

## FIRST DIVISION

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

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ANASTACIO AMISTOSO Y BROCA, ACCUSED-APPELLANT.**

### R E S O L U T I O N

**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 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 P75,000.00, he is ordered to pay the victim P75,000.00 as moral damages and P30,000.00 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.

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