



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated February 13, 2023, which reads as follows:

“G.R. No. 236366 (*People of the Philippines v. Edgar Publico y Mumpel a.k.a. Edgar Publico y Monpil @ “R.R.”*). – On September 15, 2017, the Court of Appeals (CA) promulgated a Decision¹ in CA-G.R. CR-HC No. 08778, affirming the Judgment² dated September 28, 2016 of the Regional Trial Court (RTC), National Capital Region, Branch 202, Las Piñas City in the case entitled, *People of the Philippines v. Edgar Publico y Mumpel a.k.a. Edgar Publico y Monpil @ “R.R.”* docketed as Criminal Case No. 15-0151, finding accused-appellant Edgar Publico guilty beyond reasonable doubt of the crime of Rape. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the appeal is **DENIED**. The Judgment dated 28 September 2016 of the Regional Trial Court of Las Piñas City, Branch 202, in Crim. Case No. [15-0151], finding accused appellant Edgar Publico y Mumpel a.k.a. Edgar Publico y Monpil @ “R.R.” guilty beyond reasonable doubt of the crime of rape, sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay private complainant AAA³ civil indemnity in the amount of Php75,000.00 and moral damages in the amount of Php75,000.00 is **AFFIRMED**. In addition, accused-appellant is ordered to pay private complainant exemplary damages in the amount of Php75,000.00, and interest at the rate of 6% *per annum* is imposed on all the monetary awards from the finality of this Decision until fully paid.

SO ORDERED.⁴

¹ *Rollo*, pp. 2-27. Penned by Associate Justice Celia C. Librea-Leagogo (now retired) with Associate Justices Florito S. Macalino and Maria Elisa Sempio Diy, concurring.

² *CA rollo*, pp. 49-63. Penned by Judge Elizabeth Yu Guray.

³ Pursuant to Supreme Court Amended Administrative Circular No. 83-2015, the personal circumstances and other information which tend to establish or compromise the identity of the victim, including the names of her family members or relatives, and the *barangay* and town where the incidents occurred, are withheld. The names of the victim and her family members or relatives are replaced with fictitious initials.

⁴ *Rollo*, p. 26.

On September 29, 2017, accused-appellant filed a Notice of Appeal.⁵ In the Resolution⁶ dated February 19, 2018, the Court noted the records of the case forwarded by the CA, and notified the parties that they may file their respective Supplemental Briefs, if they so desire. Accused-appellant filed his Manifestation in lieu of Supplemental Brief⁷ on May 15, 2018, while the Office of the Solicitor General filed its Manifestation in lieu of Supplemental Brief⁸ on May 16, 2018.

In a letter⁹ dated January 26, 2021, CTSSUPT Albert C. Manalo, Officer-in-charge, Inmate Documents and Processing Division of the Bureau of Corrections, informed the Court that accused-appellant died. Thereafter, C/INSP Argie H. Adel, Deputy Chief, Inmate Documents and Processing Division of the Bureau of Corrections, sent another letter¹⁰ dated September 7, 2022 to the Court, this time attaching the Certified True Copy of the Death Certificate¹¹ of accused-appellant.

Under prevailing law and jurisprudence, accused-appellant's death prior to his final conviction by the Court renders dismissible the criminal case 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[.]

In the case of *People v. Monroyo*,¹² the Court 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*."

⁵ Id. at 31-32.

⁶ Id. at 36-37.

⁷ Id. at 38-40.

⁸ Id. at 43-46.

⁹ Id. at 57.

¹⁰ Id. at 64.

¹¹ Id. at 65.

¹² G.R. No. 223708, October 9, 2019.

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
- 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.¹³

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 the civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal action. However, it is well to clarify that accused-appellant'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 accused-appellant, as may be warranted by law and procedural rules.

WHEREFORE, the Court resolves to **DISMISS** Criminal Case No. 15-0151 before the Regional Trial Court, National Capital Region, Branch 202, Las Piñas City, and **DECLARING** the same **CLOSED** and **TERMINATED** by reason of the supervening death of accused-appellant Edgar Publico y Mumpel a.k.a. Edgar Publico y Monpil @ "R.R." No costs.

Let entry of judgment be issued immediately.

¹³ Id., citing *People v. Culas*, 810 Phil. 205, 208-209 (2017).

SO ORDERED.”

By authority of the Court:

Misael D C Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *15-23-23*

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 202, 1740 Las Pinas City
(Criminal Case No. 15-0151)

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