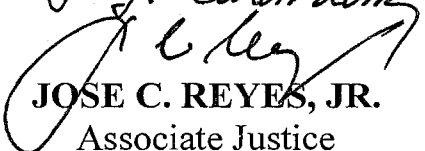
*I join the dissenting
opinion of Carandang*

DIOSDADO M. PERALTA
Chief Justice


*I join the dissent of
J. Carandang*

ESTELA M. PERLAS-BERNABE
Associate Justice

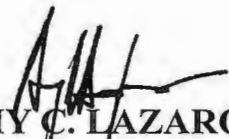
I concur. See separate opinion

MARVIC M.V.F. LEONEN
Associate Justice


*Please See Concurring
& Dissenting*

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

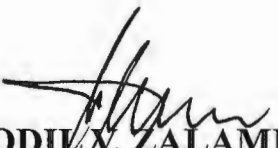
Agreement

ALEXANDER G. GESMUNDO
Associate Justice


*I join the dissent of
J. Carandang*

JOSE C. REYES, JR.
Associate Justice


*Please see my
dissenting opinion*

ROSMARID D. CARANDANG
Associate Justice

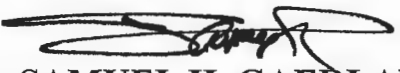

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

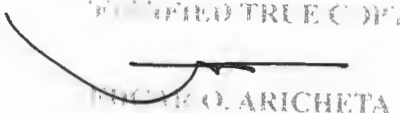

RODIL N. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

On leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice


FRANCISCO O. ARICHETA
Justice of the Court En Banc
Supreme Court