



**Republic of the Philippines
Supreme Court
Manila**

SPECIAL SECOND DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 208651**

Plaintiff-Appellee, Present:

- versus -

**ROMEO ANTIDO y
LANTAYAN a.k.a. ROMEO
ANTIGO y LANTAYAN alias
"JON-JON",**

Accused-Appellant.

CARPIO,* *J.*, Chairperson,
DEL CASTILLO,
PERLAS-BERNABE,
MARTIRES,** and
TIJAM,*** *JJ.*

Promulgated:

14 MAR 2018

HWCabala Perfecto

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RESOLUTION

PERLAS-BERNABE, J.:

In a Resolution¹ dated April 7, 2014, the Court affirmed the Decision² dated December 7, 2012 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04602 finding accused-appellant Romeo Antido y Lantayan a.k.a. Romeo Antigo y Lantayan alias "Jon-Jon" (accused-appellant) guilty beyond reasonable doubt of the crime of Rape, the pertinent portion of which reads:

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the December 7, 2012 Decision of the CA in CA-G.R. CR-HC No. 04602 and **AFFIRMS** said Decision finding accused-appellant Romeo Antido y Lantayan a.k.a. Romeo Antigo y Lantayan alias "Jon-Jon" **GUILTY** beyond reasonable doubt of the crime of Rape

* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

** Designated additional member pursuant to A.M. No. 17-03-03-SC dated March 14, 2017.

*** Designated additional member pursuant to A.M. No. 17-03-03-SC dated March 14, 2017.

¹ *Rollo*, pp. 45-46.

² *Id.* at 2-11. Penned by Associate Justice Manuel M. Barrios with Associate Justices Remedios A. Salazar-Fernando and Normandie B. Pizarro concurring.

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punishable under paragraph 1 of Article 266-A in relation to paragraph 5 of Article 266-B, under RA 8353. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay private complainant the following amounts: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱30,000.00 as exemplary damages, consistent with existing jurisprudence.³

However, it appears that before the promulgation of the said Resolution, accused-appellant had already died on December 28, 2013, as evidenced by his Certificate of Death.⁴

As will be explained hereunder, there is a need to reconsider and set aside the April 7, 2014 Resolution and enter a new one dismissing the criminal case against accused-appellant.

Under prevailing law and jurisprudence, accused-appellant'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[.]

In *People v. Culas*,⁵ 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*.”

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

³ Id. at 45.

⁴ Id. at 42, including dorsal portion.

⁵ See G.R. No. 211166, June 5, 2017.

- 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.⁶

Thus, upon accused-appellant'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 the civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal action. However, it is well to clarify that accused-appellant's civil liability in connection with his acts against the victim, AAA,⁷ [REDACTED] may be based on sources other than *delicts*; in which case, AAA may file a separate civil action against the estate of accused-appellant, as may be warranted by law and procedural rules.⁸

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the Court's Resolution dated April 7, 2014 in connection with this case; (b) **DISMISS** Criminal Case No. 03-212115 before the Regional Trial Court of Manila, Branch 29 by reason of the death of accused-appellant Romeo Antido y Lantayan a.k.a. Romeo Antigo y Lantayan alias "Jon-Jon"; and (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**. No costs.

⁶ See *id.*, citing *People v. Layag*, G.R. No. 214875, October 17, 2016, 806 SCRA 190, 195-196.

⁷ 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 Republic Act (RA) No. 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRRENCE 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 also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.

⁸ See *People v. Culas*, *supra* note 5.

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SO ORDERED.

Ms. Pearl
ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

Antonio T. Carpio
ANTONIO T. CARPIO
Acting Chief Justice
Chairperson

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Samuel R. Martires
SAMUEL R. MARTIRES
Associate Justice

Noel Gimenez Tijam
NOEL GIMENEZ TIJAM
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
ANTONIO T. CARPIO
Acting Chief Justice

CERTIFIED TRUE COPY:

Ma. Lourdes C. Perfecto
MA. LOURDES C. PERFECTO
Division Clerk of Court
Second Division