

FIRST DIVISION

[G.R. No. 214875, October 17, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARIEL LAYAG ACCUSED-APPELLANTS.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

In a Resolution^[1] dated August 3, 2015 (August 3, 2015 Resolution), the Court adopted *in toto* the Decision^[2] dated January 29, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05383 finding accused-appellant Ariel Layag (Layag) guilty beyond reasonable doubt of one (1) count of Qualified Rape by Sexual Intercourse, two (2) counts of Qualified Rape by Sexual Assault, and one (1) count of Acts of Lasciviousness, the pertinent portion of which reads:

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the January 29, 2014 Decision of the CA in CA-G.R. [CR-H.C.] No. 05383 and **AFFIRMS** said Decision finding accused appellant Ariel Layag **GUILTY** beyond reasonable doubt of committing one (1) count of Qualified Rape by Sexual Intercourse, as defined and penalized under Article 266-A paragraph 1 in relation to Article 266-B (1) of the Revised Penal Code (RPC), two (2) counts of Qualified Rape by Sexual Assault, as defined and penalized under paragraph 2, Article 266-A in relation to Article 266-B (1) of the RPC, and one (1) count of Acts of Lasciviousness, as defined and penalized under Article 336 of the RPC, **WITH MODIFICATION** as to the award of damages, sentencing him to suffer the following penalties: (a) in Crim. Case No. 2007-9591-MK for Qualified Rape by Sexual Intercourse, he is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and ordered to pay the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages; (b) in Crim. Case Nos. 2007-9592-MK and 2007-9593-MK for Qualified Rape by Sexual Assault, he is sentenced to suffer the penalty of imprisonment for the indeterminate period of eight (8) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years of *reclusion temporal*, as maximum, and ordered to pay the amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages, for each count; and (c) in Crim. Case No. 2007-9594-MK for Acts of Lasciviousness, he is sentenced to suffer the penalty of imprisonment for the

indeterminate period of six (6) months of *arresto mayor*, as minimum, to four (4) years and two (2) months of *prision correccional*, as maximum, and ordered to pay the amounts of P20,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages. In addition, all monetary awards shall earn legal interest of six percent (6%) per annum, to be reckoned from the date of finality of this Resolution until full payment.^[3]

Subsequently, the Court issued an Entry of Judgment^[4] dated October 14, 2015 declaring that the aforesaid Resolution had already become final and executory. However, the Court received a Letter^[5] dated July 18, 2016 from the Bureau of Corrections informing us of the death of accused appellant on July 30, 2015, as evidenced by the Certificate of Death^[6] attached thereto.

In light of the foregoing circumstances, the Court is constrained to reopen the case despite the finality of the August 3, 2015 Resolution. In *Bigler v. People*,^[7] the Court explained that it has the power to relax the doctrine of immutability of judgment if, *inter alia*, there exists a special or compelling circumstance warranting the same, *viz.*:

Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down. NVS.: (a) matters of life, liberty, honor, or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) the lack of any showing that the review sought is merely frivolous and dilatory; and (j) that the other party will not be unjustly prejudiced thereby.^[8] (Emphases and underscoring supplied)

In this case, Layag's death which occurred prior to the promulgation of the Resolution dated August 3, 2015 - a matter which the Court was belatedly informed of - clearly shows that there indeed exists a special or compelling circumstance warranting the re-examination of the case despite its finality.

As will be explained hereunder, there is a need to reconsider and set aside said Resolution and enter a new one dismissing the criminal cases against Layag.

Under prevailing law and jurisprudence, Layag'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;

x x x x

In *People v. Egagamao*,^[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 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 Layag'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 Layag'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 Layag, as may be warranted by law and procedural rules. ^[11]

WHEREFORE, the Court resolves to: (a) **SET ASIDE** the Court's Resolution dated August 3, 2015 in connection with this case; (b) **DISMISS** Crim. Case Nos. 2007-9591-MK, 2007-9592-MK, 2007-9593-MK, and 2007-9594-MK before the Regional Trial Court of Marikina City, Branch 156 by reason of the death of accused-appellant Ariel Layag; and (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**. No costs.

SO

ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Caguioa, JJ., concur.

[1] See Notice signed by Division Clerk of Court Edgar O. Aricheta; *rollo*, pp. 44-46.

[2] *Id.* at 2-25. Penned by Associate Justice Romeo F. Barza with Associate Justices Hakim S. Abdulwahid and Ramon A. Cruz concurring.

[3] *Id.* at 44-45.

[4] *Id.* at 47-48. Signed by Deputy Clerk of Court & Chief Judicial Records Officer Basilia T. Ringol.

[5] *Id.* at 55. Signed by New Bilibid Prison Superintendent P/Supt. II Richard W. Schwarzkopf, Jr.

[6] *Id.* at 56-57.

[7] See G.R. No. 210972, March 19, 2016.

[8] See *id.*

[9] See G.R. No. 218809, August 3, 2016.

[10] See *id.*, citing *People v. Bayotas*, G.R. No. 102007, September 2, 1994, 236 SCRA 239, 255-256.

[11] See *id.*; citations omitted.



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