

BY: YSC
TIME: 3:12

Republic of the Philippines
Supreme Court
Manila

SPECIAL FIRST DIVISION

PEOPLE OF THE G.R. No. 223708
PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

NORIETO MONROYO y
MAHAGUAY, Accused-Appellant.

PERLAS-BERNABE, Chairperson,
CAGUIOA,
CARANDANG,
LAZARO-JAVIER, and
ZALAMEDA, * JJ.

Promulgated:

OCT 09 2019

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RESOLUTION

PERLAS-BERNABE, J.:

In a Decision¹ dated June 28, 2017, the Court affirmed with modifications the Decision² dated May 27, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06078, finding accused-appellant Norieto Monroyo y Mahaguay (accused-appellant) guilty beyond reasonable doubt of three (3) counts of Acts of Lasciviousness and one (1) count of Qualified Rape, the pertinent portion of which reads:

WHEREFORE, the appeal is **DENIED**. The Decision dated May 27, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 06078 is hereby **AFFIRMED** with **MODIFICATIONS**, finding accused-appellant Norieto Monroyo y Mahaguay **GUILTY** beyond reasonable doubt of three (3) counts of Acts of Lasciviousness and one (1) count of Qualified Rape. Accordingly:

* Designated Additional Member per Special Order No. 2712 dated September 27, 2019.

¹ Rollo, pp. 34-45.

² Id. at 2-15. Penned by Associate Justice Samuel H. Gaerlan with Associate Justices Normandie B. Pizarro and Zenaida T. Galapate-Laguilles concurring.

(a) In Criminal Case Nos. C-04-7785, C-04-7786, C-04-7787, Monroyo is **SENTENCED** to suffer the penalty of imprisonment with an indeterminate period of fourteen (14) years and eight (8) months of *reclusion temporal*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, for each count and is **ORDERED** to pay AAA³ the amounts of ₱20,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages, also for each count;

(b) In Criminal Case No. C-04-7788, Monroyo is **SENTENCED** to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and is **ORDERED** to pay BBB the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages; and

(c) All monetary awards shall earn interest at the rate of six percent (6%) per annum from the date of finality of judgment until fully paid.

SO ORDERED.⁴

Accused-appellant timely moved for reconsideration.⁵ However, in a letter⁶ dated November 23, 2018, Chief Correction Superintendent Richard W. Schwarzkopf, Jr. of the Bureau of Corrections informed the Court that accused-appellant had already died on August 15, 2018 as evidenced by a copy of the Death Report⁷ signed by New Bilibid Prison Hospital's Medical Officer Dr. Benevito A. Fontanilla.

As will be explained hereunder, there is a need to set aside the Court's Decision dated June 28, 2017 and enter a new one dismissing the criminal cases 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:

³ 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 THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, known as the "RE: RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN," effective 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]). The name of the victim cannot be determined.

⁴ *Rollo*, pp. 44-45.

⁵ *Id.* at 46-56.

⁶ *Id.* at 60.

⁷ *Id.* at 61.

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

In *People v. Culas*,⁸ 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 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 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.⁹

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


⁸ 810 Phil. 205 (2017).

⁹ *Id.* at 208-209, citing *People v. Layag*, 797 Phil. 386, 391-391 (2016).

accused-appellants' civil liability in connection with his acts against the victims; AAA and BBB, may be based on sources other than delicts; in which case, AAA and BBB may file separate civil actions against the estate of accused-appellant, as may be warranted by law and procedural rules.¹⁰

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the Court's Decision dated June 28, 2017 in connection with this case; (b) **DISMISS** Criminal Case Nos. C-04-7785, C-04-7786, C-04-7787, C-04-7788, before the Regional Trial Court of Oriental Mindoro, Branch 40 by reason of the death of accused-appellant Norieto Monroyo y Mahaguay; and (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**. No costs.

SO ORDERED.

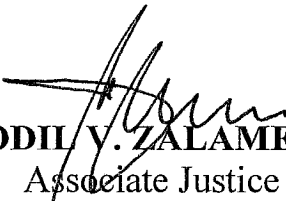

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

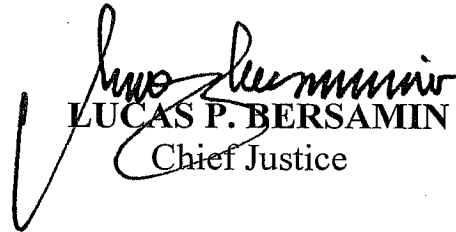
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Associate Justice
Chairperson, Special First Division

¹⁰ See *id.* at 209.

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.



LUCAS P. BERSAMIN
Chief Justice

