

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
SATURNINO DE LA CRUZ AND JOSE BRILLANTES Y LOPEZ,
ACCUSED. JOSE BRILLANTES Y LOPEZ, ACCUSED-APPELLANT.**

G.R. No. 190610. April 25, 2012

Ponente: PEREZ, J.

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PEREZ, J.:

Before the Court is an Appeal[1] filed by accused-appellant Jose Brillantes y Lopez (Brillantes) assailing the Decision[2] of the Court of Appeals (CA) dated 8 July 2009 in CA-G.R. CR No. 30897.

The decision of the Court of Appeals is an affirmance of the Decision of the Regional Trial Court (RTC) of Laoag City, Branch 13 in Criminal Case Nos. 11556, 11557 and 11558 convicting accused Brillantes and Saturnino de la Cruz (De la Cruz) for violation of Sections 5 and 11, Article II of RA 9165 entitled “An Act Instituting the Comprehensive Dangerous Drugs Act Of 2002.”[3]

In the Criminal Case No. 11556, De la Cruz y Valdez was charged as follows:

Criminal Case No. 11556

That on or about the 1[st] day of December 2004, in the city of Laoag, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, have in his possession, control and custody one (1) plastic sachet containing shabu weighing more or less 0.1 gram including plastic container without prescription or authority to possess the same in violation of the aforecited law.[4]

On the other hand, Jose Brillantes y Lopez was charged in Criminal Case Nos. 11557 and 11558 with illegal sale of shabu and illegal possession of dangerous drug of shabu. The two separate Informations follow:

Criminal Case No. 11557

That on or about the 1[st] day of December 2004, in the city of Laoag, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously, sell and deliver to a Public Officer, who acted as poseur buyer 0.1 gram including plastic container of Methamphetamine Hydrochloride, popularly known as “shabu”, a dangerous drug, without any license or authority to do so, in violation of the aforecited law.[5]

Criminal Case No. 11558

That on or about the 1[st] day of December 2004, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously, have in his possession, control and custody two (2) big plastic sachet containing shabu weighing more or less 2.6 grams including plastic container without being authorized and permitted by law to possess the same in violation of the aforecited law.[6]

When arraigned, both the accused pleaded not guilty of the crimes charged.

The RTC held that the prosecution successfully discharged the burden of proof in the cases of illegal sale and illegal possession of dangerous drugs, in this case methamphetamine hydrochloride otherwise known as “shabu.” The trial court relied on the presumption of regularity in the performance of duty of the police officials who conducted the buy-bust operation. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered finding [the] accused Saturnino De la Cruz GUILTY beyond reasonable doubt as charged in Criminal Case No. 11556 for illegal possession of shabu with a weight of 0.0619 gram and is therefore sentenced to serve the indeterminate penalty of imprisonment ranging from TWELVE (12) YEARS AND ONE (1) DAY as minimum to FIFTEEN (15) YEARS as maximum and to pay a fine of P300,000.00.

Accused Jose Brillantes is also found GUILTY beyond reasonable doubt as charged in Criminal Case No. 11557 for illegal sale of shabu and is therefore sentenced to suffer the penalty of life imprisonment and to pay a fine of P2,000,000.00. Said accused is likewise found GUILTY beyond reasonable doubt as charged in Criminal Case No. 11558 for illegal possession of shabu with an aggregate weight of 0.2351 gram and is therefore further sentenced to serve the indeterminate penalty of imprisonment ranging from TWELVE (12) YEARS and ONE (1) DAY as minimum to FIFTEEN (15) YEARS as maximum and to pay a fine of P300,000.00.

The contraband subject of these cases are hereby forfeited, the same to be disposed of as the law prescribes. [7]

The appellate court found no reason to depart from the ruling of the trial court. It upheld that all the elements of the offense of illegal sale of drugs were present and the finding against Brillantes well established by the prosecution. Further, it also found that all the elements constituting illegal possession of prohibited or regulated drugs were established beyond reasonable doubt to convict De la Cruz and Brillantes. On all the three charges, great weight was given to the testimonies of the members of the buy-bust team and arresting officers SPO3 Rovimmanuel Balolong and PO2 Celso Pang-ag, who also acted as the poseur-buyer.

On 29 July 2009, a Notice of Appeal[8] was filed by Brillantes through counsel before the Supreme Court. His co-accused De la Cruz, did not appeal his conviction.

While this case is pending appeal, Prisons and Security Division Officer-in-Charge Romeo F. Fajardo[9] informed the Court that accused-appellant Brillantes died while committed at the Bureau of Corrections on 3 January 2012 as evidenced by a copy of death report[10] signed by New Bilibid Prison Hospital’s Medical Officer Benevito A. Fontanilla, III.

Hence, we resolve the effect of death pending appeal of his conviction of accused-appellant Brillantes with regard to his criminal and pecuniary liabilities.

The Revised Penal Code is instructive on the matter. It provides in Article 89(1) that:

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.

It is plain that both the personal penalty of imprisonment and pecuniary penalty of fine of Brillantes were extinguished upon his death pending appeal of his conviction by the lower courts.

We recite the rules laid down in *People v. Bayotas*,[11] to wit:

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
- b) Contracts
- c) Quasi-contracts
- d) . . .
- e) Quasi-delicts

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There is no civil liability involved in violations of the Comprehensive Dangerous Drugs Act of 2002.[12] No private offended party is involved as there is in fact no reference to civil liability in the decision of the trial court.

The appeal of Brillantes culminating in the extinguishment of his criminal liability does not have any effect on his co- accused De la Cruz who did not file a notice of appeal. The Rules on Criminal Procedure on the matter states:

RULE 122 - Appeal

Section 11. Effect of appeal by any of several accused. —

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter; (emphasis ours)

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The extinguishment of Brillantes' criminal and pecuniary liabilities is predicated on his death and not on his acquittal. Following the provision, the appeal taken by Brillantes and subsequent extinguishment of his liabilities is not applicable to De la Cruz.

WHEREFORE, in view of his death on 3 January 2012, the appeal of accused-appellant Jose Brillantes y Lopez from the Decision of the Court of Appeals dated 8 July 2009 in CA-G.R. CR No. 30897 affirming the Decision of the Regional Trial Court of Laoag City, Branch 13 in Criminal Case Nos. 11557 and 11558 convicting him of violation of Sections 5 and 11, Article II of RA 9165 is hereby declared MOOT and ACADEMIC, his criminal and pecuniary liabilities having been extinguished. No cost.

SO ORDERED.

Carpio, (Chairperson), Brion, Sereno, and Reyes, JJ., concur.

[1] Rollo pp. 40-41.

[2] Id. at 2-39. Penned by Associate Justice Jose L. Sabio, Jr. with Associate Justices Vicente S.E. Veloso and Ricardo R. Rosario, concurring.

[3] Promulgated on June 7, 2002.

[4] Rollo, p. 3.

[5] Id. at 3-4.

[6] Id. at 4.

[7] CA rollo, p. 250.

[8] Rollo, p. 40-41.

[9] Through a Letter dated 3 January 2012 of OIC Romeo F. Fajardo to the Clerk of Court, Second Division of the Supreme Court, id. at 88.

[10] Id. at 89.

[11] G.R. No. 102007, 2 September 1994, 236 SCRA 239, 255-256.

[12] R.A. 9165.

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