

## SPECIAL THIRD DIVISION

[ G.R. No. 225054, July 17, 2017 ]

**PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS.  
AGAPITO DIMAALA Y ARELA, ACCUSED-APPELLANT.**

### R E S O L U T I O N

**PERLAS-BERNABE, J.:**

In a Decision<sup>[1]</sup> dated May 8, 2012, the Regional Trial Court of Calauag, Quezon (RTC) in Criminal Case No. 4994-C found accused-appellant Agapito Dimaala y Arela (accused-appellant) guilty beyond reasonable doubt of the crime of Murder, the dispositive portion of which reads:

**WHEREFORE**, premises considered, this court renders judgment finding AGAPITO DIMAALA y Arela **GUILTY** beyond reasonable doubt of the crime charged for the treacherous killing of Rodrigo Marasigan. Said accused is hereby sentenced to Reclusion Perpetua without eligibility for parole.

He is likewise ordered to pay the family of Rodrigo Marasigan the following:

PhP 75,000.00 as civil indemnity;  
PhP 75,000.00 as moral damages;  
PhP 36,000.00 as actual damages;  
PhP 30,000.00 as exemplary damages; and  
PhP 25,000.00 as temperate damages.

**SO ORDERED.**<sup>[2]</sup>

Accused-appellant appealed his conviction before the Court of Appeals (CA). In a Decision<sup>[3]</sup> dated September 23, 2015 in CA-G.R. CR No. 05595, the CA affirmed the RTC's decision finding accused-appellant guilty of the crime charged but deleted the award of temperate damages.<sup>[4]</sup>

Aggrieved, accused-appellant filed a Notice of Appeal<sup>[5]</sup> from the CA's Decision, but later on decided not to pursue his appeal. Thus, he filed a Motion to Withdraw Appeal with Prayer for Immediate Issuance of Entry of Judgment,<sup>[6]</sup> which the Court granted in its Resolution<sup>[7]</sup> dated September 21, 2016. Following the closure and termination of the case, the Court declared the finality of the aforesaid Resolution and issued an Entry of Judgment.<sup>[8]</sup>

Meanwhile, the Court received a Letter<sup>[9]</sup> dated February 23, 2017 from the Bureau of Corrections informing it that accused-appellant had died on August 23, 2016 at the New Bilibid Prison Hospital, as evidenced by the Certificate of Death<sup>[10]</sup> attached thereto.

In view of this development, the criminal action, as well as the civil action for the recovery of the civil liability *ex delicto*, is *ipso facto* extinguished.<sup>[11]</sup>

It is settled that the death of accused-appellant prior to his final conviction by the Court renders dismissible the criminal case against him.<sup>[12]</sup> Article 89 (1) of the Revised Penal Code provides that the criminal liability is **totally extinguished** by the death of the accused, to wit:

Article 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

In *People v. Culas*,<sup>[13]</sup> citing *People v. Layag*,<sup>[14]</sup> the Court explained the effects of the death of an accused pending appeal on his liabilities, as follows:

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. x x x.

x x x x

In this relation, the Court stresses that accused-appellant's civil liability based on sources *other than* the subject delict survives, and the victim may file a separate civil action against the estate of accused-appellant, as may be warranted by law and procedural rules.<sup>[15]</sup>

**WHEREFORE**, the Court resolves to: (a) **DISMISS** Crim. Case No. 4994-C before the Regional Trial Court of Calauag, Quezon by reason of the death of accused-