

FIRST DIVISION

[G.R. No. 229856, November 20, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN CALOMIA, ACCUSED-APPELLANT.

R E S O L U T I O N

LEONARDO-DE CASTRO, J.:

In Criminal Case Nos. 1317 and 1318, accused-appellant Ruben Calomia was charged before the Regional Trial Court (RTC) of Loay, Bohol, Branch 50, with two counts of qualified rape of his minor daughter, AAA,^[1] which he allegedly committed sometime in August 2007 and April 2008.^[2]

After trial on the merits, the RTC promulgated its Decision on March 11, 2015 finding accused-appellant guilty beyond reasonable doubt of both counts of qualified rape and sentencing him as follows:

WHEREFORE, in the light of the foregoing evidence, the court finds the accused guilty beyond reasonable doubt of (Qualified) Incestuous Rape in Crim. Case No. 1317 and Statutory Incestuous Rape in Crim. Case No. 1318.

Accordingly, in both cases, the court has no recourse but to impose on the accused the penalties mandated by law. Although the crimes of Qualified Incestuous Rape and Statutory Incestuous Rape would have been punishable by death, in view of the passage of R.A. [No.] 9346 (which prohibits the imposition of the death penalty), the penalty inposable for each of the two offenses is only *reclusion perpetua*.

Because of the qualifying or aggravating circumstance of relationship, the victim is entitled to civil indemnity in each case of P75,000 *ex delicto*, P75,000 in moral damages (*People v. Lauga*, G.R. No. 186228, Mar. 15, 2010), and P30,000 in exemplary damages (*ibid.*).^[3]

Accused-appellant's appeal before the Court of Appeals was docketed as CA-G.R. CEB-CR-HC No. 02040. In its Decision dated August 26, 2016, the appellate court upheld accused-appellant's conviction, but modified the award of damages to AAA. The Court of Appeals decreed:

WHEREFORE, in view of the foregoing, We find no error committed by the Trial Court and, hence, **DENY** the appeal. The Decision dated 11 March 2015 rendered by the Regional Trial Court of Loay, Bohol 7th Judicial Region, Branch 50, in Criminal Case Nos. 1317 and 1318, is **AFFIRMED** with **MODIFICATION**.

As modified, [accused-]appellant Ruben Calomia is ordered to pay the victim AAA the amounts of P100,000.00 as civil indemnity, P100,000.00, as moral damages, and P100,000.00 as exemplary damages. Interest is imposed on all damages awarded at the rate of 6% per annum from date of finality of this Decision until fully paid.^[4]

On September 21, 2016, accused-appellant filed his Notice of Appeal expressing his intention to appeal the foregoing Decision before this Court.

The Court issued a Resolution dated April 25, 2017 requiring the parties to file their respective supplemental briefs, if they so desired, within 30 days from notice; ordering the Provincial Jail Warden, Bohol Detention and Rehabilitation Center, Tagbilaran City, to transfer accused-appellant to the Bureau of Corrections, Muntinlupa City and to submit a report of such transfer; and ordering the Director General of the Bureau of Corrections to confirm the confinement of accused-appellant to said prison and submit a report thereon.

However, the Court received on September 4, 2017 a letter dated August 2, 2017 from Jail Chief Inspector (J/CINSP) Felipe A. Montejo (Montejo), DDM, Bohol District Jail Warden, stating thus:

Please be informed that the said appellant [has] died while in the confinement of Bohol District Jail last Sept. 29, 2015 due to Asphyxia due to Strangulation, Self Inflicted, Hanging and declared dead by Dr. Calvelo, Medical Officer III, City Health Office, Tagbilaran City, Bohol per Certificate of Death from Local Civil Registrar.

Accused Ruben Calomia was due for transfer at BUCOR Muntinlupa City at that time pending the approval of budget but unfortunately he died with the aforementioned cause of death before the scheduled date and time to transfer.^[5]

Attached to J/CINSP Montejo's letter is a copy of accused-appellant's Death Certificate issued by the Office of the Civil Registrar General indicating that accused-appellant died on September 29, 2015 in Cabawan District, Tagbilaran City, Bohol, of "Asphyxia due to Strangulation, Self Inflicted, Hanging."

Paragraph 1 of Article 89 of the Revised Penal Code, as amended, provides that the death of an accused pending his appeal extinguishes both his criminal and civil liability *ex delicto*, thus:

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[.]

In *People v. Bayotas*,^[6] the Court construed the above provision and pronounced these guidelines:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. **As**