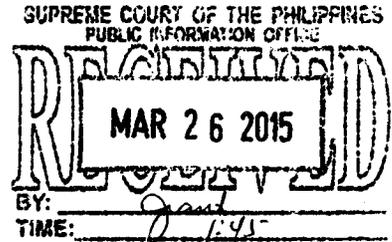




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 9, 2015 which reads as follows:

“G.R. No. 200945 — PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. SILVESTRE REDOBLE Y EBARZABAL, Accused-Appellant.

Before this Court, herein accused-appellant Silvestre Redoble y Ebarzabal (Redoble) filed an Appeal¹ against the Decision² of the Court of Appeals dated 30 September 2011 which affirmed with modification the decision rendered by the Regional Trial Court of Butuan City finding Redoble guilty of the crime of rape under Art. 266-A, paragraph 1 in relation to Article 266-B of the Revised Penal Code.

The dispositive portion of the Court of Appeals Decision reads:

FOR REASONS STATED, the March 15, 2009 Decision of the Regional Trial Court (Branch 1, 10th Judicial Region) of Butuan City, in Criminal Case No. 11846, finding appellant Silvestre Redoble y Ebarzabal guilty beyond reasonable doubt of Rape is hereby **AFFIRMED** with **MODIFICATION**. Hence, he is sentenced to suffer the penalty of *Reclusion Perpetua* with no eligibility for parole. He is ordered to pay the offended party (to be identified through the Information in this case) P75,000.00 civil indemnity, P75,000.00 in moral damages, and P30,000.00 as exemplary damages.³

- over - four (4) pages

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¹ Dated 10 October 2011. CA rollo, pp. 81-83.

² Penned by Associate Justice Edgardo T. Lloren with Associate Justices Romulo V. Borja and Carmelita Salandanan-Manahan, concurring. Rollo, pp. 3-12.

³ Id. at 12.

However, during the pendency of the case, Davao Prison and Penal Farm informed this Court, through a letter dated 30 August 2012, that Redoble had already died on 9 September 2010 as shown by a copy of the Death Certificate which was attached to the letter.⁴

Redoble's demise on 9 September 2010, pending his appeal before this Court, effectively extinguished his criminal and civil liabilities.

Article 89(1) of the Revised Penal Code provides for the effect of death of the accused on his criminal and civil liabilities:

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.

With the penal code as the guide provision, this Court in *People v. Bayotas*⁵ laid down the following guidelines in case of death of the accused pending appeal:

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 *sensu 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. 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
- 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

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⁴ Id. at 20-21.

⁵ G.R. No. 102007, 2 September 1994, 236 SCRA 239, 255-256.

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.

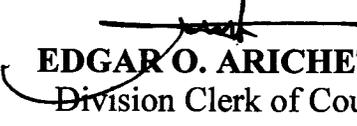
4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with [the] provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.⁶

The death of Redoble pending appeal of his conviction extinguishes his criminal and civil liabilities *ex delicto*, the *rationale* being that there is no longer a defendant to stand as the accused to the rape committed. In the same way, the civil action instituted therein for recovery of civil liability *ex delicto* is *ipso facto* extinguished given that it is grounded on the criminal case.⁷

WHEREFORE, in view of the death of accused-appellant Silvestre Redoble y Ebarzabal, the Decision dated 30 September 2011 of the Court of Appeals in CA-G.R. CR-HC No. 00714-MIN is **SET ASIDE** and Criminal Case No. 11846 before the Regional Trial Court of Butuan City, finding the accused guilty of the crime of rape under Art. 266-A, paragraph 1 in relation to Article 266-B of the Revised Penal Code is **DISMISSED**. *Costs de officio*.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{WST}
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The Solicitor General (x)
Makati City

Court of Appeals
9000 Cagayan de Oro City
(CA-G.R. CR H.C. No. 00714)

- over -

⁶ Id.

⁷ *People v. Bayot*, G.R. No. 200030, 18 April 2012, 670 SCRA 285, 291.

The Hon. Presiding Judge
Regional Trial Court, Br. 1
Butuan City 8600 Agusan del Norte
(Crim. Case No. 11846)

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