

Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 218809**

Plaintiff-Appellee, Present:

- versus -

ALLAN EGAGAMAQ,
 Accused-Appellant.

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Promulgated:

AUG 03 2016

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellant Allan Egagamao (Egagamao) assailing the Decision² dated April 30, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01038-MIN, which affirmed the Decision³ dated March 22, 2012 of the Regional Trial Court of Panabo City, Davao del Norte, Branch 4 (RTC) in Criminal Case Nos. 181-2004 to 184-2004 finding Egagamao guilty beyond reasonable doubt of one (1) count of the crime of Rape defined and penalized under Article 266-A (1) (a) of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353,⁴ otherwise known as “The Anti-Rape Law of 1997.”

¹ See Notice of Appeal dated May 12, 2015; *rollo*, pp. 11-13.

² *Id.* at 3-10. Penned by Associate Justice Edward B. Contreras with Associate Justices Edgardo T. Lloren and Rafael Antonio M. Santos concurring.

³ *CA rollo*, pp. 32-49. Penned by Presiding Judge Dorothy P. Montejo-Gonzaga.

⁴ Entitled “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES,” approved on September 30, 1997.

The Facts

On July 26, 2004, a total of four (4) Informations were filed before the RTC, each charging Egagamao of the crime of Rape defined and penalized under Article 266-A (1) (a) of the RPC, *viz.*:⁵

CRIMINAL CASE NO. 181-2004

That on or about August 22, 2002, in Moncado Village, Penaplata, Samal District, Island Garden City of Samal, Philippines, and within the jurisdiction of this Honorable Court said accused using physical force and intimidation, threatening to kill complainant (AAA) and her family did then and there willfully, unlawfully and feloniously had carnal knowledge of said sixteen year old minor (AAA) against her will.

CONTRARY TO LAW.

CRIMINAL CASE NO. 182-2004

That on or about November 2002, in Moncado Village, Penaplata, Samal District, Island Garden City of Samal, Philippines, and within the jurisdiction of this Honorable Court said accused using physical force and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of said sixteen year old minor (AAA) against her will.

CONTRARY TO LAW.

CRIMINAL CASE NO. 183-2004

That on or about January 2004, in Moncado Village, Penaplata, Samal District, Island Garden City of Samal, Philippines, and within the jurisdiction of this Honorable Court said accused using physical force and intimidation, threatening to kill complainant (AAA) and her family did then and there willfully, unlawfully and feloniously had carnal knowledge of said sixteen year old minor (AAA) against her will.

CONTRARY TO LAW.

CRIMINAL CASE NO. 184-2004

That on or about May 27, 2004, in Moncado Village, Penaplata, Samal District, Island Garden City of Samal, Philippines, and within the jurisdiction of this Honorable Court said accused using physical force and intimidation, threatening to kill complainant (AAA) and her family did then and there willfully, unlawfully and feloniously had carnal knowledge of said sixteen year old minor (AAA) against her will.

CONTRARY TO LAW.

⁵ See CA *rollo*, pp. 32-33.

The prosecution alleged that AAA,⁶ a 14-year old minor, used to live at the basement of her mother's two-storey house in Samal with her elder sister's family. As AAA's elder sister works in Davao City, she is usually left at home in the house with her sister's children and husband, Egagamao. On August 22, 2002, AAA was sleeping in her room when she was awakened as Egagamao went inside her room, wearing only his underwear. AAA asked why Egagamao was in her room, but the latter simply told her not to make any noise, and thereafter started kissing her lips and cheeks and touching her body. AAA resisted and struggled but Egagamao pinned her hands, boxed her legs, and covered her mouth. He then removed both their underwears, inserted his penis into AAA's vagina, and did push and pull movements. After satisfying his lust, Egagamao threatened AAA that he would kill her and her family if she told anyone what just happened.⁷ According to AAA, Egagamao went on to have carnal knowledge of her without her consent in November 2002, January 2004, and May 2004, and each time, he would repeat his threats of bodily harm to AAA and her family should she reveal the rape incidents.⁸ In June 2004, AAA finally had the courage to tell her ordeal to her mother, who in turn, reported the incidents to the police and had AAA undergo medical examination at a health center.⁹

In his defense, Egagamao denied the charges against him, maintaining that he did not force himself upon AAA as she consented to have sexual intercourse with him. He averred that their relationship started when he started giving her allowance and other provisions whenever needed and that it was AAA herself who made sexually inviting remarks when they first made love. He added that upon learning of the complaint against him, he voluntarily surrendered to the police.¹⁰

The RTC Ruling

In a Decision¹¹ dated March 22, 2012, the RTC found Egagamao guilty beyond reasonable doubt of the crime of one (1) count of Rape committed in Criminal Case No. 181-2004 and, accordingly, sentenced him to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and ordered him to pay AAA the amounts of ₱75,000.00 as civil indemnity,

⁶ The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence Against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013].)

⁷ See *rollo*, p. 4.

⁸ See *id.* at 4-5.

⁹ See *id.* at 5.

¹⁰ See *id.*

¹¹ CA *rollo*, pp. 32-49.

₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages.¹² Egagamao, however, was acquitted of the three (3) other charges against him for insufficiency of evidence.¹³

The RTC found AAA's testimony regarding the August 22, 2002 incident to be credible and convincing as she was able to give a straightforward narration on how Egagamao succeeded in having carnal knowledge of her without her consent. On the other hand, the RTC did not give credence to Egagamao's "sweetheart theory" defense due to his failure to adduce even a single proof to sustain such defense. Further, the RTC appreciated the aggravating/qualifying circumstance of minority and relationship against Egagamao, opining that while the same was not alleged in the information, Egagamao himself admitted AAA's minority, as well as the fact that he is her brother-in-law.¹⁴ Despite such finding, it appears, however, that the RTC convicted Egagamao of Simple Rape only, and not Qualified Rape.¹⁵

Aggrieved, Egagamao appealed¹⁶ to the CA.

The CA Ruling

In a Decision¹⁷ dated April 30, 2015, the CA affirmed the RTC ruling *in toto*.¹⁸ Agreeing with the findings of the RTC, the CA held that the prosecution had established through AAA's straightforward and credible testimony the fact that Egagamao had carnal knowledge of her against her will.¹⁹

Hence, the instant appeal.

The Issue Before the Court

* The core issue for the Court's resolution is whether or not Egagamao is guilty beyond reasonable doubt of committing one (1) count of Rape.

¹² See *id.* at 48-49.

¹³ See *id.* at 45 and 49.

¹⁴ See *id.* at 37-48.

¹⁵ See *id.* at 48-49.

¹⁶ See Notice of Appeal dated April 24, 2012; *id.* at 9.

¹⁷ *Rollo*, pp. 3-10.

¹⁸ *Id.* at 9.

¹⁹ See *id.* at 7-9.

The Court's Ruling

At the outset, it appears from the records that in a letter²⁰ dated January 27, 2016, Davao Prison and Penal Farm Acting Superintendent Gerardo F. Padilla informed the Court that Egagamao had already died on September 17, 2013 due to Cardiopulmonary Arrest secondary to Acute Myocardial Infarction, attaching thereto a duplicate copy of Egagamao's Certificate of Death²¹ issued by the Municipal Civil Registrar of B.E. Dujali, Davao del Norte.

In view of the foregoing, the criminal case against Egagamao, including the instant appeal, is hereby dismissed.

Under Article 89 (1) of the RPC, the consequences of Egagamao's death are as follows:

Art. 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.

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In *People v. Bayotas*,²² the Court eloquently summed up 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 *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

²⁰ Id. at 27.

²¹ Id. at 28.

²² G.R. No. 102007, September 2, 1994, 236 SCRA 239.

- 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.²³

Thus, upon Egagamao's death pending appeal of his conviction, the criminal action is extinguished inasmuch as there is no longer a defendant to stand as the accused; the civil action instituted therein for the recovery of civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal action.²⁴ However, it is well to clarify that Egagamao's civil liability in connection with his acts against AAA may be based on sources of obligation other than delicts; in which case, AAA may file a separate civil action against the estate of Egagamao, as may be warranted by law and procedural rules.²⁵

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the appealed Decision dated April 30, 2015 of the Court of Appeals in CA-G.R. CR HC No. 01038-MIN; (b) **DISMISS** Criminal Case No. 181-2004 before the Regional Trial Court of Panabo City, Davao del Norte, Branch 4 by reason of the death of accused-appellant Allan Egagamao; and (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**. No costs.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

²³ Id. at 255-256; citations omitted.

²⁴ *People v. Paras*, G.R. No. 192912, October 22, 2014, 739 SCRA 179, 184.

²⁵ See *People v. Abungan*, 395 Phil. 456, 462 (2000).

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson

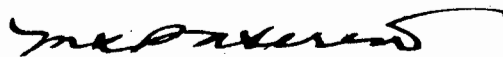
Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
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.



MARIA LOURDES P. A. SERENO

Chief Justice

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