



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2023** which reads as follows:*

“**G.R. No. 257438** (*People of the Philippines v. XXX*¹). – Before this Court is an appeal² assailing the Decision³ dated November 25, 2020 of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 02796. The assailed CA Decision affirmed the Joint Decision⁴ dated December 7, 2017 of the Regional Trial Court (RTC) of Basey, Samar, Branch 30 in Criminal Case Nos. 2013-04-3796 and 2013-04-3797, finding accused-appellant XXX (accused-appellant) guilty of two counts of Rape.

However, accused-appellant died while his appeal is pending before the Court. In a Manifestation⁵ dated October 11, 2021, accused-appellant’s counsel, the Public Attorney’s Office-Regional Special and Appealed Cases Unit (PAO-RSACU), informed the Court that accused-appellant passed away on August 11, 2021. The PAO-RSACU likewise submitted, among others, copies of accused-appellant’s Certificate of Death⁶ and a letter⁷ dated August 12, 2021 from the Bureau of Corrections regarding accused-appellant’s death.

In light of accused-appellant’s death, We resolve to dismiss Criminal Case Nos. 2013-04-3796 and 2013-04-3797.

Under Article 89 of the Revised Penal Code, criminal and civil liabilities are extinguished when the accused dies before final judgment:

¹ The identity of the accused-appellant was replaced by fictitious initials in accordance with Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² CA *rollo*, p. 116.

³ *Rollo*, pp. 11-26. Penned by Associate Justice Emily R. Aliño-Geluz, and concurred in by Associate Justices Gabriel T. Ingles and Lorenza Redulla Bordios.

⁴ *Id.* at 28-40. Penned by Presiding Judge Tarcelo A. Sabarre, Jr.

⁵ *Id.* at 42-45.

⁶ *Id.* at 48.

⁷ *Id.* at 49.

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

In *People v. Bayotas*,⁸ We clarified that the death of the accused pending appeal extinguishes their criminal liability and civil liability *ex delicto* but does not affect other claims for civil liability as long as they are predicated on other sources of obligation:

1. Death of the accused pending appeal of [their] conviction extinguishes [their] 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 [their] 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*.” [sic]
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) x x x x x x x x x
 - 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.
4. Finally, the private offended party need not fear a forfeiture of [their] right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.⁹ (Italicization in the original)

⁸ 306 Phil. 266 (1994).

⁹ Id. at 282-284. Explanation of Justice Vitug in the deliberation of *People v. Bayotas*.

Applying these rules to the instant case, the death of accused-appellant pending his appeal extinguished his criminal liability and civil liability *ex delicto*.¹⁰ Accordingly, the criminal cases against him should be dismissed, but the private offended party may file a separate civil action against the estate of accused-appellant to claim civil indemnity as may be warranted by law. However, for such claim to prosper, it must be based on sources of obligation other than delict.

WHEREFORE, in view of the death of accused-appellant **XXX** pending appeal of his conviction, Criminal Case Nos. 2013-04-3796 and 2013-04-3797 are **DISMISSED**. The appealed Decision dated November 25, 2020 of the Court of Appeals in CA-G.R. CEB CR-HC No. 02796 is **REVERSED** and **SET ASIDE**. The present case is declared **CLOSED** and **TERMINATED**.

Let an **ENTRY** of judgment in this case be issued immediately.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
 Division Clerk of Court, ^{CA 7174}

by:

MARIA TERESA B. SIBULO
 Deputy Division Clerk of Court

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MAR 30 2023

The Solicitor General
 134 Amorsolo Street, Legaspi Village
 1229 Makati City

Court of Appeals
 6000 Cebu City
 (CA-G.R. CEB CR-HC No. 02796)

The Hon. Presiding Judge
 Regional Trial Court, Branch 30
 Basey, 6720 Samar
 (Crim. Case Nos. 2013-04-3796
 & 2013-04-3797)

PUBLIC ATTORNEY'S OFFICE
 Regional Special and Appealed Cases Unit
 Counsel for Accused-Appellant
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 Metro Colon Carpark
 Osmeña Boulevard, 6000 Cebu City

¹⁰ See *Montejo v. People*, G.R. No. 248086, June 28, 2021.

XXX
Accused-Appellant
(Deceased)

The Superintendent
Leyte Regional Prison
Abuyog, 6510 Southern Leyte

The Director General
Bureau of Corrections
1770 Muntinlupa City

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