



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Cagayan de Oro City
SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 8, 2023** which reads as follows:*

“G.R. No. 257218 (Angelito Duhaylungsod, Petitioner v. People of the Philippines, Respondent). — This Court resolves to: (1.) **GRANT** the motions of the Office of the Solicitor General for first to third extension totaling fifty (50) days from September 18, 2022 within which to file a comment on the petition; (2.) **NOTE** the aforesaid comment dated October 25, 2022 on the Petition for Review on *Certiorari* in compliance with the Resolution dated August 3, 2022; (3.) **GRANT** the motion of counsel for petitioner for extension of thirty (30) days from October 19, 2022 within which to file compliance with the (re: Resolution dated August 3, 2022); (4.) **NOTE** the partial compliance with motion for additional extension of time to file compliance (re: Resolution dated August 3, 2022) dated November 17, 2022 by counsel for petitioner, submitting a verified statement of the material date of receipt of the assailed Decision, and **GRANT** counsel’s prayer for an extension of thirty (30) days from November 18, 2022 or until December 18, 2022, within which to file the verification and certification against forum shopping; (5.) **NOTE** the letter dated December 13, 2022 of Chief Inspector Catherine D. Capanang, Inmate Documents and Processing Division, Bureau of Corrections, Muntinlupa City, informing this Court that petitioner Angelito Duhaylungsod y Concha died on December 1, 2022 at the Ospital ng Muntinlupa, Alabang, per the attached notice of death; and (6.) **NOTE** the manifestation dated December 5, 2022 of counsel for petitioner, stating that they received an information from CO1 De Mauro, videoconferencing facilitator of the New Bilibid Prison, Maximum Security Compound that petitioner Angelito Duhaylungsod y Concha already died last December 1, 2022, as shown in the attached photocopy of his death certificate issued by the Office of the Civil Registrar.

This Court resolves the Petition for Review on *Certiorari*¹ filed by Angelito Duhaylungsod y Concha (*Duhaylungsod*) seeking the reversal of the Decision² of the Court of Appeals (CA) in CA-G.R. CEB C.R. No. 02934,

¹ *Rollo*, pp. 18–44.

² *Id.* at 107–121. The October 30, 2018 Decision in CA-G.R. CEB C.R. No. 02934 was penned by Associate Justice Edgardo L. Delos Santos (a retired member of this Court), and concurred in by Associate Justices Marilyn B. Lagura-Yap and Louis P. Acosta of the Special Eighteenth Division, Court of Appeals, Cebu City.

which upheld the Joint Decision³ of the Regional Trial Court (*RTC*) in Criminal Case Nos. RTC-4083 and RTC-4084. In Criminal Case No. RTC-4084, the *RTC* found Duhaylungsod guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165 for which he was sentenced to suffer the penalty of imprisonment for 17 years, 4 months and 1 day as, minimum, to 20 years, as maximum, and fined in the amount of PHP 200,000.00. However, Duhaylungsod was acquitted in Criminal Case No. RTC-4083.

On December 13, 2022, Chief Inspector Catherine D. Capanang, Chief of Inmate Documents and Processing Division, sent a letter informing this Court that Duhaylungsod had died on December 1, 2022.⁴ Attached to said letter is the notice of death signed by Corrections Technical Chief Inspector Ursicio D. Cenas, M.D., Medical Officer of the Bureau of Corrections, to attest to the same.⁵ It would thus appear that Duhaylungsod passed away during the pendency of his appeal before this Court.

Article 89(1) of the Revised Penal Code provides for the consequence of the accused's supervening death as follows:

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 *People v. Bayotas*,⁶ the effects of the death of an accused pending appeal of his or her conviction were further discussed 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 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

³ *Id.* at 51-69. The February 3, 2017 Joint Decision in Criminal Case Nos. RTC-4083 and RTC-4084 was penned by Presiding Judge Amy Alabado Avellano of Branch 58, Regional Trial Court, San Carlos City, Negros Occidental.

⁴ *Id.* at 196.

⁵ *Id.* at 197.

⁶ 306 Phil. 266 (1994) [Per J. Romero, *En Banc*].

- b) Contracts
- c) Quasi-contracts
- d) . . .
- 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.⁷ (Citations omitted)

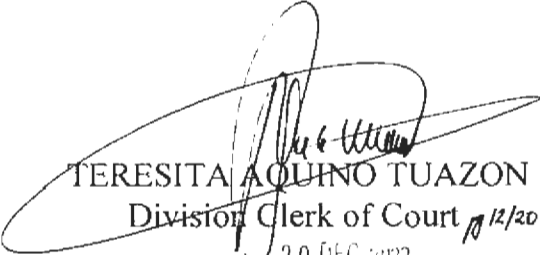
It is thus clear from the foregoing that the criminal liability and civil liability *ex delicto* of Duhaylungsod are totally extinguished with his death occurring before final judgment. As there is no longer a defendant to stand as the accused,⁸ this Court resolves to close and terminate the instant criminal action, owing to the untimely demise of Duhaylungsod.

FOR THIS REASON, the criminal liability and civil liability *ex delicto* of Angelito Duhaylungsod y Concha in Criminal Case No. RTC-4084 are **EXTINGUISHED** by reason of his death. The case is hereby declared **CLOSED** and **TERMINATED**.

Let entry of final judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court 12/20
20 DEC 2023

⁷ *Id.* at 282–284.

⁸ *Martel v. People*, G.R. Nos. 224720-23 & 224765-68, February 2, 2021 [Per J. Caguioa, *En Banc*]. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

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ANGELITO DUHAYLUNGSOD y CONCHA
Petitioner
(deceased)

*CINSP. CATHERINE D. CAPANANG (reg)
Inmate Documents and Processing Division
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 58
6127 San Carlos City
(Crim. Case No. RTC-4083)

COURT OF APPEALS (reg)
Visayas Station
Cebu City
CA-G.R. CEB CR No. 02934

JUDGMENT DIVISION (x)
Supreme Court, Manila

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*For this resolution only
Please notify the Court of any change in your address.
GR257218. 3/08/2023(50 & 87)URES 1/10