



Republic of the Philippines  
**Supreme Court**  
 Baguio City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
 Appellee,

G.R. No. 200302

Present:

CARPIO, J., Chairperson,  
 BRION,  
 DEL CASTILLO,  
 MENDOZA, and  
 LEONEN, JJ.

- versus -

GERRY LIPATA y ORTIZA,  
 Appellant.

Promulgated:

20 APR 2016

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X

DECISION

**CARPIO, J.:**

The Case

G.R. No. 200302 is an appeal<sup>1</sup> assailing the Decision<sup>2</sup> promulgated on 31 May 2011 by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04461. The CA affirmed the Decision<sup>3</sup> dated 23 March 2010 of Branch 85 of the Regional Trial Court of Quezon City (RTC) in Criminal Case No. Q-05-136584. The RTC found appellant Gerry Lipata y Ortiza (appellant) guilty beyond reasonable doubt of the crime of Murder and sentenced him to suffer the penalty of *reclusion perpetua*. The RTC also ordered appellant to pay damages to the heirs of Rolando Cueno (Cueno).<sup>4</sup>

<sup>1</sup> Under Rule 45 of the 1997 Rules of Civil Procedure and Rule 122 of the Revised Rules of Criminal Procedure.

<sup>2</sup> *Rollo*, pp. 2-19. Penned by Associate Justice Romeo F. Barza, with Associate Justices Rosalinda Asuncion-Vicente and Edwin D. Sorongon concurring.

<sup>3</sup> *CA rollo*, pp. 44-55. Penned by Pairing Judge Luisito G. Cortez.

<sup>4</sup> Also referred to in the Records as Ronaldo Cueno.

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### **The Facts**

Appellant was charged with the crime of Murder in an Information which reads as follows:

That on or about the 1st day of September, 2005, in Quezon City, Philippines, the said accused, conspiring, confederating with two (2) other persons whose true names, identities and definite whereabouts have not as yet been ascertained and mutually helping one another, with intent to kill and with evident premeditation and treachery, and taking advantage of superior strength, did, then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one RONALDO CUENO Y BONIFACIO, by then and there stabbing him repeatedly with bladed weapons, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal stab wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of Ronaldo Cueno y Bonifacio.

CONTRARY TO LAW.<sup>5</sup>

Appellant was arraigned on 11 October 2005, and entered a plea of not guilty to the charge. Pre-trial conference was terminated on 26 October 2005, and trial on the merits ensued.

The CA summarized the parties' evidence as follows:

#### *The Prosecution[']s Evidence*

Mercelinda Valzado, sister-in-law of the victim Rolando Cueno, testified that on September 1, 2005 at around 6:00 p.m., she was in her house located in [sic] Lot 34, Block 4, Sipna Compound, Bagong Silangan, Quezon City. She was about to leave the house to go to the market when she saw appellant, his brother Larry Lipata and a certain [Rudy] attacking the victim by repeatedly stabbing him. She was at a distance of more or less ten (10) meters from the incident. Shocked at what she had just witnessed, she shouted for help and pleaded the assailants to stop, but they did not stop stabbing the victim. In her account, she recalled that the assailants, including appellant, used a tres cantos, an ice pick and a broken piece of glass of Red Horse [bottle]. At one point, the victim managed to take the knife away from appellant and brandished the same at his attackers. Thereafter, the victim fell on the ground. Upon seeing the victim fall, appellant and the other assailants left the scene. Through the help of some neighbors, Marcelinda rushed the victim to a hospital but he was pronounced dead on arrival.

Criz Reymiluz Cueno, daughter of the victim, testified that she saw appellant together with Larry Lipata and Rudy Lipata [stab] her father to death in front of their house. She recounted that upon arriving at home from work on September 1, 2005 at around 6:00 p.m., her father immediately went to the house of her aunt Marcelinda Valzado, which was located only a block away from their house, to ask for malunggay leaves.

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<sup>5</sup> CA rollo, p. 9.

Upon coming home from her aunt's house, the victim was attacked by the Lipatas which prompted the victim to run away. Thinking that his assailants were no longer around, the victim proceeded to their [sic] house but then the Lipatas stabbed him to death. She was at a distance of six (6) to eight (8) meters away from the scene. She further testified that she had no knowledge of any reason why the Lipatas would kill her father, but her father's death brought her pain and sadness and anger against the perpetrators of her father's killing.

*The Defense[']s Evidence*

The defense presented a sole witness in the person of appellant himself. According to appellant, he was resting in his house in Sipna Compound, Brgy. Bagong Silangan, Quezon City on September 1, 2005 at around 6:00 p.m. when two children, namely John Paul Isip and a certain Rommel, called him and told him to help his brother, Larry Lipata. He immediately rushed to his brother and upon arrival he saw Larry being stabbed by the victim. He instantaneously assisted his brother but the victim continued stabbing Larry, causing Larry to fall to the ground. Thereafter, appellant managed to grab the knife from the victim and stab the victim. Then he fled from the scene [of the crime] because he was wounded. Appellant's sister-in-law, a certain Lenlen, brought him to the Amang Medical Center for treatment of his stab wound where he was apprehended by police officers.<sup>6</sup>

**The RTC's Ruling**

The RTC noted that since appellant raised the justifying circumstance of defense of a relative, he hypothetically admitted the commission of the crime. Hence, the burden of proving his innocence shifted to appellant. The RTC found that the defense failed to adequately establish the element of unlawful aggression on the part of Cueno. There was no actual or imminent danger to the life of appellant or of his brother Larry. On the contrary, the three Lipata brothers (appellant, Larry, and Rudy)<sup>7</sup> employed treachery and took advantage of their superior strength when they attacked Cueno after Cueno left the house of his sister-in-law. Cueno suffered 17 stab wounds on his trunk from the Lipata brothers. The existence of multiple stab wounds on the trunk of the unarmed Cueno is inconsistent with appellant's theory of defense of a relative. The RTC, however, ruled that the prosecution failed to show conclusive proof of evident premeditation.

The dispositive portion of the RTC's decision reads:

WHEREFORE, in the light of the foregoing considerations, the Court here[b]y renders judgment finding the accused GERRY LIPATA Y ORTIZA guilty beyond reasonable doubt of the crime of Murder and he is

<sup>6</sup> *Rollo*, pp. 3-6.

<sup>7</sup> The RTC also stated that: "From the time Larry and Rudy Lipata fled from the scene of the crime on 1 September 2005, they have been at large and went into hiding in order to escape criminal liability." *CA rollo*, p. 16.

hereby sentenced to suffer the penalty of imprisonment of *reclusion perpetua* from twenty (20) years and one (1) day to forty (40) years.

The accused is hereby adjudged to pay the heirs of Rolando Cueno the following amounts:

- (a) Php 50,000.00 representing civil indemnity *ex delicto* of the accused;
- (b) Php 120,550.00 representing the actual damages incurred by the heirs of Rolando Cueno, incident to his death plus 12% interest per annum computed from 6 September 2005 until fully paid;
- (c) Php 50,000.00 as moral damages for the mental and emotional anguish suffered by the heirs arising from the death of Rolando Cueno; and
- (d) Php 25,000[.00] as exemplary damages.

The accused shall be credited with the full period of his preventive imprisonment, subject to the conditions imposed under Article 29 of the Revised Penal Code, as amended.

SO ORDERED.<sup>8</sup>

Appellant, through the Public Attorney's Office (PAO), filed a notice of appeal<sup>9</sup> on 6 April 2010. The RTC granted appellant's notice in an Order<sup>10</sup> dated 19 April 2010.

### **The CA's Ruling**

The CA dismissed appellant's appeal and affirmed the decision of the RTC. The CA agreed with the RTC's ruling that appellant's claim of defense of a relative must fail. There was no actual or imminent threat on the life of appellant or of his brother Larry. There was also no reason for appellant to stab Cueno. Cueno was outnumbered by the Lipata brothers, three to one. The requirement of lack of provocation on the part of appellant is negated by the multiple stab wounds that Cueno sustained.

The CA disagreed with appellant's contention that the prosecution failed to establish treachery. The CA pointed out that Cueno was not forewarned of any impending threat to his life. Cueno was unarmed, and went to his sister-in-law's house to gather *malunggay* leaves. The Lipata brothers, on the other hand, were readily armed with *tres cantos*, an icepick, and a broken piece of glass from a Red Horse bottle. The execution of the Lipata brothers' attack made it impossible for Cueno to retaliate.

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<sup>8</sup> Id. at 20.

<sup>9</sup> Id. at 21.

<sup>10</sup> Id. at 22.

The CA also disagreed with appellant's contention that there was no abuse of superior strength. The three Lipata brothers were all armed with bladed weapons when they attacked the unarmed Cueno. The Lipata brothers refused to stop stabbing Cueno until they saw him unconscious.

The dispositive portion of the CA's decision reads:

WHEREFORE, finding the appeal to be bereft of merit, the same is hereby DISMISSED. The appealed decision of the trial court convicting appellant of the crime of murder is hereby AFFIRMED.

SO ORDERED.<sup>11</sup>

The PAO filed a notice of appeal<sup>12</sup> on behalf of appellant on 10 June 2011. The CA ordered the immediate elevation of the records to this Court in its 30 June 2011 Resolution.<sup>13</sup>

### **Appellant's Death Prior to Final Judgment**

This Court, in a Resolution dated 13 June 2012,<sup>14</sup> noted the records forwarded by the CA and required the Bureau of Corrections (BuCor) to confirm the confinement of appellant. The BuCor, in a letter dated 26 July 2012, informed this Court that there is no record of confinement of appellant as of date. In a Resolution dated 10 September 2012,<sup>15</sup> this Court required the Quezon City Jail Warden to transfer appellant to the New Bilibid Prison and to report compliance within ten days from notice. The Quezon City Jail Warden, in a letter dated 22 October 2012,<sup>16</sup> informed this Court that appellant passed away on 13 February 2011. The former Quezon City Jail Warden wrote to the RTC about appellant's demise in a letter dated 23 February 2011. Attached to the 22 October 2012 letter were photocopies of appellant's death certificate and medical certificate, as well as the former Quezon City Jail Warden's letter.<sup>17</sup> In a Resolution dated 7 January 2013,<sup>18</sup> this Court noted the 22 October 2012 letter from the Quezon City Jail Warden, and required the parties to submit their supplemental briefs on the civil aspect of the case if they so desire.

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<sup>11</sup> *Rollo*, p. 18.

<sup>12</sup> *Id.* at 20.

<sup>13</sup> *Id.* at 23.

<sup>14</sup> *Id.* at 25.

<sup>15</sup> *Id.* at 29.

<sup>16</sup> *Id.* at 30.

<sup>17</sup> *Id.* at 31-34. Based on the medical certificate issued by the East Avenue Medical Center, appellant was admitted on 13 February 2011, and was pronounced dead at 8:27 in the evening of the same day. The immediate cause of death as stated in the death certificate was "Hypoxic Ischemic Encephalopathy secondary to Cardiopulmonary Arrest."

<sup>18</sup> *Id.* at 37.

The Office of the Solicitor General filed a Manifestation dated 18 March 2013,<sup>19</sup> which stated that it had already exhaustively argued the relevant issues in its appellee's brief. The PAO, on the other hand, filed a supplemental brief on 26 March 2013.<sup>20</sup>

In view of appellant's death prior to the promulgation of the CA's decision, this Court issued a Resolution dated 25 September 2013 which ordered the PAO "(1) to SUBSTITUTE the legal representatives of the estate of the deceased appellant as party; and (2) to COMMENT on the civil liability of appellant within ten (10) days from receipt of this Resolution."<sup>21</sup>

The PAO filed its Manifestation with Comment on the Civil Liability of the Deceased Appellant on 29 November 2013.<sup>22</sup> According to the Public Attorney's Office-Special and Appealed Cases Service, the relatives of the deceased appellant have not communicated with it since the case was assigned to its office on 29 September 2010. The PAO sent a letter on 4 November 2013 to Lilia Lipata, who was appellant's next of kin per official records. Despite receipt of the letter, the relatives of appellant still failed to communicate with the PAO.

In its Manifestation, the PAO stated that:

x x x x

9. Considering that the civil liability in the instant case arose from and is based solely on the act complained of, i.e. murder, the same does not survive the death of the deceased appellant. Thus, in line with the abovesited ruling [*People v. Jaime Ayochok*, G.R. No. 175784, 25 August 2010, 629 SCRA 324, citing *People v. Rogelio Bayotas*, G.R. No. 102007, 2 September 1994, 236 SCRA 239], the death of the latter pending appeal of his conviction extinguished his criminal liability as well as the civil liability based solely thereon.

10. This being so, it is respectfully submitted that the necessity to substitute the legal representatives of the estate of the deceased as party does not arise.<sup>23</sup>

On 9 July 2014, this Court issued a Resolution which declared that "the [PAO] shall continue as the legal representative of the estate of the deceased [appellant] for purposes of representing the estate in the civil aspect of this case."<sup>24</sup>

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<sup>19</sup> Id. at 39-40.

<sup>20</sup> Id. at 42-47.

<sup>21</sup> Id. at 51.

<sup>22</sup> Id. at 61-66.

<sup>23</sup> Id. at 64-65.

<sup>24</sup> Id. at 77.

### **The Court's Ruling**

At the outset, we declare that because of appellant's death prior to the promulgation of the CA's decision, there is no further need to determine appellant's criminal liability. Appellant's death has the effect of extinguishing his criminal liability. Article 89(1) of the Revised Penal Code provides:

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

What this Court will discuss further is the effect of appellant's death with regard to his civil liability. In 1994, this Court, in *People v. Bayotas*,<sup>25</sup> reconciled the differing doctrines on the issue of whether the death of the accused pending appeal of his conviction extinguishes his civil liability. We concluded that “[u]pon death of the accused 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 recovery of civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal.”<sup>26</sup>

We also ruled that “if the private offended party, upon extinction of the civil liability *ex delicto* desires to recover damages from the *same act or omission complained of*, he must subject to Section 1, Rule 111 ([of the then applicable] 1985 Rules on Criminal Procedure as amended) file a separate civil action, this time predicated not on the felony previously charged but on other sources of obligation. The source of obligation upon which the separate civil action is premised determines against whom the same shall be enforced.”<sup>27</sup>

We proceeded to distinguish the defendants among the different causes of action. If the act or omission complained of arises from quasi-delict or, by provision of law, results in an injury to person or real or personal property, the separate civil action must be filed against the executor or administrator of the estate pursuant to Section 1, Rule 87 of the Rules of Court.<sup>28</sup> On the other hand, if the act or omission complained of arises from

<sup>25</sup> G.R. No. 102007, 2 September 1994, 236 SCRA 239.

<sup>26</sup> Id. at 251.

<sup>27</sup> Id. at 253-254.

<sup>28</sup> *Actions which may and which may not be brought against executor or administrator.* — No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but actions to recover real or personal property, or an interest therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person

contract, the separate civil action must be filed against the estate of the accused pursuant to Section 5, Rule 86 of the Rules of Court.<sup>29</sup>

We summarized our ruling in *Bayotas* as follows:

**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
- 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 deprivation of right by prescription.<sup>30</sup> (Emphases supplied)

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or property, real or personal, may be commenced against him.

<sup>29</sup> *Claims which must be filed under the notice. If not filed, barred; exceptions.* — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expense for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. Where an executor or administrator commences an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court as herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent, may be approved at their present value.

<sup>30</sup> G.R. No. 102007, 2 September 1994, 236 SCRA 239, 255-256.

The promulgation of the Revised Rules on Criminal Procedure in 2000 provided for the effect of the death of the accused after arraignment and during the pendency of the criminal action to reflect our ruling in *Bayotas*:

Sec. 4. *Effect of death on civil actions.* — The death of the accused after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict. However, the independent civil action instituted under Section 3 of this Rule or which thereafter is instituted to enforce liability arising from other sources of obligation may be continued against the estate or legal representative of the accused after proper substitution or against said estate, as the case may be. The heirs of the accused may be substituted for the deceased without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

A final judgment entered in favor of the offended party shall be enforced in the manner especially provided in these rules for prosecuting claims against the estate of the deceased.

If the accused dies before arraignment, the case shall be dismissed without prejudice to any civil action the offended party may file against the estate of the deceased.

Contrary to the PAO's Manifestation with Comment on the Civil Liability of the Deceased Appellant,<sup>31</sup> Cueno died because of appellant's fault. Appellant caused damage to Cueno through deliberate acts.<sup>32</sup> Appellant's civil liability *ex quasi delicto* may now be pursued because appellant's death on 13 February 2011, before the promulgation of final judgment, extinguished both his criminal liability and civil liability *ex delicto*.

Despite the recognition of the survival of the civil liability for claims under Articles 32, 33, 34 and 2176 of the Civil Code, as well as from sources of obligation other than delict in both jurisprudence and the Rules, and our subsequent designation of the PAO as the "legal representative of the estate of the deceased [appellant] for purposes of representing the estate in the civil aspect of this case,"<sup>33</sup> the current Rules, pursuant to our pronouncement in *Bayotas*,<sup>34</sup> require the private offended party, or his heirs, in this case, to institute a separate civil action to pursue their claims against the estate of the

<sup>31</sup> *Rollo*, pp. 61-66.

<sup>32</sup> Article 20 of the Civil Code of the Philippines provides: "Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same." See also Articles 30, 1157 and 2195 of the Civil Code.

<sup>33</sup> *Rollo*, p. 77.

<sup>34</sup> *Supra* note 25.

deceased appellant. The independent civil actions in Articles 32, 33, 34 and 2176, as well as claims from sources of obligation other than delict, are not deemed instituted with the criminal action but may be filed separately by the offended party even without reservation.<sup>35</sup> The separate civil action proceeds independently of the criminal proceedings and requires only a preponderance of evidence.<sup>36</sup> The civil action which may thereafter be instituted against the estate or legal representatives of the decedent is taken from the new provisions of Section 16 of Rule 3<sup>37</sup> in relation to the rules for prosecuting claims against his estate in Rules 86 and 87.<sup>38</sup>

Upon examination of the submitted pleadings, we found that there was no separate civil case instituted prior to the criminal case. Neither was there any reservation for filing a separate civil case for the cause of action arising from quasi-delict. Under the present Rules, the heirs of Cueno should file a separate civil case in order to obtain financial retribution for their loss. The lack of a separate civil case for the cause of action arising from quasi-delict leads us to the conclusion that, a decade after Cueno's death, his heirs cannot recover even a centavo from the amounts awarded by the CA.

However, for similar cases **in the future**, we refer to the Committee on the Revision of the Rules of Court for study and recommendation to the Court *En Banc* appropriate amendments to the Rules for a speedy and inexpensive resolution of such similar cases with the objective of indemnifying the private offended party or his heirs in cases where an accused dies after conviction by the trial court but pending appeal.

In *Lumantas v. Calapiz*,<sup>39</sup> this Court declared that our law recognizes that an acquittal based on reasonable doubt of the guilt of the accused does not exempt the accused from civil liability *ex delicto* which may be proved by preponderance of evidence. This Court's pronouncement in *Lumantas* is

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<sup>35</sup> *Casupanan v. Laroya*, 436 Phil. 582, 593 (2002).

<sup>36</sup> Section 3, Rule 111 of the Revised Rules of Criminal Procedure.

<sup>37</sup> *Death of party; duty of counsel*. — Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with his duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

<sup>38</sup> FLORENZ D. REGALADO, 2 REMEDIAL LAW COMPENDIUM 352 (2004). Rule 86 refers to Claims Against Estate, while Rule 87 refers to Actions By and Against Executors and Administrators.

<sup>39</sup> G.R. No. 163753, 15 January 2014, 713 SCRA 337, citing *Manantan v. Court of Appeals*, 403 Phil. 298 (2001).

based on Article 29 of the Civil Code:

Art. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

We also turn to the Code Commission's justification of its recognition of the possibility of miscarriage of justice in these cases:

The old rule that the acquittal of the accused in a criminal case also releases him from civil liability is one of the most serious flaws in the Philippine legal system. It has given rise to numberless instances of miscarriage of justice, where the acquittal was due to a reasonable doubt in the mind of the court as to the guilt of the accused. The reasoning followed is that inasmuch as the civil responsibility is derived from the criminal offense, when the latter is not proved, civil liability cannot be demanded.

This is one of those cases where confused thinking leads to unfortunate and deplorable consequences. Such reasoning fails to draw a clear line of demarcation between criminal liability and civil responsibility, and to determine the logical result of the distinction. The two liabilities are separate and distinct from each other. One affects the social order and the other, private rights. One is for the punishment or correction of the offender while the other is for reparation of damages suffered by the aggrieved party. The two responsibilities are so different from each other that article 1813 of the present (Spanish) Civil Code reads thus: "There may be a compromise upon the civil action arising from a crime; but the public action for the imposition of the legal penalty shall not thereby be extinguished." It is just and proper that, for the purpose of the imprisonment of or fine upon the accused, the offense should be proved beyond reasonable doubt. But for the purpose of indemnifying the complaining party, why should the offense also be proved beyond reasonable doubt? Is not the invasion or violation of every private right to be proved only by a preponderance of evidence? Is the right of the aggrieved person any less private because the wrongful act is also punishable by the criminal law?

For these reasons, the Commission recommends the adoption of the reform under discussion. It will correct a serious defect in our law. It will close up an inexhaustible source of injustice – a cause for disillusionment on the part of innumerable persons injured or wronged.<sup>40</sup>

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<sup>40</sup> Commission, pp. 45-46, quoted in ARTURO M. TOLENTINO, 1 COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 121-122 (1990).

In similar manner, the reform in procedure in these cases to be recommended by the Committee on the Revision of the Rules of Court shall aim to provide the aggrieved parties relief, as well as recognition of their right to indemnity. This reform is of course subject to the policy against double recovery.

**WHEREFORE**, we **SET ASIDE** the Decision promulgated on 31 May 2011 by the Court of Appeals in CA-G.R. CR-H.C. No. 04461. The criminal and civil liabilities *ex delicto* of appellant Gerry Lipata y Ortiza are declared **EXTINGUISHED** by his death prior to final judgment.

Let a copy of this Decision be forwarded to the Committee on the Revision of the Rules of Court.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE CANRAL MENDOZA**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

**ATTESTATION**

I attest 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.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice