

AMELITA L. VENUS, PLAINTIFF-APPELLANT, VS. ELEONOR JAVIER, DEFENDANT-APPELLEE.

Ponente: REYES, JR., A. J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/913f26b8c172/>

REYES, JR., A. J.:

This is an appeal from the 22 February 1996 Decision[1] of the Regional Trial Court of Manila Branch 34 in Civil Case No. 90-54471 dismissing plaintiff's complaint for claim of damages. The dispositive portion of the said decision provides:

“WHEREFORE, finding no merit in the Complaint, judgment is hereby rendered DISMISSING the same.

Further, the counter-claim is likewise dismissed. Those who come to Court seeking redress which turned out to be a mistaken interpretation or assessment of right should not be punished.

With cost against the plaintiff.

SO ORDERED.”[2]

On 15 September 1990, Amelia Venus (hereinafter Amelia) filed an action for damages against Eleonor Javier (hereinafter Eleonor). The former was a regular faculty member of the University of the East College of Arts and Sciences since 1957 until her retirement in May 1990, while the latter was at that time the president of the University of the East Faculty Association, which is a faculty union. Amelia complained of the following acts of the defendant: 1) forcible breaking of her locker and taking away its contents without turning them over to her; 2) causing delay of the payment of her backwages earned under PD 451; 3) malicious refusal to pay her retirement benefits; 4) malicious and unreasonable refusal to give consent to her rehiring as a faculty member of the University of the East.[3]

In her prayer, Amelia asked for the return of all items and belongings taken from her locker, and that Eleonor pay her moral damages in the amount of P250,000.00, exemplary damages of P50,000.00, attorney's fees in the amount of P20,000.00 and cost of the suit.[4]

The parties presented their respective evidence during the trial and based thereon, the trial court rendered its decision in favor of Eleonor.

On 6 March 1996, a notice of appeal was filed by Amelia through its counsel,[5] which was given due course by the RTC for being filed in time.[6] This Court ordered her counsel to file the brief in its notice to file brief dated 5 March 1997.[7] On 4 July 1997, after several extensions, Amelia's brief was filed assigning the following errors committed by the trial court:

I

THE LOWER COURT ERRED IN HOLDING THAT APPELLEE WAS NOT LIABLE TO APPELLANT FOR THE OPENING OF APPELLANT'S LOCKER AND THE REMOVAL OF HER THINGS THEREFROM

II

THE TRIAL COURT ERRED IN HOLDING THAT APPELLEE WAS NOT RESPONSIBLE AND LIABLE FOR THE DELAY IN THE RELEASE OF APPELLANT'S BACKWAGES UNDER THE EDUCATION ACT OF 1982

III

THE TRIAL COURT ERRED IN HOLDING THAT APPELLEE WAS NOT RESPONSIBLE AND LIABLE FOR THE DELAY IN THE GIVING OF TEACHING ASSIGNMENT TO APPELLANT AS A RETIREE

IV

THE TRIAL COURT ERRED IN HOLDING THAT APPELLEE WAS NOT LIABLE FOR THE NON-PAYMENT TO APPELLANT OF HER RSBS RETIREMENT BENEFIT

Eleonor filed her appellee's brief dated 28 November 1997 refuting the allegations of Amelia. She also hinted that Amelia had already passed away and that the said fact was concealed by Amelia's lawyer. Subsequently, Amelia's counsel Venus Arcilla and Venus, through Atty. Ericio M. Arcilla filed a Manifestation and Motion for Substitution dated 31 March 1998 stating therein that Amelia indeed died on 4 December 1995.[8] A Manifestation and Explanation/ Opposition was also submitted by Atty. Arcilla, stating therein that he only knew of his client's death through the Appellee's Brief and the Manifestation and Motion dated 26 January 1998. Eleonor, in the said manifestation prayed, among other things, to require Atty. Arcilla to comment on his possible concealment of the fact of death of Amelia.[9]

In his explanation, Atty. Arcilla claimed that there was no intention to conceal the death of Amelia. He insinuated that the same was due to the confusion resulting from the change of counsel of Amelia. The case was originally represented by Trieste Venus Macaraig and Arcilla Law Offices. He was the one assigned to handle the case, and upon the offices' dissolution, the case remained under him who, together with Atty. Rufo Venus and Atty. Grace M. Venus, formed a new partnership. He explained that the said partnership is not an active one since they were engaged in other employment.[10] According to him, it was due to pure inadvertence and miscommunication that he was not informed of Amelia's death and, thus, his failure to comply with his duty under the Rules to inform the court of the fact of death of the party within 30 days from her death and to move for substitution.[11]

Allegedly, Atty. Venus informed Atty. Arcilla a few days after Amelia's death of the said fact and asked him what was the appropriate action through a note which was sent through a personnel who worked for Atty. Venus. It was claimed by Atty. Arcilla that he never received the same which may be attributed, as he insinuated, to the negligence of his office secretary who probably misplaced it or forgot to give it to him. As Atty. Arcilla was unaware of the said fact, he filed with the trial court an Entry of Appearance as new counsel, and filed a notice of appeal.[12]

Although it challenges reason how such degree of negligence would be possible for lawyers who have the utmost obligation to be responsible not only to the client but to the court, We could only accept the explanation in consideration of good faith as We could not make any surmises at present. We are merely interested in the same as to its consequence to the resolution of this case.

First, it should be noted that Amelia died even before the rendering of the decision of the trial court. The pertinent provisions of the 1985 Rules of Court at that time, regarding death of a party, are Secs. 16, and 17 of Rule 3 which state, respectively:

“Duty of attorney upon death, incapacity, or incompetency of party. -- Whenever a party to a pending case dies, becomes incapacitated or incompetent, it shall be the duty of his attorney to inform the court promptly of

such death, incapacity or incompetency, and to give the name and residence of his executor, administrator, guardian or other legal representative.”

“Death of party. -- After a party dies and the claim is not thereby extinguished, the court shall order upon proper notice, the legal representative of the deceased to appear and be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said time, the court may order the opposing party to procure the appointment of a legal representative of the deceased within a time to be specified by the court, and the representative shall immediately appear for and on behalf of the interest of the deceased. The court charges involved in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint guardian ad litem for the minor heirs.”

These provisions are reproduced in Section 16 of Rule 3 of the 1997 Civil Procedure which reads:

“Death of a party; duty of counsel. - - Whenever a party to a pending action is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.”

It should be borne in mind that the aforecited provisions of the rules presuppose that the action was not extinguished by the death of the party. Otherwise, with the claim extinguished the same would be a question of the jurisdiction of the court. Thus, the first thing to determine is whether the action filed by plaintiff is one which survives her death.

We hold that it is not. In Ruiz vs. Court of Appeals[13] citing an earlier case, the Supreme Court held:

“To determine whether the action survives or not, the Court ruling in Bonilla vs. Barcena (71 SCRA 491), comes to the fore, thus:

The question as to whether an action survives or not depends on the nature of the action and the damage sued for (Iron Gate Bank vs. Brady, 184 U.S. 665, 22 SCT, 46 L. ed. 739). In the cause of action which survive, the wrong complained 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 x x x.

The core of petitioners' argument is that action should not be dismissed since their complaint involves not just monetary claim but also real properties as well.

Petitioners' contention is untenable. While they maintain that what they are claiming include real properties, their Complaint is captioned as “For collection of Money and for Specific Performance.” Obviously, the petitioner themselves, who are lawyers, believed that the cause of action against the private respondent was in

the nature of actio in personam.

Actio in personam is a personal action seeking redress against a particular person. Personal actions are such whereby a man claims a debt, or personal duty, or damages in lieu thereof.”[14]

It was likewise held by the Supreme Court that “[a]s enunciated in Bonilla, the litmus test in determining what action survives and what does not depend on the nature of the action and not on the object or kind of property sought to be recovered.”[15]

In this case, records show that the complaint is one for damages under the provisions of Human Relations of the New Civil Code. Amelia alleged that the following acts of Eleonor were in brazen violation of her rights:[16]

- 1) Forcible breaking of plaintiff's locker and taking away the contents thereof without turning over the same to plaintiff;
- 2) Causing delay of the payment of plaintiff's backwages earned under PD 451;
- 3) Malicious refusal to pay plaintiff's retirement benefits;
- 4) Malicious and unreasonable refusal of defendant to give consent to the rehiring of plaintiff as a faculty member of the University of the East.

Unfortunately, Amelia died even before the decision in the RTC was rendered. However, this fact was not relayed to the court, as Amelia's counsel alleged that he did not know of the same. He, therefore, filed a notice of appeal in Amelia's behalf. Thereupon, after more or less two years, he got wind of the death ironically through Eleonor. And it was only then, after the appellee's brief was filed that the counsel moved for substitution.

An essential question should first be resolved before We could proceed, and to know whether there is ever a need of proceeding with the case. This question is whether there could be substitution in this case.

Since the complaint is one for damages under Human Relations, it is a personal action which would be extinguished upon the plaintiff's death. First, the action does not relate to Amelia's property notwithstanding its first prayer. It is solely on the basis of alleged unjust conduct by Eleonor. The one who should be given the relief is only Amelia because the emotional anxiety and anguish was the only injury caused by the acts of Eleonor, and only to her. Eleonor is therefore accountable only to Amelia and not to her heir.

Likewise significant is the adverse decision rendered by the court a quo. The trial court dismissed the complaint. With the nature of the action being personal, the appeal is, therefore, an option given only to Amelia herself. Although, it was stated by Atty. Arcilla that Amelia told her to appeal if there is an adverse decision and even gave him P1,500.00 for it, the same would not result in an agency. At the time of her death, the agency, if ever there was one, had been extinguished as there is no more civil personality to speak of on the part of Amelia. This likewise applies to the attorney-client relationship. Thus, upon Amelia's death, Atty. Arcilla had no longer any authority to appeal the case. Even when the case was still in the trial court, it had already been extinguished. Granting that the trial court has still the right to render the decision, the said decision cannot be appealed as there is no longer an injured party. Thus, the belated motion for substitution cannot be granted by this court as it is only proper for actions that survive. With the foregoing, there is no reason to further proceed with the case as there is no longer any proper party to prosecute this case on appeal.

WHEREFORE, in view thereof, the present appeal is hereby DISMISSED.

SO ORDERED.

Abdulwahid and Perlas-Bernabe, JJ., concur.

[1] Records, p 234-263.

[2] Id., at 263.

[3] Id., at 1-8.

[4] Id., at 7.

[5] Id., at 264.

[6] Id., at 265.

[7] Rollo, p 13.

[8] Id., at 150.

[9] Id., at 116.

[10] Id., at 162.

[11] Id., at 162-163.

[12] Id., at 164.

[13] 303 SCRA 637 (1999).

[14] Id., at 645.

[15] Id., at 646.

[16] Records, p 2-4.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.