

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO ABUNGAN ALIAS “PEDRING,” RANDY PASCUA AND ERNESTO RAGONTON JR., ACCUSED;

G.R. No. 136843. September 28, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The death of the appellant pending appeal and prior to the finality of conviction extinguished his criminal and civil liabilities arising from the delict or crime. Hence, the criminal case against him, not the appeal, should be dismissed.

The Case and the Facts

Before us is an appeal filed by Pedro Abungan assailing the Decision[1] of the Regional Trial Court of Villasis, Pangasinan, Branch 50,[2] in Criminal Case No. V-0447, in which he was convicted of murder, sentenced to reclusion perpetua, and ordered to pay P50,000 as indemnity to the heirs of the deceased.

In an Information[3] dated March 9, 1993, Prosecutor I Benjamin R. Bautista charged appellant, together with Randy Pascua and Ernesto Ragonton Jr. (both at large), with murder committed as follows:

"That on or about the 4[th] day of August 1992, at Barangay Capulaan, Municipality of Villasis, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, armed with long firearms, with intent to kill, with treachery, evident premeditation and superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and shoot Camilo Dirilo, [Sr.] y Pajarito, inflicting upon him wounds on the different parts of his body x x x injuries [which] directly caused his death, to the damage and prejudice of his heirs.

"Contrary to Art. 248 of the Revised Penal Code."[4]

With the assistance of Atty. Simplicio Sevilleja, appellant pleaded not guilty upon his arraignment on April 30, 1993.[5] After trial on the merits, the trial court rendered the assailed August 24, 1998 Decision, the dispositive portion of which reads as follows:

"WHEREFORE, his guilt having been established beyond reasonable doubt, the [Appellant] Pedro Abungan is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and such penalties accessory thereto as may be provided for by law.

The x x x [appellant] is hereby further ordered to indemnify the heirs of Camilo Dirilo Sr. in the amount of FIFTY THOUSAND PESOS (P50,000.00) and to pay the costs."[6]

Appellant, through counsel, filed the Notice of Appeal on September 14, 1998. On January 9, 1999, he was committed to the New Bilibid Prison (NBP) in Muntinlupa. On October 26, 1999, he filed the Appellant's Brief[7] before this Court. The Office of the Solicitor General, on the other hand, submitted the Appellee's Brief[8] on

February 4, 2000. The case was deemed submitted for resolution on June 5, 2000, when the Court received the Manifestation of appellant stating that he would not file a reply brief.

In a letter dated August 7, 2000,[9] however, Joselito A. Fajardo, assistant director of the Bureau of Corrections, informed the Court that Appellant Abungan had died on July 19, 2000 at the NBP Hospital. Attached to the letter was Abungan's Death Certificate.

Issue

The only issue before us is the effect of Appellant Abungan's death on the case and on the appeal.

This Court's Ruling

The death of appellant on July 19, 2000 during the pendency of his appeal extinguished his criminal as well as his civil liability, based solely on delict (civil liability ex delicto).

Main Issue:

Effect of Appellant's Death

During Appeal

The consequences of appellant's death are provided for in Article 89 (1) of the Revised Penal Code, which reads as follows:

"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;

x x x x x x x x"

Applying this provision, the Court in *People v. Bayotas*[10] made the following pronouncements:

"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 (the) 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

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 the provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription."

In the present case, it is clear that, following the above disquisition in Bayotas, the death of appellant extinguished his criminal liability. Moreover, because he died during the pendency of the appeal and before the finality of the judgment against him, his civil liability arising from the crime or delict (civil liability ex delicto) was also extinguished. It must be added, though, that his civil liability may be based on sources of obligation other than delict. For this reason, the victims may file a separate civil action against his estate, as may be warranted by law and procedural rules.

Moreover, we hold that the death of Appellant Abungan would result in the dismissal of the criminal case against him.[11] Necessarily, the lower court's Decision -- finding him guilty and sentencing him to suffer reclusion perpetua and to indemnify the heirs of the deceased -- becomes ineffectual.

WHEREFORE, the criminal case (No. V-0447, RTC of Villasis, Pangasinan) against Pedro Abungan is hereby DISMISSED and the appealed Decision SET ASIDE. Costs de oficio.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, pp. 15-36.

[2] Penned by Judge Rosario C. Cruz.

[3] Rollo, p. 9.

[4] Ibid.

[5] RTC Records, p. 304.

[6] Rollo, p. 36.

[7] The Appellant's Brief was signed by Atty. Simplicio M. Sevilleja.

[8] This was signed by Asst. Sol. Gen. Mariano M. Martinez, Asst. Sol. Ben Magdangal M. De Leon and Sol. Nyriam Susan O. Sedillo-Hernandez.

[9] Received by the Court on August 8, 2000.

[10] 236 SCRA 239, September 2, 1994, per Romero, J. See also Villegas v. CA, 271 SCRA 148, April 11, 1997; People v. Sambulan, 289 SCRA 500, April 24, 1998; People v. Romero, 306 SCRA 90, April 21, 1999; People v. Enoja, GR No. 102596, December 17, 1999.

[11] While we agree with the doctrinal ruling in Bayotas, we believe that the disposition therein dismissing the appeal might have resulted from an oversight. In doing so, the Court was effectively affirming the trial court's Decision, which had found Bayotas criminally and civilly liable. Such disposition is clearly contrary to the discussion in the body of the Bayotas Decision quoted earlier in this Resolution that his death extinguished his criminal as well as civil liabilities based on delict. Indeed, the only logical consequence of the extinguishment of his criminal and civil liabilities was the dismissal of the case itself, not of the appeal.

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