

COPY FOR: PUBLIC INFORMATION OFFICE

# Republic of the Philippines Supreme Court Manila

	E COURT OF THE PHILIPPINES	
MF		
$\mathbb{K}$	AUG 2 4 2020	
INF	I Star V III	
BY: TIME:	855	1

### SPECIAL THIRD DIVISION

## NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 26, 2020**, which reads as follows:

"G.R. No. 211720 (PEOPLE OF THE PHILIPPINES, plaintiffappellee, versus CEFERINO ROSALES y TORRES, A.K.A. "DANNY," accused-appellant). – The Court GRANTS the motion of the Public Attorney's Office for an extension of thirty (30) days from June 11, 2017, within which to comply with the Resolution dated March 13, 2017; and

In a Decision dated November 29, 2006, the Regional Trial Court of Las Piñas City, Branch 275 (RTC) in Criminal Case No. 03-0882, found accusedappellant Ceferino Rosales y Torres a.k.a. "Danny" (accused-appellant) guilty beyond reasonable doubt of the crime of murder, the dispositive portion of which reads:

WHEREFORE, finding the accused Ceferino Rosales y Torres GUILTY beyond reasonable doubt of the crime of murder as charged in the Information, judgment is hereby rendered sentencing the accused to undergo imprisonment of Reclusion Perpetua and to indemnify the offended party in the sum of P50,000.00 and to pay the cost.

SO ORDERED.<sup>1</sup>

Accused-appellant appealed his conviction before the Court of Appeals (CA). In a Decision<sup>2</sup> dated November 6, 2013, the CA affirmed the RTC's Decision with modification as to the award of indemnity and damages, that accused-appellant was also ordered to pay the heirs of Edgardo Lomboy y Caguioa (victim) (a) civil indemnity in the amount of P75,000.00 and (b) moral damages in the amount of P50,000.00.<sup>3</sup>

*Rollo*, p. 2.

Id. at 2-13. Penned by Associate Justice Ramon M. Bato, Jr. with Presiding Justice Andres B. Reyes, Jr. (now a member of this Court) and Associate Justice Rodil V. Zalameda (now a member of this Court), concurring. Id. at 12.

Aggrieved, accused-appellant filed a Notice of Appeal<sup>4</sup> from the CA's Decision.

On July 6, 2015, the Court rendered its Resolution<sup>5</sup> affirming the CA's Decision with modifications, the dispositive portion of which reads:

WHEREFORE, we DISMISS the appeal and AFFIRM the Decision dated November 6, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05041 WITH MODIFICATIONS in that the amount of P25,000 is likewise awarded to the heirs of the victim as temperate damages in lieu of unproven actual damages and all these awards shall earn 6% interest per annum from finality of the Resolution until fully paid.

Costs against appellant. x x x

#### **SO ORDERED.**"<sup>6</sup>

The Public Attorney's Office (PAO), representing accused-appellant, filed on August 26, 2015 a Motion for Reconsideration<sup>7</sup> of the said Resolution, which the Court denied with finality in its Resolution<sup>8</sup> dated September 28, 2015.

Meanwhile, on January 21, 2016, the Court received a Letter<sup>9</sup> dated January 18, 2016 from the Bureau of Corrections, informing the Court of the death of the accused-appellant on August 19, 2015 and that a copy of his Death Certificate will be submitted soon.

In compliance<sup>10</sup> with the Court's directive, the PAO submitted accused-appellant's Death Certificate<sup>11</sup> on July 12, 2017 indicating that his death did occur on August 19, 2015.

Considering that the accused-appellant's death transpired before the Court's Resolution dated September 28, 2015, that is, before the judgment of conviction became final, his criminal liability and civil liability arising from his criminal liability are governed by Article 89, paragraph 1 of the Revised Penal Code:

ART. 89. *How criminal liability is totally extinguished*. – Criminal liability is totally extinguished:

- over -

- <sup>6</sup> Id. at 37.
- <sup>7</sup> Id. at 38-48.
- <sup>8</sup> Id. at 49-50.
  <sup>9</sup> Id. at 51-52.
- <sup>10</sup> Id. at 67-71.
- <sup>11</sup> Id. at 72.

<sup>&</sup>lt;sup>4</sup> Id. at 14-16.

<sup>&</sup>lt;sup>5</sup> Id. at 35-37a.

Resolution SPECIAL THIRD DIVISION

XXX

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.

Construing the foregoing provision, the Court, in *People v. Bayotas*,<sup>12</sup> explained that "[t]he term final judgment employed in the Revised Penal Code means judgment beyond recall. Really, as long as a judgment has not become executory, it cannot be truthfully said that defendant is definitely guilty of the felony charged against him."<sup>13</sup>

In the same case, the rules on the effect of the death of the accused on his liability pending review of his conviction were summarized by the Court 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 <u>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*."</u>

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 <u>Rules on Criminal Procedure</u> 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.<sup>14</sup> (Emphasis and underscoring supplied)

XXX

Thus, applying these established rules in the instant case, the death of the accused-appellant prior to the judgment of conviction becoming final and executory on November 5, 2015,<sup>15</sup> extinguished his criminal liability inasmuch as there is no longer a defendant to stand as the accused; the civil action is also extinguished, grounded as it is on the criminal action.<sup>16</sup> Consequently, the Court's July 6, 2015 and September 28, 2015 Resolutions, though affirming his conviction and adjudging him civilly liable, have been rendered irrelevant and ineffectual and must be set aside. However, the

<sup>14</sup> Id. at 282-283.

<sup>&</sup>lt;sup>12</sup> 306 Phil. 266 (1994).

Id. at 270, citing People v. Castillo, No. 22211-R, November 4, 1959, 56 O.G. No. 23, p. 4049.

 $<sup>^{15}</sup>$  *Rollo*, p. 58.

See People v. Egagamao, 792 Phil. 500, 508 (2016).

#### Resolution SPECIAL THIRD DIVISION

Court clarifies that the heirs of the victim may file a separate civil action against the estate of accused-appellant, as may be warranted by law and procedural rules.<sup>17</sup>

#### WHEREFORE, the Court RESOLVES to:

- (a) **SET ASIDE** its July 6, 2015 and September 28, 2015 Resolutions;
- (b) DISMISS Criminal Case No. 03-0882 before the Regional Trial Court of Las Piñas City, Branch 275, by reason of the death of accused-appellant Ceferino Rosales y Torres, a.k.a. "Danny"; and
- (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**.

#### SO ORDERED."

Very truly yours,

#### Mistoc Batt MISAEL DOMINGO C. BATTUNG III Division Clerk of Court Lang High 2020

PUBLIC ATTORNEY'S OFFICE Special & Appealed Cases Service DOJ Agencies Building East Avenue cor. NIA Road Diliman, 1101 Quezon City

COURT OF APPEALS CA G.R. CR HC No. 05041 1000 Manila

OFFICE OF THE SOLICITOR GENERAL 134 Amorsolo Street Legaspi Village, 1229 Makati City

The Superintendent New Bilibid Prison BUREAU OF CORRECTIONS 1770 Muntinlupa City

The Presiding Judge REGIONAL TRIAL COURT Branch 275, 1740 Las Piñas City (Crim. Case No. 03-0882) PUBLIC INFORMATION OFFICE Supreme Court, Manila [For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES Supreme Court, Manila

Judgment Division JUDICIAL RECORDS OFFICE Supreme Court, Manila

<sup>&</sup>lt;sup>17</sup> People v. Dimaala, 813 Phil. 878, 881 (2017).