



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 23, 2023** which reads as follows:*

“**G.R. No. 252478 (Mario De Leon, Petitioner v. People of the Philippines, Respondent)**. — Before the Court are the following: (a) Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court filed by petitioner Mario De Leon (petitioner), assailing the Resolutions dated August 16, 2019<sup>2</sup> and February 24, 2020<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR NO. 42227, which denied his Motion to Endorse Case to the *Sandiganbayan*<sup>4</sup> (motion to endorse) dated November 16, 2018 and consequently, dismissed his appeal outright for being a wrong remedy; and (b) Notice of Death with Motion to Withdraw Petition for Review on *Certiorari*<sup>5</sup> (motion to withdraw) dated July 7, 2022.

**The Facts**

Records reveal that petitioner, in his capacity as Mechanical Plant Supervisor in the San Miguel Rice Mill of the National Food Authority (NFA), was charged before the Regional Trial Court of Malolos City, Bulacan, Branch 84 (RTC) of Malversation of Public Funds or Property, as defined and penalized under Article 217 of the Revised Penal Code<sup>6</sup> (RPC) and docketed as Criminal Case No. 2085-M-2011.<sup>7</sup> After due proceedings, the RTC promulgated a Decision<sup>8</sup> dated August 7, 2017 convicting petitioner as charged and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of nine (9) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum; and to return to the government the amount of ₱845,706.15, with six percent (6%) legal interest from the date of finality of judgment until

<sup>1</sup> Dated June 10, 2020; *rollo* pp. 3-14.

<sup>2</sup> *Id.* at 18-21. Penned by Associate Justice Perpetua Susana T. Atal-Paño and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Myra V. Garcia-Fernandez.

<sup>3</sup> *Id.* at 23-25.

<sup>4</sup> *Id.* at 48-54.

<sup>5</sup> *Id.* at 111-114.

<sup>6</sup> Entitled “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS,” approved on December 8, 1930.

<sup>7</sup> *Rollo*, pp. 26-27.

<sup>8</sup> *Id.* at 26-44. Penned by Acting Presiding Judge Gener M. Gito.

*per/12*

full payment.<sup>9</sup> Petitioner moved for reconsideration,<sup>10</sup> but the same was denied in an Order<sup>11</sup> dated July 13, 2018.

Aggrieved, petitioner filed a Notice of Appeal,<sup>12</sup> wherein he “respectfully manifest[ed] that he is appealing to the Court of Appeals the decision of the [RTC].”<sup>13</sup> In an Order<sup>14</sup> dated August 10, 2018, the RTC gave due course to the said appeal and accordingly, ordered the elevation of the entire case records to the CA.

### The CA Proceedings

On November 16, 2018, petitioner, through counsel, the Public Attorney’s Office (PAO), filed a motion to endorse before the CA. In the said motion, petitioner’s counsel acknowledged that they wrongfully appealed the RTC ruling to the CA instead of the *Sandiganbayan*. Nonetheless, invoking the interest of substantial justice and fair play, the PAO prayed that petitioner’s appeal be endorsed to the *Sandiganbayan* so that the latter court will be able to resolve such appeal on the merits.<sup>15</sup>

In a Resolution<sup>16</sup> dated August 16, 2019, the CA denied the motion to endorse and accordingly, dismissed petitioner’s appeal outright before it.<sup>17</sup> Citing Section 2, Rule 50 of the Rules of Court, the CA held that appeals erroneously taken before it shall not be transferred to the appropriate court, but rather, ought to be dismissed outright. In this regard, while the CA noted that there is an exception to this rule, *i.e.*, when the appealing party rectifies its error by designating the proper appellate court within the 15-day reglementary period for filing appeals, such exception does not obtain here, considering that no such rectification was made.<sup>18</sup>

Aggrieved, petitioner moved for reconsideration,<sup>19</sup> but the same was denied in a Resolution<sup>20</sup> dated February 24, 2020. Hence, this petition.<sup>21</sup>

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<sup>9</sup> Id. at 43-44.

<sup>10</sup> Not attached to the *rollo*.

<sup>11</sup> *Rollo*, p. 45. Rendered by Acting Presiding Judge Gener M. Gito.

<sup>12</sup> Dated August 1, 2018; id. at 55-56.

<sup>13</sup> Id.

<sup>14</sup> Id. at 46. Rendered by Acting Presiding Judge Gener M. Gito.

<sup>15</sup> Id. at 48-50.

<sup>16</sup> Id. at 18-21.

<sup>17</sup> Id. at 21.

<sup>18</sup> Id. at 19-21.

<sup>19</sup> Id. at 67-72.

<sup>20</sup> Id. at 23-25.

<sup>21</sup> Id. at 3-14.

### The Proceedings Before the Court

In a Resolution<sup>22</sup> dated September 7, 2020, the Court required the Office of the Solicitor General (OSG) to comment on the petition, which the OSG complied with by filing its Comment<sup>23</sup> dated March 3, 2022.

On July 11, 2022, the Court received from the PAO a motion to withdraw. In the said motion to withdraw, the PAO informed the Court that petitioner had already died on May 22, 2022, as evinced by his Certificate of Death<sup>24</sup> attached thereto, and as such, it prayed that: (a) the notice of death be duly noted; (b) the petition for review on *certiorari* be withdrawn; and (c) Criminal Case No. 2085-M-2011 against petitioner be dismissed on the account of his supervening death.<sup>25</sup>

### The Issues Before the Court

The core issues for the Court's resolution are whether or not: (a) the petition for review for *certiorari* should be withdrawn; and (b) Criminal Case No. 2085-M-2011 should be dismissed on the account of petitioner's death during the pendency of the instant petition.

### The Court's Ruling

While the Court notes the death of petitioner and allows the withdrawal of the petition, it denies the prayer to dismiss Criminal Case No. 2085-M-2011 on the account of petitioner's death during the pendency of the instant petition, as will be explained hereunder.

Article 89 (1) of the RPC reads:

ART. 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.

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<sup>22</sup> Id. at 76.

<sup>23</sup> Id. at 86-100.

<sup>24</sup> Id. at 117-118.

<sup>25</sup> Id. at 112-113.

In the landmark case of *People v. Bayotas (Bayotas)*<sup>26</sup>—which was consistently reiterated in a catena of cases<sup>27</sup>—the Court, through Associate Justice Florida Ruth P. Romero, thoroughly explained the effects of the death of an accused *pending appeal* on his liabilities, to wit:

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            x x 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

<sup>26</sup> 306 Phil. 266 (1994) [*En Banc*].

<sup>27</sup> See *People v. Caloring*, G.R. No. 250980, March 15, 2022 [Per J. Inting, First Division]; *Cardenas v. People*, G.R. Nos. 231538-39, December 1, 2021 [Per J. Inting, Second Division]; *Montejo v. People*, G.R. Nos. 248086-93 & 248702-09, June 28, 2021 [Per J. Inting, Third Division]; *Martel v. People*, G.R. Nos. 224720-23 & 224765-68, February 2, 2021 [Per J. Caguioa, *En Banc*]; *People v. Sayo*, G.R. No. 227704, April 10, 2019 [Per J. Caguioa, Second Division]; *People v. De Chavez, Jr.*, 822 Phil. 879 (2017) [Per J. Leonardo-De Castro, First Division]; *People v. Calomia*, 820 Phil. 1219 (2017) [Per J. Leonardo-De Castro, First Division]; *People v. Jao*, 810 Phil. 1028 (2017) [Per J. Perlas-Bernabe, First Division]; *People v. Toukyo*, 807 Phil. 775 (2017) [Per J. Perlas-Bernabe, First Division]; *People v. Layag*, 797 Phil. 386 (2016) [Per J. Perlas-Bernabe, First Division]; *Tuano v. People*, 796 Phil. 124 (2016) [Per J. Leonen, Second Division]; *People v. Egugamao*, G.R. No. 218809, August 3, 2016 [Per J. Perlas-Bernabe, First Division]; and *People v. Lipata*, 785 Phil. 520 (2016) [Per J. Carpio, Second Division].

*per/12*

possible privation of right by prescription.<sup>28</sup> (emphasis and underscoring supplied)

Thus, for *Bayotas* guidelines to be applicable, the accused's death must occur during the pendency of his/her appeal of the judgment of conviction against him either before the proper appellate court or the Court. However, this circumstance does not obtain here.

To recapitulate, Criminal Case No. 2085-M-2011 is filed against petitioner, in his capacity as Mechanical Plant Supervisor in the San Miguel Rice Mill of the NFA—a government position which has a salary grade below SG-27. Thus, pursuant to Section 4 of Presidential Decree No. 1606,<sup>29</sup> as amended by Republic Act No. (RA) 8249,<sup>30</sup> his case falls within the exclusive original jurisdiction of the RTC, and exclusive appellate jurisdiction over the same belongs to the *Sandiganbayan*, viz.:

Section 4. *Jurisdiction.* The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

X X X X

In cases where none of the accused are occupying positions corresponding to salary grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military or PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court and municipal circuit trial court as the case may be, pursuant to their respective jurisdiction as provided in *Batas Pambansa Blg.* 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders or regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided. (emphases and underscoring supplied)

<sup>28</sup> *People v. Bayotas*, supra; citations omitted.

<sup>29</sup> Entitled "REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL COURT TO BE KNOWN AS "SANDIGANBAYAN" AND FOR OTHER PURPOSES" (December 10, 1978).

<sup>30</sup> Entitled "AN ACT FURTHER DEFINING THE JURISDICTION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on February 5, 1997.

*per/12*

In this case, it is undisputed—as it is admitted in petitioner’s motion to endorse before the CA—that petitioner resorted to a wrong remedy when he explicitly manifested in his notice of appeal “that he is appealing to the Court of Appeals the decision of the [RTC]”<sup>31</sup> instead of the *Sandiganbayan*. While it is true that such error on the part of petitioner is not *per se* fatal to his cause, he is nevertheless required to rectify the same within the 15-day reglementary period within which he is allowed to appeal; otherwise, his appeal to the wrong appellate court shall result in its outright dismissal. In *Balaba v. People*,<sup>32</sup> the Court, through Associate Justice Antonio T. Carpio, reiterated that:

An error in designating the appellate court is not fatal to the appeal. However, the correction in designating the proper appellate court should be made within the 15-day period to appeal. Once made within the said period, the designation of the correct appellate court may be allowed even if the records of the case are forwarded to the Court of Appeals. Otherwise, the second paragraph of Section 2, Rule 50 of the Rules of Court would apply. The second paragraph of Section 2, Rule 50 of the Rules of Court reads:

**“An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.”**<sup>33</sup> (emphasis in the original)

Here, it is worthy to emphasize that petitioner, through counsel, only sought to rectify his error (*i.e.*, appealing his conviction to the CA instead of the *Sandiganbayan*) through the motion to endorse before the CA, which was filed long after the said 15-day reglementary period had lapsed. Thus, the Court rules that the CA correctly dismissed petitioner’s appeal outright before it. It is well settled that “the right to appeal is not a natural right or a part of due process; it is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost.”<sup>34</sup> As the appealing party, petitioner (and his counsel for that matter) should have faithfully complied with the prevailing laws and rules pertinent to his case. His failure to do so forfeited his privilege to appeal. Indeed, any liberality in the application of the rules of procedure may be properly invoked only in cases of some excusable formal deficiency or error in a pleading, but definitely not in cases like now where a liberal application would directly subvert the essence of the proceedings or results in the utter disregard of the Rules of Court.<sup>35</sup>

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<sup>31</sup> *Rollo*, p. 55.

<sup>32</sup> 610 Phil. 623 (2009) [First Division].

<sup>33</sup> *Id.* at 627; citing *Melencion v. Sandiganbayan*, 577 Phil. 223, 229 (2008) [Per J. Carpio, First Division].

<sup>34</sup> *Tambova v. People*, G.R. No. 248264, July 27, 2020 [Per J. Perlas-Bernabe, Second Division]; citation omitted.

<sup>35</sup> See *BPI Family Savings Bank, Inc. v. Pryce Cases, Inc.*, 668 Phil. 206, 215 (2011) [Per J. Carpio, Second Division]; citation omitted.

Considering, therefore, that petitioner appealed to a wrong tribunal, his appeal effectively did not toll the running of the 15-day reglementary period under prevailing rules. Consequently, the RTC ruling in Criminal Case No. 2085-M-2011 which convicted petitioner for the crime of Malversation of Public Funds or Property, as defined and penalized under Article 217 of the RPC had already lapsed into finality.<sup>36</sup>

In light of petitioner's final conviction for the aforesaid crime which occurred long before petitioner's death, the *Bayotas* guidelines find no application in this case. Consequently, the RTC ruling on this matter must remain untouched, pursuant to the doctrine of immutability of judgments.

**FOR THESE REASONS**, the instant petition is hereby deemed **WITHDRAWN**. The Decision dated August 7, 2017 of the Regional Trial Court of Malolos City, Bulacan, Branch 84 in Criminal Case No. 2085-M-2011 is declared to be **FINAL** and **EXECUTORY**.

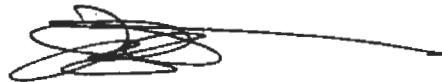
Let entry of judgment be issued.

**SO ORDERED.**"

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court <sup>mm</sup> 10/12  
12 OCT 2023

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<sup>36</sup> See *Land Bank of the Philippines v. CA*, 789 Phil. 577, 582–583 (2016) [Per J. Jardeleza, Third Division]; citing *Land Bank of the Philippines v. CA*, 663 Phil. 112, 116 (2011) [Per J. Carpio-Morales, Third Division].

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(Crim. Case No. 2085-M-2011)

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