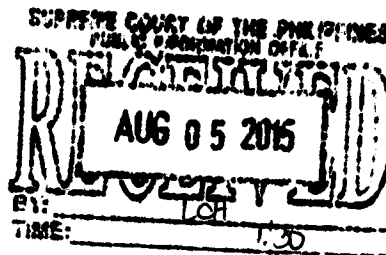




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 20, 2015 which reads as follows:

“G.R. No. 215342 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. DESIDERIO CAYABAN y ANACITO @ “PANGNGALDAW”, Accused-Appellant. – The Office of the Solicitor General’s manifestation and motion stating that it will no longer file a supplemental brief and the accused-appellant’s manifestation in lieu of supplemental brief, adopting his appellant’s brief dated March 14, 2014 as his supplemental brief in this case are **NOTED** and **GRANTED**; the letter dated June 2, 2015 of P/Supt. II Richard W. Schwarzkopf, Jr., Superintendent, New Bilibid Prison, Muntinlupa City, stating that the accused-appellant died at the New Bilibid Prison on November 14, 2014 is **NOTED**; and P/Supt. II Richard W. Schwarzkopf, Jr. is hereby required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc USB or e-mail containing the PDF file of the signed letter pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

Accused-appellant Desiderio Cayaban y Anacito was charged in the Regional Trial Court (RTC) in Urdaneta, Pangasinan with 10 counts of rape, docketed as Criminal Cases Nos. U-14906 to U-14915. After trial, the RTC rendered its decision dated February 28, 2013¹ convicting him of only four counts of rape (Criminal Cases Nos. U-14906 to U-14909, inclusive), and dismissing the remaining six counts for failure of the Prosecution to prove his guilt beyond reasonable doubt. The convictions were elevated to the Court of Appeals (CA), which affirmed the decision of the RTC, albeit with modification as to the damages awarded.²

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¹ CA rollo, pp. 74-85.

² Rollo, pp. 2-21; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Ramon R. Garcia and Danton Q. Bueser.

In due course, Cayaban, through the Public Attorney's Office, appealed to the Court.

In his letter dated June 2, 2015,³ New Bilibid Prison Superintendent Richard W. Schwarzkopf, Jr. informed the Court of Cayaban's death on November 14, 2014, attaching a certified true copy of his death certificate⁴ issued by the Civil Registrar of Muntinlupa City.

The effect of Cayaban's death pending his appeal is the total extinguishment of his criminal liability.⁵ Such extinguishment is based on Article 89 of the *Revised Penal Code*, which pertinently provides:

Article 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.**

X X X X

The death of Cayaban likewise extinguished the civil liability that was based exclusively on the crimes for which he was convicted (*i.e.*, *ex delicto*), because no final judgment of conviction had yet been rendered at the time of his death. Only the civil liability predicated on a source of obligation other than the delict survived the death of the petitioner, which the offended party can recover by means of a separate civil action.⁶

WHEREFORE, the Court **DISMISSES** Criminal Cases Nos. U-14906, U-14907, U-14908, and U-14909 by reason of the death of the accused-appellant **DESIDERIO CAYABAN y ANACTO @ "PANGNGALDAW"** on November 14, 2014; and **DECLARES** this appeal to be **CLOSED** and **TERMINATED**. No pronouncement on costs of suit.

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³ Id. at 39.


⁴ Id. at 41.

⁵ *People v. Amistoso*, G.R. No. 201447, August 28, 2013, 704 SCRA 369, 375-376.

⁶ *People v. Bayotas*, G.R. No. 102007, September 2, 1994, 236 SCRA 239.

SO ORDERED.” SERENO, C.J., on official leave; **PERALTA, J.**, acting member per S.O. No. 2103 dated July 13, 2015; **LEONARDO-DE CASTRO, J.**, on official leave; **LEONEN, J.**, acting member per S.O. No. 2108 dated July 13, 2015.

Very truly yours,


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

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 06331)

The Hon. Presiding Judge
Regional Trial Court, Br. 49
Urdaneta City 2428 Pangasinan
(Crim. Case Nos. U-14906 to U-14909)

PUBLIC ATTORNEY’S OFFICE
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