



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 250980
Plaintiff-Appellee,

Present:

- versus -

GESMUNDO, C.J., Chairperson,
 CAGUIOA,
 INTING,
 GAERLAN, and
 DIMAAMPAO, JJ.

CRISPIN ARANETA y PELAEZ,
 LYNFER BICODO y BAYLON,
 ROGELIO CALORING,
 ANNABELLE OLIDAN* y
 ARANETA, BENJAMIN OLIDAN
 y ERLANDEZ and POI JOSE
 LONMAR ZAPATOS y FIEL,

Accused,

Promulgated:

ROGELIO CALORING,
Accused-Appellant.

MAR 15 2022

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DECISION

INTING, J.:

Before the Court is an appeal¹ by Rogelio Caloring (accused-appellant) of the Decision² dated June 7, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06209. The CA affirmed with modification the Decision³ dated March 26, 2013 of Branch 225, Regional Trial Court (RTC), Quezon City that found Rogelio Caloring (accused-appellant) together with Crispin Araneta y Pelaez (Araneta), Lynfer Bicodo y Baylon (Bicodo), Annabelle Olidan y Araneta

* The surnames of Anabelle and Benjamin are spelled as Oledan in some parts of the *rollo* and records.

¹ See Notice of Appeal dated June 25, 2019, *rollo*, pp. 19-21.

² *Id.* at 3-18; penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Mario V. Lopez (now a Member of the Court) and Tita Marilyn B. Payoyo-Villordon, concurring.

³ CA *rollo*, pp. 22-36; penned by Acting Presiding Judge Cleto R. Villacorta III.

(Annabelle), Benjamin Oledan y Erlandez (Benjamin), Godofredo Navanes y Lorizo⁴ (Navanes), Rey Alada (Alada), Police Officer I Jose Lonmar Zapatos y Fiel (PO1 Zapatos) and PO1 Antonio Castillo y Domingo (PO1 Castillo) (collectively, accused) guilty beyond reasonable doubt of Kidnapping for Ransom in Criminal Case No. Q-05-136632. The modification in the CA Decision was with regard to the monetary awards.

The Antecedents

Accused-appellant was charged with Kidnapping for Ransom under Article 267 of the Revised Penal Code (RPC), together with his co-accused, as well as other persons. The Amended Information⁵ reads as follows:

“That on or about August 30, 2005, in Filinvest II, Quezon City and within the jurisdiction of this Honorable Court, the above named accused Crispin Araneta y Pelaez, Annabelle Oledan y Araneta, Benjamin Oledan y Erlandez, Godofredo Navanes y Lorezo, Lynfer Bicodo y Baylon, Rogelio Caloring, Rey Alada, PO1 Jose Lonmar Zapatos y Fiel, an active member of the Philippine National Police–Special Action Force (PNP-SAF), PO1 Antonio Castillo y Domingo, likewise (sic) an active member of the Philippine National Police–Aviation Security Group (PNP-ASG), and a certain “Henry” conspiring, confederating and mutually helping one another, with the use of firearms, did then and there willfully, unlawfully and feloniously kidnaped Vinz Sermonia y de la Cruz, (11 years old), Klevwelt Sermonia y dela Cruz (11 years old), Genritz Sermonia y de la Cruz (9 years old) and Eulalia Cuevas y Madara and thereafter demanded ransom money in exchange for the release of the four kidnaped victims to the damage and prejudice of the victims who were rescued by the parents of the three children.”

CONTRARY TO LAW.⁶

At the arraignment, the accused, with the assistance of their respective counsel, entered pleas of “not guilty” to the offense charged.⁷ However, there is nothing in the records to show that Alada was indeed arraigned.⁸

⁴ Lorenzo/Lorezo in some parts of the *rollo* and records.

⁵ Records, Vol. I, pp. 116-118.

⁶ *Id.* at 116-117.

⁷ *Rollo*, p. 4.

⁸ Upon verification with the records of the case, no order from the Regional Trial Court was rendered on the plea of Rey Alada. The pleas of the other accused were entered as evinced by the

At the pre-trial, the defense admitted the identities of all the accused, the territorial jurisdiction of the RTC, and the age of minority of three of the private complainants: Vinz Sermonia y Dela Cruz (Vinz), Klevwelt Sermonia y Dela Cruz (Klevwelt), Genritz Sermonia y Dela Cruz (Genritz) (collectively, the Sermonia children). The defense stipulated that Vinz and Klevwelt were only 11 years old; and Genritz was only 9 years old at the time of the alleged incident.⁹

Trial on the merits ensued.¹⁰

Thereafter, the prosecution and the defense rested their respective cases.¹¹

The Ruling of the RTC

In the Decision¹² dated March 26, 2013, the RTC found all of the accused, except for Navanes, guilty beyond reasonable doubt of the offense charged in the Information. The RTC ruled that the criminal and civil liability of Navanes had been extinguished by his death after arraignment and prior to the promulgation of the judgment.¹³

The dispositive portion of the Decision reads:

WHEREFORE, accused Crispin Araneta y Pelaez, Annabelle Olidan y Araneta, Benjamin Olidan y Erlandez, ~~Godofredo Navanes y Lorezo~~, Lynfer Bicodo y Baylon, Rogelio Caloring, Rey Alada, PO1 Jose Lonmar Zapatos y Fiel and PO1 Antonio Castillo y Domingo are all found guilty beyond reasonable doubt of Kidnapping for Ransom as defined under Art. 267, of The Revised Penal Code. Each of them is sentenced to suffer imprisonment with the duration of *reclusion perpetua*. All the accused are ordered to pay solidarily Vinz Sermonia y de la Cruz,

following: Order dated November 9, 2005 as to Crispin Araneta y Pelaez, Godofredo Navanes y Lorezo, Lynfer Bicodo y Baylon and Rogelio Caloring, records, vol. I, p.131; Order dated December 1, 2005 as to Annabelle Olidan y Araneta and Benjamin Olidan y Erlandez, *id.* at 138-139; and Order dated December 15, 2005 as to Police Officer I Jose Lonmar Zapatos y Fiel and Police Officer I Antonio Castillo y Domingo, *id.* at 177-178.

⁹ *Rollo*, p. 4.

¹⁰ *Id.*

¹¹ *Id.* at 8.

¹² *CA rollo*, pp. 22-36.

¹³ *Id.* at 34.

Klevwelt Sermonia y de la Cruz, Genritz Sermonia y de la Cruz and Eulalia Cuevas y Madara and the Sps. Sermonia P30,000.00 each as moral damages, and P30,000.00 each as exemplary damages, plus legal interest of 6% per annum on total of these amounts reckoned from the finality of this *Decision* until it becomes final and executory, and thereafter, 12% legal interest per annum on the total amount until fully paid, and the costs of suit.

SO ORDERED.¹⁴

The Ruling of the CA

Before the CA could resolve the case, it issued Resolutions dated February 25, 2015¹⁵ and July 31, 2015¹⁶ which dismissed the appeals of Araneta and Annabelle, respectively. It also issued a Resolution¹⁷ dated February 15, 2017 which stated that Bicodo already withdrew her appeal. Thus, the CA was left to resolve only the appeals of accused-appellant, Benjamin, and PO1 Zapatos.¹⁸

In its Decision¹⁹ dated June 7, 2019, the CA affirmed the conviction of accused-appellant, Benjamin, and PO1 Zapatos.

However, the CA modified the ruling of the RTC as to the civil aspect of the case. It ruled that each of the private complainants should be awarded moral damages, exemplary damages, and civil indemnity in the amount of ₱100,000.00 each and that all damages should earn an interest at the rate of 6% *per annum* from the time of finality of judgment until fully paid.²⁰

The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the *Appeal* is DENIED.
The appealed *Decision* dated March 26, 2013 of the RTC, Branch 225

¹⁴ *Id.* at 35.

¹⁵ *Id.* at 96-99; penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino, concurring.

¹⁶ *Id.* at 144-151; penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Francisco P. Acosta and Florito S. Macalino, concurring.

¹⁷ *Id.* at 555-556; penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino, concurring.

¹⁸ *Rollo*, p. 9.

¹⁹ *Id.* at 3-18.

²⁰ *Id.* at 17.

of Quezon City in Criminal Case No. Q-05-136632 is AFFIRMED with MODIFICATIONS. As thus modified, accused-appellants Rogelio Caloring, Benjamin Olidan y Erlandez, and PO1 Jose Lonmar Zapatos are found GUILTY beyond reasonable doubt of the crime of Kidnapping for Ransom, and sentenced to suffer the penalty of *reclusion perpetua*. They are likewise ordered to pay solidarily the victims Vinz Sermonia y de la Cruz, Klevwelt Sermonia y de la Cruz, Genritz Sermonia y dela Cruz, Eulalia Cuevas y Madara and spouses Sermonia the following: (a) P100,000.00 each as civil indemnity; (b) P100,000.00 each as moral damages; (c) P100,000.00 each as exemplary damages; and (d) interest of six percent (6%) *per annum* on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.²¹

Hence, the appeal by accused-appellant.

Benjamin and PO1 Zapatos did not file an appeal before the Court.

Accused-appellant filed a Manifestation in Lieu of a Supplemental Brief²² that he will no longer file a Supplemental Brief considering that he, through his counsel, had exhaustively discussed the issues for resolution in his Brief for Accused-Appellant²³ before the CA.

The Office of the Solicitor General similarly filed a Manifestation²⁴ that it will no longer file a Supplemental Brief as it would merely be a reiteration of the arguments it already discussed in its Brief for Plaintiff-Appellee.²⁵

Pending disposition of the case, the Court received a Letter²⁶ dated May 7, 2021 from CTSSupt Albert C. Manalo, Officer-in-Charge in the Inmate Documents and Processing Division of the Bureau of Corrections, Muntinlupa City, that accused-appellant died on March 10, 2021, as shown by the Notice of Death²⁷ attached to the Letter.

²¹ *Id.* at 17-18.

²² *Id.* at 27-29.

²³ CA *rollo*, pp. 501-513.

²⁴ *Rollo*, pp. 34-35.

²⁵ CA *rollo*, pp. 563-586.

²⁶ *Rollo*, p.43.

²⁷ *Id.* at 44.

Thereafter, the Court received a Letter²⁸ dated May 29, 2021 from CTCInsp. Edgar F. Angeles, Jr., Superintendent of the New Bilibid Prison (NBP), Muntinlupa City, that accused-appellant died on March 10, 2021 at the NBP Hospital as shown by the attached certified true copy of accused-appellant's Certificate of Death.²⁹

The Court's Ruling

Accused-appellant's death pending appeal extinguished his criminal liability as well as civil liability arising from the criminal liability.

The Court resolves to dismiss the case against accused-appellant considering his death during the pendency of his appeal. Applying paragraph 1, Article 89 of the RPC, his death pending the final disposition of his appeal extinguishes his criminal liability.³⁰ The provision states:

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;

x x x x

Accused-appellant's civil liability arising from his criminal liability is also extinguished for the same reason that he died pending appeal.

The Court ruled in *People v. Bayotas*:³¹

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

²⁸ *Id.* at 45.

²⁹ *Id.* at 46.

³⁰ *People v. Culas*, 810 Phil. 205, 207-208 (2017); see also *People v. XXX*, G.R. No. 242950 (Notice), December 10, 2019.

³¹ 306 Phil. 266 (1994).

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 x x x 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.³² (*Italics in the original.*)

Nevertheless, there are pertinent matters in the case, other than the effects of accused-appellant's death pending appeal, which require the Court's discussion and/or disposition below.

There should only be one (1) offense in one (1) Information; however, the defect in the Information may be waived by the accused by his failure to question it.

³² *Id.* at 282-284. Citations omitted.

For the guidance of the bench and the bar, the Court deems it proper to discuss the defect in the Information involved in the case

Notably, the accused were charged in one (1) Information with the kidnapping of the Sermonia children and Eulalia Cuevas (Cuevas). The Information in effect provides that the accused conspired to commit four (4) counts of Kidnapping for Ransom.

The rule is that there should be only one (1) offense in one (1) Information.³³ Otherwise, the Information would be defective such that the accused may move for the quashal of the Information and raise such defect. However, if the accused fails to file a motion to quash the Information, he is deemed to have waived the right to question the defect.

The Court explained in *People v. Jugueta*:³⁴

As a general rule, a complaint or information must charge only one offense, otherwise, the same is defective. The reason for the rule is stated in *People of the Philippines and AAA v. Court of Appeals, 21st Division, Mindanao Station, et al.*, thus:

The rationale behind this rule prohibiting duplicitous complaints or informations is to give the accused the necessary knowledge of the charge against him and enable him to sufficiently prepare for his defense. The State should not heap upon the accused two or more charges which might confuse him in his defense. Non-compliance with this rule is a ground for quashing the duplicitous complaint or information under Rule 117 of the Rules on Criminal Procedure and the accused may raise the same in a motion to quash before he enters his plea, otherwise, the defect is deemed waived.

However, since appellant entered a plea of not guilty during arraignment and failed to move for the quashal of the Informations, he is deemed to have waived his right to question the same. Section 9 of Rule 117 provides that “[t]he failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or

³³ See *People v. Uyboco*, 655 Phil. 143 (2011); *People v. Bacungay*, 428 Phil. 798 (2002); *People v. Kulais*, 354 Phil. 565 (1998); and *People v. Ayok*, G.R. No. 226187(Notice), June 17, 2019— where the offense pertaining to each victim was subject to separate Informations.

³⁴ 783 Phil. 806 (2016).

information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of Section 3 of this Rule.”

It is also well-settled that when two or more offenses are charged in a single complaint or information but the accused fails to object to it before trial, the court may convict him of as many offenses as are charged and proved, and impose upon him the proper penalty for each offense. x x x.³⁵

In the case, considering that there are four victims, the Office of the Prosecutor should have filed with the trial court four (4) Informations for Kidnapping for Ransom under Article 267 of the RPC. However, only one (1) Information was filed against all of the accused for the kidnapping of Cuevas and the Sermonia children; thus, the Information filed was defective.

Nevertheless, a perusal of the records would show that none of the accused, including accused-appellant, objected to the defect in the Amended Information; instead, all of the accused entered pleas of not guilty during their arraignment, except Alada who was not arraigned as yet. Thus, the defect was deemed waived and all of the accused, except Alada, could be convicted of four (4) counts of Kidnapping for Ransom were it not for specific circumstances which now prevent the Court from finding them guilty of four counts of the offense charged. As to accused-appellant, his death already extinguished his criminal liability. As to all his surviving co-accused, except Alada, their conviction for one count of Kidnapping for Ransom under Article 267 of the RPC had already attained finality. It was only accused-appellant who opted to appeal the Decision of the CA; thus, all the other accused cannot be in a worse situation with the filing of accused-appellant’s appeal. This is in view of Section 11(a), Rule 122 of the Rules of Court, as amended, which states:

SEC. 11. *Effect of appeal by any of several accused.* —

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

x x x x

³⁵ *Id.* at 822-823. Citations omitted.

The conviction of Alada is void.

A void judgment has no legality from its inception, and thus, it cannot attain finality.³⁶

Here, it was only accused-appellant who appealed before the Court. Nevertheless, applying Section 11(a), Rule 122 of the Rules of Court, the Court finds it appropriate to overturn the conviction of Alada by the RTC considering that there is nothing in the records to show that he was arraigned.

Records reveal that Alada remained at large during the whole duration of the proceedings before the RTC, as there is no showing that he has been arrested despite the issuance of a warrant of arrest against him on September 15, 2005.³⁷ Notably, in its narration of the proceedings, the RTC mentioned that only accused-appellant, Araneta, Navanes, Bicodo, Annabelle, Benjamin, PO1 Zapatos, and PO1 Castillo were arraigned and pleaded not guilty. Further, in its Commitment Order³⁸ dated April 28, 2013, the RTC committed to the Director of the Bureau of Prisons only the persons of accused-appellant, Araneta, Annabelle, Benjamin, Bicodo, PO1 Zapatos, and PO1 Castillo.

In *Kummer v. People*,³⁹ the Court emphasized that arraignment is indispensable in bringing the accused to court and in notifying him of the nature of the accusations against him. The Court further explained:

The importance of arraignment is based on the constitutional right of the accused to be informed. Procedural due process requires that the accused be arraigned so that he may be informed of the reason for his indictment, the specific charges he is bound to face, and the corresponding penalty that could be possibly meted against him. It is at this stage that the accused, for the first time, is given the opportunity to know the precise charge that confronts him. It is only imperative that he is thus made fully aware of the possible loss of freedom, even of his life, depending on the nature of the imputed crime.⁴⁰

³⁶ *People v. Magat*, 388 Phil. 311, 321 (2000), citing *People v. Estomaca*, 326 Phil. 429 (1996).

³⁷ Records, Vol. I, p. 78.

³⁸ Records, Vol. VI, p. 688.

³⁹ 717 Phil. 670 (2013).

⁴⁰ *Id.* at 687, citing Section 1(h), Rule 115 of the Rules of Court and *Borja v. Judge Mendoza*, 168 Phil. 83, 87 (1977).

Equally important, while the holding of trial *in absentia* is authorized under Section 14(2), Article III of the Constitution, it must be emphasized that such is allowed *after the accused has been arraigned already*.⁴¹ The provision states:

Section 14. x x x x

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. *However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.* (Italics supplied.)

Here, Alada was not arraigned. Thus, his conviction by the RTC is void.

WHEREFORE, the Decision dated June 7, 2019 of the Court of Appeals in CA-GR CR-HC No. 06209 is **AFFIRMED** with **MODIFICATION** as follows:

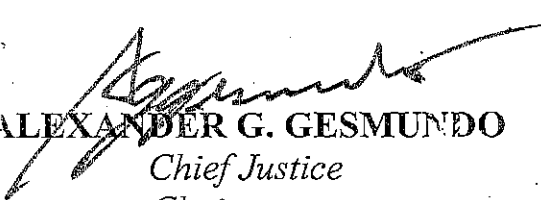
- (1) Criminal Case No. Q-05-136632 before Branch 225, Regional Trial Court (RTC), Quezon City is **DISMISSED** as against accused-appellant Rogelio Caloring on account of his death on March 10, 2021; and
- (2) the finding of guilt against accused Rey Alada is **VACATED** without prejudice to his prosecution upon his arrest.

⁴¹ See *Estrada v. People*, 505 Phil. 339, 351 (2005).

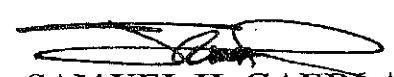
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

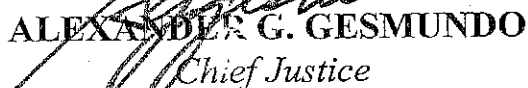

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
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.


ALEXANDER G. GESMUNDO
Chief Justice