

MODIFIED RESOLUTION



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 8, 2020** which reads as follows:*

**G.R. No. 242409 – PEOPLE OF THE PHILIPPINES,**  
*plaintiff-appellee, versus XXX,<sup>1</sup> accused-appellant.*

RESOLUTION

In a Decision<sup>2</sup> dated March 10, 2016, the Regional Trial Court (RTC) of Danao City, Cebu, Branch 25 in Criminal Case Nos. DNO-3170-3171, found XXX (accused-appellant) guilty beyond reasonable doubt of the crimes of Acts of Lasciviousness and Statutory Rape, the dispositive portion of which reads:

IN LIGHT OF ALL THE FOREGOING, judgment is hereby rendered as follows:

- a. In Criminal Case No. DNO-3170, accused is hereby found GUILTY beyond reasonable doubt of the crime of acts of lasciviousness under Article 336 of the Revised Penal Code in relation to RA 7610 and is hereby meted the penalty of imprisonment with a *minimum period of 12 years 10 months and 21 days to a maximum period of 16 years, 5 months and 9 days* and to pay P30,000.00 as moral damages;
- b. In Criminal Case No. DNO-3171, accused is hereby found GUILTY beyond reasonable doubt of the crime of statutory

<sup>1</sup> At the victim's instance or, if the victim is a minor, that of his or her guardian, the complete name of the accused may be replaced by fictitious initials and his or her personal circumstances blotted out from the Decision, Resolution, or Order if the name and personal circumstances of the accused may tend to establish or compromise the victims' identities, in accordance with Amended Administrative Circular No. 83-2015 (III)[I][c]) dated September 5, 2017.

<sup>2</sup> CA rollo, pp. 60-68.

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rape under Article 266-A, paragraph 1 (d) of the Revised Penal Code, as amended, and is hereby meted the penalty of *reclusion perpetua* and to pay P75,000.00 as moral damages and P30,000.00 as exemplary damages.

SO ORDERED.<sup>3</sup>

Accused-appellant appealed his conviction before the Court of Appeals (CA). In a Decision dated May 29, 2018, the CA affirmed the RTC's Decision with modifications,<sup>4</sup> the dispositive portion of which reads:

**WHEREFORE**, the decision of the Regional Trial Court, Branch 25, Danao City, Cebu dated [M]arch 10, 2016 finding appellant [XXX] guilty beyond reasonable doubt of the crime of acts of lasciviousness under Article 366 of the Revised Penal Code, in relation to R.A. [No.] 7610, and the crime of statutory rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, is hereby **AFFIRMED with MODIFICATIONS**, as follows –

1. In **CRIMINAL CASE NO. DNO-3170**, in addition to moral damages, **civil indemnity** and **exemplary damages** in the amount of **Php20,000.00** and **Php15,000.00**, respectively, are hereby awarded.
2. In **CRIMINAL CASE NO. DNO-3171**, in addition to the moral damages awarded by the trial court in the amount of Php75,000.00, **civil indemnity** is likewise awarded in the amount of **Php75,000.00**. Moreover, the award of **exemplary damages** in **increased to Php75,000.00**.
3. Lastly, all monetary awards for damages shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this decision until fully paid.

**SO ORDERED.**<sup>5</sup> (Emphasis in the original.)

Aggrieved, accused-appellant filed a Notice of Appeal<sup>6</sup> from the CA's Decision. After having been required to file their respective supplemental briefs, the Office of the Solicitor General and the accused-appellant filed separate manifestations in lieu of filing the required briefs.

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<sup>3</sup> *Id.* at 68.

<sup>4</sup> *Rollo*, pp. 4-26.

<sup>5</sup> *Id.* at 25.

<sup>6</sup> *Id.* at 27.

Meanwhile, on April 11, 2019, the Court received a Letter<sup>7</sup> dated April 8, 2019 from the Bureau of Corrections, informing the Court of the death of the accused-appellant on July 22, 2018. In compliance with the Court's directive,<sup>8</sup> the BOC submitted a certified true copy of accused-appellant's Death Certificate on December 12, 2019.

Considering the death of accused-appellant pending this appeal, the dismissal of this case is warranted.

Under Article 89, paragraph 1 of the Revised Penal Code, criminal liability is totally extinguished by the death of the convict. The Court explained, in *People of the Philippines v. Bayotas*,<sup>9</sup> that the death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. The same case summarized the rules on the effect of the death of the accused as to his liability while review of his conviction is pending, thus:

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

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<sup>7</sup> *Id.* at 35.

<sup>8</sup> *Id.* at 50-51.

<sup>9</sup> 306 Phil. 266 (1994).

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.<sup>10</sup> (Underscoring supplied.)

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 civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal action.<sup>11</sup> However, it is well to clarify that Galindo's civil liability in connection with his acts against AAA may be based on sources of obligation other than delicts; in which case, AAA may file a separate civil action against the estate of Galindo, as may be warranted by law and procedural rules.<sup>12</sup>

**WHEREFORE**, the appeal of the late XXX is **DISMISSED**. This case is declared **CLOSED and TERMINATED**.

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<sup>10</sup> *Id.* at 282-284.

<sup>11</sup> *People v. Egagamao*, 792 Phil. 500, 508 (2016), citing *People v. Paras*, G.R. No. 192912, October 22, 2014, 739 SCRA 179, 184.

<sup>12</sup> *Id.* at 509, citing *People v. Abungan*, 395 Phil. 456, 462 (2000).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *for all*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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The Solicitor General  
1226 Makati City

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(CA-G.R. CEB CR-HC No. 02499)

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The Presiding Judge  
Regional Trial Court, Branch 25  
6000 Cebu City  
(Crim. Case Nos. DNO-3170-3171)

XXX  
Accused-Appellant  
(Deceased)

The Director General  
Bureau of Corrections  
1770 Muntinlupa City

UR

JLP

