

RUEL TUANO Y HERNANDEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 205871. September 28, 2016

Ponente: LEONEN, J.

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LEONEN, J.:

For our resolution is a Memorandum submitted by the Deputy Clerk of Court and Chief Judicial Records Officer requesting instructions on the proper date of finality of a case in which this Court issued a resolution acquitting the accused without having been informed of his prior death.

Accused Ruel Tuano y Hernandez was charged with violation of Article II, Section 11(3) of Republic Act No. 9165 before Branch 13 of the Regional Trial Court of Manila for having in his possession one (1) heat-sealed transparent plastic sachet with 0.064 grams of shabu.[1]

After trial on the merits, the Regional Trial Court convicted accused in the Decision[2] dated May 4, 2010. The dispositive portion reads:

WHEREFORE, premises considered, RUEL TUANO y HERNANDEZ is found GUILTY beyond reasonable doubt for Violation of Section 11(3), Article II of R.A. 9165 and is sentenced to suffer imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine of Three hundred thousand pesos (P300,000.00).

In the service of his sentence, the actual confinement under detention during the pendency of this case shall be deducted from the said prison term in accordance with Article 29 of the Revised Penal Code.

The evidence presented is ordered transferred to the Philippine Drug Enforcement Agency (PDEA) for destruction.

SO ORDERED.[3]

On appeal, the Court of Appeals affirmed in toto the ruling of the Regional Trial Court in the Decision[4] dated June 8, 2012, the dispositive portion of which reads:

WHEREFORE, premises considered, the appeal is hereby DENIED. The assailed 04 May 2010 Decision of the Regional Trial Court, Branch 13 of the City of Manila is AFFIRMED in toto.

SO ORDERED.[5] (Emphasis in the original)

Accused moved for reconsideration[6] on July 4, 2012, but the Motion was denied by the Court of Appeals in the Resolution[7] dated February 12, 2013.

On April 16, 2013, accused filed before this Court a Petition for Review on Certiorari[8] questioning the Court of Appeals' June 8, 2012 Decision and February 12, 2013 Resolution.

On June 23, 2014, this Court sustained the conviction of accused, thus affirming the ruling of the Court of Appeals.[9] The dispositive portion of this Court's unsigned Resolution reads:

WHEREFORE, the June 8, 2012 decision and the February 12, 2013 resolution of the Court of Appeals in CA-G.R. No. 33363 are AFFIRMED.[10] (Emphasis in the original)

On August 7, 2014, accused moved for reconsideration, questioning this Court's June 23, 2014 unsigned Resolution and praying for his acquittal.[11]

On February 25, 2015, this Court required respondent People of the Philippines, through the Office of the Solicitor General, to file a comment on accused's Motion for Reconsideration.[12] Respondent filed a Motion for Extension of Time to File Comment[13] dated March 27, 2015 and a Comment[14] dated April 20, 2015.

Accused, through the Public Attorney's Office, filed a Motion for Extension of Time to File Reply[15] dated September 16, 2015 and a Reply[16] on September 22, 2015.

On June 27, 2016, this Court issued the Resolution[17] reconsidering its June 23, 2014 unsigned Resolution. This Court acquitted accused for failure of the prosecution to prove his guilt beyond reasonable doubt. The dispositive portion of the Resolution reads:

WHEREFORE, the Resolution dated June 23, 2014 affirming the Court of Appeals' June 8, 2012 Decision and February 12, 2013 Resolution in CA-G.R. CR No. 33363 is hereby RECONSIDERED. Petitioner Ruel Tuano Y Hernandez is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court within five (5) days from receipt of this Resolution on the action taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

SO ORDERED.[18] (Emphasis in the original)

Thus, an Order of Release[19] was issued and sent to the Director of the Bureau of Corrections.

On July 22, 2016, this Court received from the Director General of the Bureau of Corrections a letter[20] dated July 15, 2016 informing this Court that accused died on March 1, 2015, prior to the issuance of this Court's June 27, 2016 Resolution. A certified machine copy of accused's Death Certificate was attached to the letter.[21]

On August 22, 2016, this Court received a memorandum from the Division Clerk of Court requesting instructions on the proper date of finality of this Court's June 27, 2016 Resolution, in light of accused's death prior to the Resolution's issuance.[22]

This Court notes that counsels for accused should have informed this Court of the death of their client.

Rule 3, Section 16 of the Rules of Court provides that the counsel is duty-bound to report the death of a party to the court, thus:

RULE 3

Filing and Service of Pleadings, Judgments and Other Papers

....

SEC. 16. Death of party; duty of counsel. Whenever a party to a pending action dies, and the claim 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 with this duty 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. (Emphasis supplied)

Although Rule 3, Section 16 of the Rules of Court is directly applied more often in civil actions for the substitution of the deceased party, the rule that the counsel of the deceased party must inform the court of the death of his or her client also properly applies in criminal actions. Regardless of the nature of the action, courts cannot be expected to assume the death of the party without the counsel's proper manifestation.[23] Furthermore, the rules presume that "the attorney for the deceased party is in a better position than the attorney for the adverse party to know about the death of his [or her] client[.]"[24]

As officers of the court and as protectors of the legal interests of their clients, counsels have a duty to properly act in case of their clients' death by notifying the Court of this development.

Counsels for accused were grossly remiss in this duty. Accused died on March 1, 2015.[25] However, his counsels continued to file pleadings on his behalf, including a Motion for Extension of Time to File Reply dated September 16, 2015[26] and a Reply dated September 22, 2015.[27] It was only through the July 15, 2016 letter of the Director General of the Bureau of Corrections did this Court find out that accused had already died:—one (1) year, four (4) months, and 15 days after its occurrence.[28]

This Court notes that accused was represented by the Public Attorney's Office. Notwithstanding their heavy case workload and the free legal assistance they provide to indigents and low-income persons, however, counsels from the Public Attorney's Office are still obliged to pursue their cases with competence and diligence. This is consistent with their commitment to public service.

Rule 14.04 of the Code of Professional Responsibility provides that "[a] lawyer who accepts the cause of a person unable to pay his professional fees shall observe the same standard of conduct governing his relations with paying clients." In *Endaya v. Oca*: [29]

On top of all these is respondent's employment as a lawyer of the Public Attorney's Office which is tasked to provide free legal assistance for indigents and low-income persons so as to promote the rule of law in the protection of the rights of the citizenry and the efficient and speedy administration of justice. Against this backdrop, respondent should have been more judicious in the performance of his professional obligations. As we held in *Vitriola v. Dasig*[,] "lawyers in the government are public servants who owe the utmost fidelity to the public service." Furthermore, a lawyer from the government is not exempt from observing the degree of diligence required in the Code of Professional Responsibility. Canon 6 of the Code provides that "the canons shall apply to lawyers in government service in the discharge of their official tasks."

At this juncture, it bears stressing that much is demanded from those who engage in the practice of law because they have a duty not only to their clients, but also to the court, to the bar, and to the public. The lawyer's diligence and dedication to his work and profession not only promote the interest of his client, [they] likewise help attain the ends of justice by contributing to the proper and speedy administration of cases, bring prestige to the bar and maintain respect to the legal profession.[30] (Citations omitted)

Additionally, Canon 2 of the Code of Professional Responsibility explicitly states that "a lawyer shall make his legal services available in an efficient and convenient manner compatible with the independence, integrity and effectiveness of the profession."

Counsels for accused have shown inefficiency in the performance of their duties. Relying on their representations in their pleadings, this Court was led to believe that the criminal action against accused subsisted.

Consequently, this Court issued a resolution even after accused's death. Had counsels for accused informed this Court earlier of the death of their client, this Court would have been saved precious time, effort, and resources, which could have been devoted to other pending cases that call for this Court's resolution and judgment. Likewise, the parties need not have filed the pleadings calling for the resolution of accused's Motion for Reconsideration.

Given these circumstances, counsels for accused are directed to show cause why no disciplinary action should be taken against them in light of their failure to inform this Court of accused's death.

This Court resolves to set aside its June 27, 2016 Resolution and dismiss this case.

The death of accused extinguishes his criminal liability. Article 89, paragraph 1 of the Revised Penal Code provides:

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 therefore is extinguished only when the death of the offender occurs before final judgment[.]

Likewise, the civil liability of the accused arising from his criminal liability is extinguished upon his death. In *People v. Bayotas*:^[31]

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 *sensu 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

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.^[32] (Emphasis supplied, citations omitted)

In *People v. Paras*,^[33] this Court rendered judgment in a criminal case without being informed earlier that the accused had already passed away. Premised on the principle that the death of the accused extinguishes his

criminal liability, the Court set aside its decision and dismissed the criminal case.

Considering accused's death pending appeal extinguishes his criminal liability and civil liability *ex delicto*, the criminal action must be dismissed since there is no longer a defendant to stand as the accused.[34]

Therefore, when accused died on March 1, 2015 during the pendency of his appeal and prior to this Court's Resolution dated June 27, 2016, his criminal liability has already been extinguished. From that point on, the criminal action had no defendant upon which the action is based.

This Court's June 27, 2016 Resolution had become ineffectual and must be set aside. Likewise, the criminal action must be dismissed.

WHEREFORE, this Court resolves to SET ASIDE its Resolution dated June 27, 2016 and DISMISS Criminal Case No. 03-211976 before Branch 13 of the Regional Trial Court of Manila, on account of the death of accused Ruel Tuano y Hernandez on March 1, 2015.

Counsels for accused, however, are DIRECTED to show cause, within five (5) days of receipt of this Resolution, why no disciplinary action should be taken against them for failing to inform this Court of accused's death.

SO ORDERED.

Brion,[**] (Acting Chairperson), Del Castillo, and Mendoza, JJ., concur.
Carpio, J., on official leave.

[**] Designated Acting Chairperson per Special Order No. 2374 dated September 14, 2016.

[1] Rollo, p. 56, Regional Trial Court Decision.

[2] Id. at 56-60. The Decision was penned by Acting Presiding Judge Cicero D. Jurado, Jr.

[3] Id. at 60.

[4] Id. at 73—81. The Decision was penned by Associate Justice Samuel Gaerlan and concurred in by Associate Justices Ramon R. Garcia and Ricardo R. Rosario of the Special Fifth Division, Court of Appeals, Manila.

[5] Id. at 81.

[6] Id. at 82-89.

[7] Id. at 96. The Resolution was penned by Associate Justice Samuel Gaerlan and concurred in by Associate Justices Ramon R. Garcia and Ricardo R. Rosario of the Special Fifth Division, Court of Appeals, Manila.

[8] Id. at 9-28.

[9] Id. at 125-135.

[10] Id. at 134.

[11] Id. at 138-147.

[12] Id. at 149.

[13] Id. at 150-152.

[14] Id. at 153-160.

[15] Id. at 162-166.

[16] Id. at 167-173.

[17] Id. at 178-185.

[18] Id. at 184.

[19] Id. at 175-176.

[20] Id. at 186.

[21] Id. at 188.

[22] Id. at 192-193.

[23] *Ang Kek Chen v. Andrade*, 316 Phil. 136, 143-144 (1999) [Per J. Mendoza, Second Division]; *Florendo v. Coloma*, 214 Phil. 268, 274 (1984) [Per J. Gutierrez, Jr., First Division].

[24] Id. at 144.

[25] Rollo, p. 188, Death Certificate.

[26] Id. at 163.

[27] Id. at 170-171.

[28] Id. at 186.

[29] 457 Phil. 314 (2003) [Per J. Tinga, Second Division].

[30] Id. at 329.

[31] G.R. No. 102007, September 2, 1994, 236 SCRA 239 [Per J. Romero, En Banc]. *People V. Egagamao*, G.R. No. 218809, August 3, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/august2016/1218809.pdf>> [Per J. Perlas-Bernabe, First Division].

[32] Id. at 255-256, as cited in *People v. Egagamao*, G.R. No. 218809, August 3, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/august2016/218809.pdf>> 5-6 [Per J. Perlas-Bernabe, First Division].

[33] G.R. No. 192912, October 22, 2014, 739 SCRA 179 [Per J. Leonardo-De Castro, Special First Division].

[34] Id. at 184.

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