ROSALIE ABANERO AHARAJA, PETITIONER-APPELLEE, VS. JULBARRI ATING AHARAJA, RESPONDENT-APPELLANT.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This is an appeal from the Omnibus Order[1] dated February 2, 2009 of the Regional Trial Court, Branch 61 of Kabankalan City, Negros Occidental in Civil Case No. 1421, seeking to set aside the Permanent Protection Order which was granted in favor of petitioner-appellee.

On August 10, 2010, petitioner-appellee filed her Appellee's Brief[2]. She informed the court of the death of Julbarri Sating Aharaja attaching therewith the Certificate of Death.

On February 9, 2011, this Court issued a Resolution[3] directing respondent-appellant's counsel to comment or make a manifestation regarding the allegation of the death of his client.

On March 14, 2011, Atty. Eddie G. Aba, counsel of respondent-appellant, filed a Manifestation[4] confirming the death of his client. He said that none of his client's immediate family bothered to inform him, nor can they be contacted anymore.

This appeal must be dismissed.

In Bonilla v. Barcena[5], the criterion for determining whether an action survives the death of a petitioner was elucidated, to wit:

> "The question as to whether an action survives or not depends on the nature of the action and the damage sued for. In the causes of action which survive, the wrong complained [of] affects primarily and principally property and property rights, the injuries to the person being merely incidental, while in the causes of action which do not survive, the injury complained of is to the person, the property and rights of property affected being incidental."

The instant appeal is personal because the protection order which is the subject of the appeal is against the respondent-appellant. This appeal does not involve property and property rights. It does not survive to any heirs or legal representatives of the respondent-appellant, because the protection order against him abated upon his death. Hence the appeal could no longer be continued and must be dismissed.

WHEREFORE, the instant appeal is DISMISSED.

SO ORDERED.

Ingles,[*] and Lopez, JJ., concur.

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[*] Vice Justice Delos Santos who is on wellness leave, per Office Order No. 13-14-GTI dated June 17, 2014.

[1] Rollo, pp. 23-24 (Penned by Judge Henry D. Arles).

[2] Rollo, pp. 28-36.

[3] Rollo, pp. 58-59.

[4] Rollo, pp. 60-61.

[5] 163 Phil. 516 (1976).

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