

SPECIAL SECOND DIVISION

[G.R. No. 238748, March 18, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR GALLARDO Y BARRIOS, ACCUSED-APPELLANT.

R E S O L U T I O N

PERLAS-BERNABE, J.:

In a Resolution^[1] dated November 19, 2018, the Court affirmed the Decision^[2] dated July 17, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07547 finding accused-appellant Edgar Gallardo y Barrios (Gallardo) guilty beyond reasonable doubt of three (3) counts of the crime of Qualified Rape, the pertinent portion of which reads:

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the July 17, 2017 Decision of the CA in CA-G.R. CR-HC No. 07547 and **AFFIRMS** said Decision finding accused-appellant Edgar Gallardo y Barrios **GUILTY** beyond reasonable doubt of the crime of Qualified Rape, defined and penalized under Article 266-A, in relation to Article 266-B of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole for each count, and to pay AAA the following amounts: (a) P100,000.00 as civil indemnity; (b) P100,000.00 as moral damages; and (c) P100,000.00 as exemplary damages. Moreover, all monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.^[3]

Aggrieved, Gallardo filed a Motion for Reconsideration.^[4] However, during the pendency of such motion, the Court received a letter^[5] dated February 20, 2019 from the Bureau of Corrections informing the Court of Gallardo's death on February 19, 2019 at the New Bilibid Prison Hospital, Muntinlupa City, as evidenced by the Notice^[6] dated February 19, 2019 issued by the said hospital attached thereto.

As will be explained hereunder, there is a need to reconsider and set aside said Resolution dated November 19, 2018 and enter a new one dismissing the criminal cases against Gallardo.

Under prevailing law and jurisprudence, Gallardo's death prior to his final conviction by the Court renders dismissible the criminal cases against him. Article 89 (1) of the Revised Penal Code provides that 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: