



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PERLITA RODRIGUEZ,\*  
Petitioner,

G.R. No. 226859

Present:

- versus -

GESMUNDO, C.J., Chairperson,  
HERNANDO, \*\*  
ZALAMEDA,  
ROSARIO, and  
MARQUEZ, JJ.

LAURA ELORDE,\*\*\*  
Respondent.

Promulgated:

NOV 04 2024  
*metabulo*

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DECISION

ROSARIO, J.:

Before us is a Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner Perlita Rodriguez (Rodriguez) challenging the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals (CA), which dismissed the Petition for *Certiorari* with Prayer for Temporary Restraining Order and/or Writ of Preliminary

\* Also referred to as “Perlita R. Rodriguez” in some parts of the *rollo*.

\*\* On official business.

\*\*\* Also referred to as “Laura S. Elorde” in some parts of the *rollo*.

<sup>1</sup> *Rollo*, pp. 12–41.

<sup>2</sup> *Id.* at 43–52. The April 6, 2015 Decision in CA-G.R. SP No. 144846 was penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Japar B. Dimaampao (now a member of this Court) and Franchito N. Diamante of the Eighth Division, Court of Appeals, Manila.

<sup>3</sup> *Id.* at 78–79. The August 26, 2016 Resolution in CA-G.R. SP No. 144846 was penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Japar B. Dimaampao (now a member of this Court) and Franchito N. Diamante of the Eighth Division, Court of Appeals, Manila.

Injunction<sup>4</sup> filed by Rodriguez, challenging the Orders<sup>5</sup> of the Regional Trial Court (RTC).

*The Antecedents*

The case stemmed from an Information<sup>6</sup> dated August 5, 2015 for estafa under Article 315, paragraph 2(a) of the Revised Penal Code, filed by Senior Assistant City Prosecutor Sheilani L. Baes against Rodriguez, which was docketed as Criminal Case No. 15-1124 and raffled to RTC Branch 257, Parañaque City, presided by Hon. Rolando G. How (Judge How).<sup>7</sup> The accusatory portion of the Information reads, as follows:

That sometime beginning the year 1961, and subsequent thereto until the year 2009, in the City of Parañaque, Philippines, and within the jurisdiction of this Honorable Court, the above-named [Rodriguez], by means of false pretenses, deceits, and fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then and there willfully, unlawfully, and feloniously defraud complainant LAURA ELORDE [Elorde], in the following manner, to wit: [Rodriguez] obtained numerous loans from the complainant, used as collateral a parcel of land located at Barangay San Antonio, Parañaque City under TCT No. 95635 (88062), with accused representing herself to be the owner thereof then later obtained more loans, the payment of which was the above-described property itself, with [Elorde] relying on such misrepresentation, [Rodriguez] did then and there willfully, unlawfully and feloniously collected [sic] and received [sic] the total amount of [PHP] 1,060,185.57 from [Elorde], but [Rodriguez] once in possession of said amount, misappropriated, misapplied and converted to her own personal use and benefit, and did not transfer the title to [Elorde's] name, and despite repeated demands [Rodriguez] failed to return the said amount or transfer the title to [Elorde's] name, to the damage and prejudice of the said [Elorde] in the aforementioned amount of [PHP] 1,060,185.57.

CONTRARY TO LAW.<sup>8</sup>

On September 16, 2015, Judge How issued an Order<sup>9</sup> dismissing Criminal Case No. 15-1124 for failure of the evidence on record to establish probable cause.<sup>10</sup>

<sup>4</sup> *Id.* at 193–221.

<sup>5</sup> *Id.* at 114–115, 191–192. The December 7, 2015 and February 18, 2016 Orders in Criminal Case No. 15-1124 were penned by Presiding Judge Brigido Artemon M. Luna II of Branch 196, Regional Trial Court, Parañaque City.

<sup>6</sup> *Id.* at 88–89.

<sup>7</sup> *Id.* at 44.

<sup>8</sup> *Id.* at 88–89.

<sup>9</sup> *Id.* at 90–91.

<sup>10</sup> *Id.* at 44.

On October 29, 2015, Elorde filed an Entry of Appearance with Motion for Reconsideration,<sup>11</sup> and on November 29, 2015, she filed a Motion to Inhibit<sup>12</sup> grounded on Rule 137, Section 1 of the Rules of Court.<sup>13</sup>

Thereafter, the criminal case was re-raffled to RTC Branch 196, Parañaque City, presided by Hon. Brigido Artemon M. Luna (Judge Luna).<sup>14</sup>

On December 7, 2015, Judge Luna issued an Order<sup>15</sup> granting Elorde's Motion for Reconsideration, ordered the continuation of litigation, and the issuance of a warrant of arrest against Rodriguez.<sup>16</sup>

Aggrieved, Rodriguez filed a Submission of Omnibus Motion: (1) For Reconsideration of the Order dated December 7, 2015 (2) To Quash Information dated August 5, 2015,<sup>17</sup> on the ground that the facts charged do not constitute an offense.<sup>18</sup>

In her Comment/Opposition<sup>19</sup> filed on January 18, 2016, Elorde maintained that:

1. The Information dated August 5, 2015 sufficiently alleged the elements of the offense charged;<sup>20</sup>
2. The actions of Rodriguez are within the ambit of Article 315, paragraph 2(a) of the Revised Penal Code;<sup>21</sup>
3. There is probable cause for the issuance of the Information dated August 5, 2015;<sup>22</sup> and
4. The grant of the Motion for Reconsideration was properly within the RTC's discretion.<sup>23</sup>

On February 18, 2016, RTC Branch 196 issued the Order<sup>24</sup> denying Rodriguez's Motion for Reconsideration/Motion to Quash.

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<sup>11</sup> *Id.* at 93–102.

<sup>12</sup> *Id.* at 103–113.

<sup>13</sup> *Id.* at 44.

<sup>14</sup> *Id.* at 44–45.

<sup>15</sup> *Id.* at 114–115.

<sup>16</sup> *Id.* at 115.

<sup>17</sup> *Id.* at 118–124.

<sup>18</sup> *Id.* at 46.

<sup>19</sup> *Id.* at 126–161.

<sup>20</sup> *Id.* at 128–133.

<sup>21</sup> *Id.* at 133–144.

<sup>22</sup> *Id.* at 145–152.

<sup>23</sup> *Id.* at 153–158.

<sup>24</sup> *Id.* at 191–192. The February 18, 2016 Order in Criminal Case No. 15-1124 was penned by Presiding Judge Brigido Artemon M. Luna II of Branch 196, Regional Trial Court, Parañaque City.

Aggrieved, Rodriguez filed a Petition for *Certiorari*<sup>25</sup> before the CA, alleging that RTC Branch 196 gravely abused its discretion when it found probable cause against her for estafa when the facts as stated in the Information do not constitute the crime as defined under Article 315, paragraph 2(a), of the Revised Penal Code. The RTC also gravely abused its discretion when it found probable cause against her for estafa under Article 315, paragraph 1(b), of the Revised Penal Code, since she did not receive the money from Elorde in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same. Lastly, the RTC gravely abused its discretion when it reconsidered/reversed the Order dated September 16, 2015 issued by Judge How when the records of the case clearly show that the Motion for Reconsideration filed by Elorde was filed beyond the reglementary period.<sup>26</sup>

In the assailed Decision, the CA dismissed the Petition for *Certiorari*. The CA ruled that the RTC did not commit any grave abuse of discretion as its denial of the motion to quash was consistent with existing rules and applicable jurisprudence.<sup>27</sup> Moreover, the remedy of Rodriguez was to proceed to trial and if a judgment of conviction is rendered, to appeal therefrom and raise the denial of the motion to quash not only as an error by the RTC but as an additional ground to overturn its ruling.<sup>28</sup> Furthermore, trial proper is a plain, adequate, and speedy remedy which Rodriguez should have availed of instead of resorting to a special civil action for *certiorari*.<sup>29</sup>

The dispositive portion of the CA Decision reads, as follows:

**WHEREFORE**, premises considered, the *Petition for Certiorari with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction* is **DISMISSED**. The challenged *Orders* of the Regional Trial Court of Paranaque City, Branch 196 dated December 7, 2015 and February 18, 2016 are **AFFIRMED**.

**SO ORDERED**.<sup>30</sup> (Emphasis in the original)

Rodriguez filed a Motion for Reconsideration<sup>31</sup> which was denied by the CA in the assailed Resolution.<sup>32</sup>

Hence, this Petition where petitioner argued that:

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<sup>25</sup> *Id.* at 193–220.

<sup>26</sup> *Id.* at 199–200.

<sup>27</sup> *Id.* at 51.

<sup>28</sup> *Id.* at 50.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 51–52.

<sup>31</sup> *Id.* at 53–61.

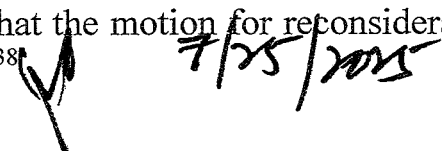
<sup>32</sup> *Id.* at 78–79.

First, the CA seriously erred when it upheld the reconsideration/reversal of the Order dated September 16, 2015 when the records of the instant case clearly show that the motion for reconsideration was filed by respondent beyond the reglementary period.

Second, the CA also seriously erred when it upheld Judge Luna's finding of probable cause for the crime of estafa when the facts as stated in the Information do not constitute the crime of estafa as defined under Article 315, paragraph 2(a), of the Revised Penal Code, since petitioner owned the real property in question.

Lastly, the CA seriously erred when it upheld Judge Luna's finding of probable cause for the crime of estafa under Article 315, paragraph 1(b) of the Revised Penal Code, since petitioner did not receive the money from respondent in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same.<sup>33</sup>

In a Comment/Opposition,<sup>34</sup> respondent countered that the Petition does not raise questions of law. The question sought by petitioner to be resolved is whether there was prior criminal intent at the time the contract was entered into as to constitute the elements of the crime of estafa. There could be no question of law at this instance as the facts of the case have yet to be presented during the trial.<sup>35</sup> Moreover, the Petition is patently without merit as it is a mere rehash of the Petition for *Certiorari* filed before the CA.<sup>36</sup>

In her Reply,<sup>37</sup> petitioner pointed out that the Comment/Opposition avoided any discussion on the grave abuse of discretion committed by Judge Luna when he reversed and set aside the Order dated September 16, 2015, when the records of the case showed that the motion for reconsideration was filed beyond the reglementary period.<sup>38</sup> 

In a Resolution,<sup>39</sup> this Court resolved to give due course to the Petition and required the parties to submit their respective Memoranda within 30 days from notice thereof.<sup>40</sup>

<sup>33</sup> *Id.* at 18.

<sup>34</sup> *Id.* at 256–265.

<sup>35</sup> *Id.* at 257–259.

<sup>36</sup> *Id.* at 260–262.

<sup>37</sup> *Id.* at 273–278.

<sup>38</sup> *Id.* at 273.

<sup>39</sup> *Id.* at 280–281. The November 22, 2017 Resolution was issued by the First Division Clerk of Court Edgar O. Aricheta.

<sup>40</sup> *Id.* at 280.

In a Memorandum,<sup>41</sup> petitioner essentially reiterated the arguments raised in her Petition.<sup>42</sup>

In a Manifestation,<sup>43</sup> respondent stated that the instant Petition had become moot due to the death of petitioner on January 28, 2018. A Certificate of Death<sup>44</sup> was subsequently submitted by petitioner's counsel to prove such fact.

### *The Issue*

The issue before this Court is whether the CA correctly dismissed Rodriguez's Petition for *Certiorari* and ruled that RTC Branch 196 did not gravely abuse its discretion when it issued the Orders reinstating the criminal case for estafa against petitioner.

### *The Court's Ruling*

At the outset, We note that in view of petitioner's death,<sup>45</sup> the case before Us has now become moot and academic.

It is well-settled, both in law and in jurisprudence, that the death of the accused extinguishes their criminal liability.<sup>46</sup>

Article 89 of the Revised Penal Code provides how the criminal liability of an accused is totally extinguished, 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.*
2. By service of the sentence;
3. By amnesty, which completely extinguishes the penalty and all its effects;
4. By absolute pardon;
5. By prescription of the crime;
6. By prescription of the penalty;
7. By the marriage of the offended woman, as provided in Article 344 of this Code. (Emphasis supplied)

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<sup>41</sup> *Id.* at 287–313.

<sup>42</sup> *Id.* at 292–293. The Memorandum was dated February 5, 2018.

<sup>43</sup> *Id.* at 314–317. The Manifestation was dated February 28, 2018.

<sup>44</sup> *Id.* at 322.

<sup>45</sup> *Id.* at 282–286.

<sup>46</sup> *See People v. De Chavez*, 822 Phil. 879, 883 (2017) [Per J. Leonardo-De Castro, First Division].

In *People v. Monroyo*,<sup>47</sup> citing *People v. Culas*,<sup>48</sup> the Court explained the effects of the death of the accused pending appeal on their 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 [their] criminal liability and only the civil liability directly arising from and based solely on the offense committed, i.e., civil liability *ex delicto in senso strictiore*.”

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 Corollarial 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 [their] 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.<sup>49</sup>

Since the Petition before Us essentially questions the propriety of the reinstatement of the criminal case for estafa against Rodriguez, her death pending the resolution of the same, has extinguished the criminal action before the RTC inasmuch as there is no longer a defendant to stand as the accused therein.

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<sup>47</sup> 864 Phil. 1027 (2019) [Per J. Perlas-Bernabe, Special First Division].

<sup>48</sup> 810 Phil. 205, 208–209 (2017) [Per J. Perlas-Bernabe, First Division].

<sup>49</sup> *People v. Monroyo*, 864 Phil. 1027, 1030–1031 (2019) [Per J. Perlas-Bernabe, Special First Division].

In any case, in the absence of any exceptional reason to allow immediate resort to filing of a petition for *certiorari*, We agree with the CA's ruling that petitioner resorted to an improper remedy when she filed a petition for *certiorari* under Rule 65 to question the denial of her Motion to Quash the Information.

We have recently reiterated the above rule in *People v. Ramoy*,<sup>50</sup> to wit:

An order denying a Motion to Quash is interlocutory in nature and is not appealable. In general, the same cannot even be the proper subject of a special civil action for *certiorari* in view of the availability of other remedies in the ordinary course of law. "The remedy against the denial of a motion to quash is for the movant accused to enter a plea, go to trial, and should the decision be adverse, reiterate on appeal from the final judgment and assign as error the denial of the motion to quash." However, when special or exceptional reasons obtain, immediate resort to filing of a petition for *certiorari* may be allowed.<sup>51</sup> (Citation omitted)

**ACCORDINGLY**, the criminal case against petitioner Perlita Rodriguez is **DISMISSED** in view of her death pursuant to Article 89(1) of the Revised Penal Code.

Let an Entry of Judgment be issued immediately.

**SO ORDERED.**

  
**RICARDO R. ROSARIO**  
Associate Justice

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<sup>50</sup> G.R. No. 212738, March 9, 2022 [Per J. Gaerlan, First Division].

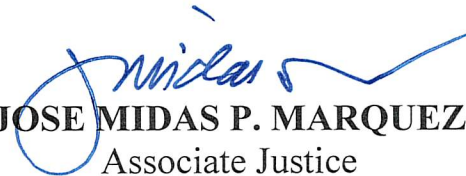
<sup>51</sup> *Id.* at 7–8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

**On Official Business**  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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