



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 201447**

Present:

- versus -

SERENO, *CJ.*,  
Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
MENDOZA,\* and  
REYES, *JJ.*

**ANASTACIO AMISTOSO y**  
**BROCA,**  
Accused-Appellant.

Promulgated:

**AUG 28 2013**

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**RESOLUTION**

**LEONARDO-DE CASTRO, J.:**

Accused-appellant Anastacio Amistoso y Broca (Amistoso) was charged before the Regional Trial Court (RTC) of Masbate City, Branch 48, in Criminal Case No. 10106, with the rape of his daughter, AAA,<sup>1</sup> alleged to be 12 years old at the time of the incident. The Information<sup>2</sup> specifically charged Amistoso with statutory rape under Article 266-A, paragraph (1)(d) of the Revised Penal Code, as amended.

After trial, on March 23, 2006, the RTC promulgated its Decision<sup>3</sup> finding Amistoso guilty, not of statutory rape, but of qualified rape under Article 266-A, paragraph (1)(a), in relation to Article 266-B, paragraph (1), of the Revised Penal Code, as amended. The dispositive portion of the RTC judgment reads:

**WHEREFORE**, accused **ANASTACIO AMISTOSO**, having been convicted of **Qualified Rape**, he is hereby sentenced to the capital penalty of **DEATH**; to pay the victim the sum of Seventy[-]Five

\* Per Special Order No. 1502 dated August 8, 2013.

<sup>1</sup> The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. See our ruling in *People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>2</sup> Records, p. 2.

<sup>3</sup> CA rollo, pp. 47-51; penned by Judge Jacinta B. Tambago.

Thousand Pesos (PhP75,000.00) as indemnity; to pay the said victim the sum of Fifty Thousand Pesos (PhP50,000.00) as for moral damages, and to pay the costs.<sup>4</sup>

The Court of Appeals, in its Decision<sup>5</sup> dated August 25, 2011, in CA-G.R. CR.-H.C. No. 04012, affirmed Amistoso's conviction for qualified rape but modified the penalties imposed in accordance with Republic Act No. 9346<sup>6</sup> and the latest jurisprudence on awards of damages. The appellate court decreed:

**WHEREFORE**, the appeal is **DISMISSED** and the assailed Decision dated March 23, 2006 of the Regional Trial Court of Masbate City, Branch 48, in Criminal Case No. 10106 is **AFFIRMED WITH MODIFICATION**.

Accused-appellant Anastacio Amistoso is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. In addition to civil indemnity in the amount of ₱75,000.00, he is ordered to pay the victim ₱75,000.00 as moral damages and ₱30,000.00 as exemplary damages.<sup>7</sup>

Insisting upon his innocence, Amistoso appealed to this Court. In its Decision<sup>8</sup> dated January 9, 2013, the Court affirmed with modification the judgment of conviction against Amistoso, expressly making him liable for interest on the amounts of damages awarded, to wit:

**WHEREFORE**, in view of the foregoing, the instant appeal of Anastacio Amistoso y Broca is **DENIED**. The Decision dated August 25, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04012 is **AFFIRMED with the MODIFICATION** that Amistoso is further **ORDERED** to pay interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision.<sup>9</sup>

However, in a letter<sup>10</sup> dated February 7, 2013, Ramoncito D. Roque (Roque), Officer-in-Charge, Inmate Documents and Processing Division of the Bureau of Corrections, informed the Court that Amistoso had died on December 11, 2012 at the New Bilibid Prison (NBP), Muntinlupa City. Roque attached to his letter a photocopy of the Death Report<sup>11</sup> signed by Marylou V. Arbatin, MD, Medical Officer III, NBP, stating that Amistoso, 62 years old, died at about 5:00 p.m. on December 11, 2012 of Cardio Respiratory Arrest. Roque's letter was received by the Court on February 12, 2013.

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<sup>4</sup> Id. at 51.

<sup>5</sup> *Rollo*, pp. 2-13; penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino, concurring.

<sup>6</sup> Entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

<sup>7</sup> *Rollo*, p. 13.

<sup>8</sup> Id. at 33-53.

<sup>9</sup> Id. at 51-52.

<sup>10</sup> Id. at 54.

<sup>11</sup> Id. at 55.

Penal Institution Supervisor (PIS) Fajardo R. Lansangan, Sr. (Lansangan), Officer-in-Charge, Maximum Security Compound, NBP, wrote another letter<sup>12</sup> dated February 12, 2013, likewise informing the Court of Amistoso's death on December 11, 2012. PIS Lansangan appended to his letter a mere photocopy of Amistoso's Death Certificate.<sup>13</sup> The Court received PIS Lansangan's letter on February 18, 2013.

Yet, on February 22, 2013, the Public Attorney's Office (PAO), which represented Amistoso and which was apparently also unaware of its client's demise, still filed a Motion for Reconsideration<sup>14</sup> of the Court's Decision dated January 9, 2013.

In a Resolution<sup>15</sup> dated March 20, 2013, the Court required Roque to submit a certified true copy of Amistoso's Death Certificate within 10 days from notice and deferred action on the Motion for Reconsideration filed by the PAO pending compliance with the Court's former directive.

In a letter<sup>16</sup> dated June 20, 2013, and received by the Court on June 25, 2013, PIS Lansangan finally provided the Court with a certified true copy of Amistoso's Death Certificate.<sup>17</sup>

Article 89 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[.]

In *People v. Bayotas*,<sup>18</sup> the Court laid down the rules in case the accused dies prior to final judgment:

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 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:

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<sup>12</sup> Id. at 58.

<sup>13</sup> Id. at 59.

<sup>14</sup> Id. at 60-68.

<sup>15</sup> Id. at 69.

<sup>16</sup> Id. at 70.

<sup>17</sup> Id. at 71.

<sup>18</sup> G.R. No. 102007, September 2, 1994, 236 SCRA 239, 255-256.

- a) Law
- b) Contracts
- c) Quasi-contracts
- d) 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 his 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. (Citations omitted.)

Given the foregoing, it is clear that the death of the accused pending appeal of his conviction extinguishes his criminal liability, as well as his civil liability *ex delicto*. Since the criminal action is extinguished inasmuch as there is no longer a defendant to stand as the accused, the civil action instituted therein for recovery of civil liability *ex delicto* is *ipso facto* extinguished, grounded as it is on the criminal case.<sup>19</sup>

Undeniably, Amistoso's death on December 11, 2012 preceded the promulgation by the Court of its Decision on January 9, 2013. When Amistoso died, his appeal before the Court was still pending and unresolved. The Court ruled upon Amistoso's appeal only because it was not immediately informed of his death.

Amistoso's death on December 11, 2012 renders the Court's Decision dated January 9, 2013, even though affirming Amistoso's conviction, irrelevant and ineffectual. Moreover, said Decision has not yet become final, and the Court still has the jurisdiction to set it aside.

**WHEREFORE**, the Court **RESOLVES** to:

(1) **NOTE PIS** Lansangan's letter dated June 20, 2013 providing the Court with a certified true copy of Amistoso's Death Certificate;


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<sup>19</sup> *People v. Bayot*, G.R. No. 200030, April 18, 2012, 670 SCRA 285, 291.

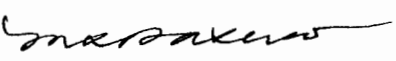
(2) **SET ASIDE** its Decision dated January 9, 2013 and **DISMISS** Criminal Case No. 10106 before the RTC of Masbate City, Branch 48 by reason of Amistoso's death on December 11, 2012; and

(3) **NOTE WITHOUT ACTION** the Motion for Reconsideration of the Court's Decision dated January 9, 2013 filed by the PAO given the Court's actions in the preceding paragraphs.

**SO ORDERED.**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

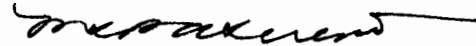
  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice