

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN SORIA Y GOMEZ, ACCUSED-APPELLANT.

*G.R. No. 179031. February 24, 2014*

Ponente: DEL CASTILLO, J.

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### DEL CASTILLO, J.:

On November 14, 2012, this Court rendered its Decision[1] in this case finding accused-appellant Benjamin Soria y Gomez guilty beyond reasonable doubt of rape. The dispositive portion of the Decision reads:

WHEREFORE, the December 29, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01442 is AFFIRMED with MODIFICATIONS. Accused-appellant Benjamin Soria y Gomez is found guilty beyond reasonable doubt of the crime of rape by sexual assault and is sentenced to suffer the penalty of twelve (12) years of prision mayor, as minimum, to twenty (20) years of reclusion temporal, as maximum. He is also ordered to pay “AAA” the amounts of P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages. “AAA” is entitled to an interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this judgment until fully paid.

SO ORDERED.[2]

The said Decision supposedly became final and executory on December 20, 2012.[3] Subsequently, however, the Court received a letter from the Bureau of Corrections informing us of the death of accused-appellant on August 16, 2012. In compliance with our directive, the Director of the Bureau of Corrections submitted on November 11, 2013, a certified true copy of the death certificate[4] of accused-appellant.

Clearly, accused-appellant’s demise on August 16, 2012 transpired before the promulgation of this Court’s Decision on November 14, 2012 or before its finality on December 20, 2012. Therefore, when accused-appellant died, his appeal before this Court was still pending resolution.

Article 89 of the Revised Penal Code pertinently 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 therefor is extinguished only when the death of the offender occurs before final judgment;

x x x x

In *People v. Amistoso*,[5] this Court encountered a similar situation wherein the accused-appellant died before his appeal could be resolved. The Court explained the implications of the accused-appellant’s demise as follows:

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.

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.

The Court had no course of action but to set aside its Decision and dismiss the criminal case against Amistoso by reason of his death.

Likewise, the November 14, 2012 Decision of this Court finding accused-appellant guilty beyond reasonable doubt of the crime of rape had become irrelevant and ineffectual by reason of his death on August 16, 2012. Consequently, the same must be set aside and the case against accused-appellant must consequently be dismissed.

ACCORDINGLY, the November 14, 2012 Decision of this Court is SET ASIDE and Criminal Case No. Q-01-98692 before the Regional Trial Court of Quezon City, Branch 94, is DISMISSED on account of accused-appellant's demise.

**SO ORDERED.**

Carpio, (Chairperson), Brion, Perez, and Perlas-Bernabe, JJ., concur.

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[1] With Dissenting Opinion of Associate Justice Arturo D. Brion.

[2] Rollo, p. 50.

[3] Id. at 62.

[4] Id. at 74.

[5] G.R. No. 201447, August 28, 2013.

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