

Republic of the Philippines
Supreme Court
Manila

SPECIAL FIRST DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff-Appellee,

- versus -

WENDALINO ANDES y CAS
a.k.a. WINDALINO ANDES y
CAS,

Accused-Appellant.

G.R. No. 217031

Present:

BERSAMIN, C.J., Chairperson,
PERLAS-BERNABE,
HERNANDO,
CARANDANG, and
LAZARO-JAVIER, JJ.

Promulgated:

AUG 14 2019

RESOLUTION

PERLAS-BERNABE, J.:

In a Resolution¹ dated November 10, 2015, the Court adopted the Decision² dated September 9, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06046 finding accused-appellant Wendalino Andes y Cas a.k.a. Windalino Andes y Cas (accused-appellant) guilty beyond reasonable doubt of the crime of Qualified Rape, the pertinent portion of which reads:

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the September 9, 2014 Decision of the CA in CA-G.R. CR-HC No. 06046 and **AFFIRMS** with **MODIFICATION** said Decision finding accused-appellant Wendalino Andes y Cas a.k.a. Windalino Andes y Cas **GUILTY** beyond reasonable doubt of three (3) counts of Qualified Rape. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua* for each count, without eligibility for parole, and ordered to pay AAA³ the following amounts for each count: (a)

¹ *Rollo*, pp. 31-33.

² Id. at 2-12. Penned by Associate Justice Stephen C. Cruz with Associate Justices Magdangal M. De Leon and Carmelita Salandanan Manahan concurring.

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;

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₱100,000.00 as civil indemnity; (b) ₱100,000.00 as moral damages; (c) ₱100,000.00 as exemplary damages; and (d) the costs of suit, without subsidiary imprisonment in case of insolvency. In addition, all monetary awards shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.⁴

Accused-appellant moved for reconsideration,⁵ which was denied with finality in a Resolution⁶ dated June 20, 2016. However, before an Entry of Judgment could be issued in this case, the Court received a Letter⁷ dated December 13, 2016 from the Bureau of Corrections informing the Court of accused-appellant's death on March 17, 2016, as evidenced by the Certificate of Death⁸ attached thereto.

As will be explained hereunder, there is a need to reconsider and set aside the Resolutions dated November 10, 2015 and June 20, 2016 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 therefore is extinguished only when the death of the offender occurs before final judgment[.]

In *People v. Culas*,⁹ 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

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]. 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.) See further *People v. Ejercito*, G.R. No. 229861, July 2, 2018. To note, the unmodified CA Decision was not attached to the records to verify the real name of the victim.

⁴ *Rollo*, p. 32.

⁵ See Motion for Reconsideration dated March 30, 2016; *id.* at 34-39.

⁶ *Id.* at 41.

⁷ *Id.* at 42. Signed by Superintendent, New Bilibid Prison, P/Supt. I Roberto R. Rabo.

⁸ *Id.* at 43-44.

⁹ 810 Phil. 205 (2017).

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.¹⁰


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, 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.¹¹

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the Court's Resolutions dated November 10, 2015 and June 20, 2016 in connection with this case; (b) **DISMISS** Criminal Case Nos. FC-00-958, FC-00-959, and FC-00-960 before the Regional Trial Court of Legazpi City, Albay, Branch 9 by reason of the death of accused-appellant Wendalino Andes y Cas a.k.a. Windalino Andes y Cas; and (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**. No costs.

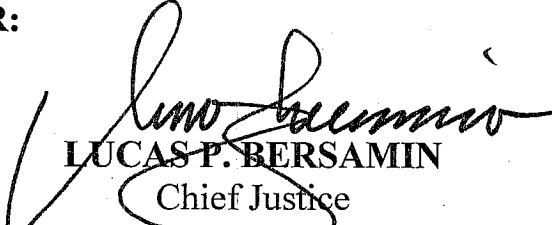
¹⁰ Id. at 208-209, citing *People v. Layag*, 797 Phil. 386, 390-391 (2016).


¹¹ Id. at 209; citations omitted.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice
Chairperson

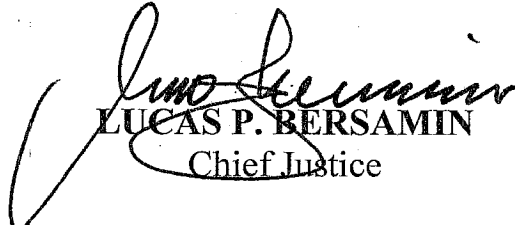

RAMON PAUL L. HERNANDO
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
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.


LUCAS P. BERSAMIN
Chief Justice