

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONNIE ORTILLANO Y ANGELES, ACCUSED-APPELLANT.

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

Of the four defendants who were haled to court below on an Amended Information for Frustrated Murder, it was only co-accused Ronnie A. Ortillano who was convicted therefor per the Judgment on December 13, 2011[1] while the three remaining accused remained at large.

While We are cognizant of the People's Brief[2] as response to appellant Ronnie A. Ortillano's Brief,[3] on account of the faculty conferred upon Us by legal tomes,[4] We hereby GRANT his subsequent Motion to Withdraw Appeal[5] sans serious reservation thereto from the Office of the Solicitor General.[6]

ACCORDINGLY, resolution of the appeal from Ronnie A. Ortillano is now superfluous, his appeal is hereby deemed WITHDRAWN and the corresponding entry[7] shall ensue forthwith.

SO ORDERED.

Reyes, Jr., J. C. Chairperson, and Acosta, F. P., JJ., concur.

[*] Per Office Order No. 15-15-ABR dated January 20, 2015 effective February 2, 2015.

[1] Rollo, pp. 36,72.

[2] Dated December 6, 2012, filed on December 12, 2012, before the re-raffle of the criminal case on appeal to Justice Eduardo B. Peralta, Jr. on February 14, 2014 as Initial Case Load, Rollo, pp. 86-105; second paragraph, Minute Resolution of October 3, 2014, Rollo, page 133.

[3] Dated August 8, 2012, Rollo, pp. 58-73.

[4] 2 Regalado, Remedial Law Compendium, 2008, pp. 622-623 – “3. In appeals from the Regional Trial Court to the Court of Appeals (or the Supreme Court), before the records are forwarded to the appellate court, the accused may withdraw his appeal to the trial court. Thereafter (although there are no specific provisions in the Rules), but before the case is submitted for decision, the accused may withdraw his appeal in the appellate court (U.S. vs. Sotto, 38 Phil. 666)...”; at page 655 – “7. While there is no specific section in this Rule regarding withdrawal of appeals in the Court of Appeals, the accused may do so before the filing of the appellee's brief, but not as a matter of right where the case has already been submitted for decision. Sec. 2, Rule 50 provides that the withdrawal of an appeal is a matter of right before the filing of the appellee's brief. After that, withdrawal may be allowed in the discretion of the court. Said Rule 50 is applicable in criminal cases pursuant to Sec. 18 of this Rule (People vs. Paradeza, G.R. 144590, February 7, 2003)...”; Section 12, Rule 122 – “Withdrawal of appeal. – Notwithstanding perfection of the appeal, the Regional Trial Court, Metropolitan Trial Court, or Municipal Circuit Trial Court, as the case may be, may allow the appellant to withdraw his appeal before the record has been

forwarded by the clerk of court to the proper appellate court as provided in Section 8, in which case the judgment shall become final. The Regional Trial Court may also, in its discretion, allow the appellant from the judgment of a Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, or Municipal Circuit Trial Court to withdraw his appeal, provided a motion to that effect is filed before rendition of the judgment in the case on appeal, in which case the judgment of the court of origin shall become final and the case shall be remanded to the latter court for execution of the judgment.”, Section 18, Rule 124, 2000 Rules on Criminal Procedure – “Application of certain rules in civil procedure to criminal case. – The provisions of Rules 42, 44 to 46 and 48 to 56 relating to procedure in the Court of Appeals and in the Supreme Court in original and appealed civil cases shall be applied to criminal cases insofar as they are applicable and not inconsistent with the provisions of this Rule.” vis-à-vis Section 3, Rule 50, 1997 Rules of Civil Procedure – “Withdrawal of appeal. – An appeal may be withdrawn as of right at any time before the filing of the appellee’s brief. Thereafter, the withdrawal may be allowed in the discretion of the court.”

[5] Dated September 11, 2013, Rollo, pp. 110-111, Resolution dated October 7, 2013 of the Special Eighth Division, Rollo, pp. 112-115; Public Attorney’s Compliance with Motion to Withdraw Appeal dated December 1, 2013, with Annex A, Rollo, pp. 123-127.

[6] OSG’s Comment dated January 20, 2015, Rollo, page 148.

[7] Section 1 (a), Rule 7, 2009 Internal Rules of the Court of Appeals.

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