

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**CTA CRIM. CASE NO. -
O-443 & O-444**

**Members:
BAUTISTA, Chairperson;
FABON-VICTORINO, and
RINGPIS-LIBAN, *JI***

TEOFILO T. ORAA,
Accused.

Promulgated:

JUN 15 2017
12:50 p.m.

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RESOLUTION

For resolution are the:

- 1) plaintiff's Formal Offer of Evidence;
- 2) accused's "Comment/Objections (To the Plaintiff's Formal Offer of Evidence)";
- 3) accused's "Motion to Release Cash Bail Bond" and "Motion to Dismiss; and
- 4) plaintiff's "Comment/Opposition (To Accused's Motion Release Cash Bail Bond and Motion to Dismiss)".

On November 8, 2016, plaintiff filed its "Formal Offer of Evidence" praying that the exhibits offered be admitted as part of the testimonies of its witnesses and for the specific purposes stated therein.

On December 8, 2016, accused through counsel, filed a "Comment/Objections (To the Plaintiff's Formal Offer of Evidence)".

Acting on plaintiff's "Formal Offer of Evidence" the Court resolves to admit Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", "P-13 to P-143", "P-144", "P-144-a", "P-145", "P-

(22MD)

146”, “P-147”, “P-148”, “148-a”, “P-149”, “P-149-a”, “P-150”, “P-150-a”, “P-151”, “P-151-a”, “P-152”, “P-153”, “P-154”, “P-154-a”, “P-155”, “P-156”, “P-157”, “P-157-a”, “P-158”, and “P-159”.

Prior to plaintiff’s filing of Formal Offer of Evidence, the Court was already notified by accused’s counsel that accused Teofilo Oraa passed away on October 24, 2016.¹ The original copy of accused’s death certificate was filed before the Court on December 20, 2016.

On November 18, 2016, accused’s counsel filed a “Motion to Dismiss” praying that the criminal complaint against accused be dismissed pursuant to Section 1, Article 89 of the Revised Penal Code and Section 4, Rule 111 of the Revised Rules on Criminal Procedure.

On even date, accused’s counsel also filed a “Motion to Release Cash Bail Bond” stating that accused has posted Cash Bail Bond for his provisional liberty during the pendency of the cases; that according to Section 22 of Rule 114 of the Revised Rules on Criminal Procedure, the bail may be cancelled upon surrender of the accused or proof of his death. Hence, accused’s counsel prayed that the cash bail be released.

Article 89 of the Revised Penal Code provides:

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;**
2. By service of the sentence;
3. By amnesty, which completely extinguishes the penalty and all its effects;
4. By absolute pardon;
5. By prescription of the crime;
6. By prescription of the penalty;
7. By the marriage of the offended woman, as provided in Article 344 of this Code.

Section 4, Rule 111 of the Revised Rules on Criminal Procedure provides:

¹ Manifestation dated October 24, 2016, Docket, pp. 1579-1580.

Effect of death on civil actions.- The death of the accused, after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict. xxx

Accused was charged of violating Sections 254 and 255 of the 1997 National Internal Revenue Code, as amended. The Informations read as follows:

Criminal Case No. O-443:

The undersigned Assistant State Prosecutor of the Department of Justice accuses TEOFILO T. ORAA of violation of Section 254 of the National Internal Revenue Code of 1997 (NIRC), committed as follows:

“That on or about the 16th day of April 2010, in Manila, the above-named accused, a natural person engaged in business and earning income from selling gold and silver to the Bangko Sentral ng Pilipinas (BSP), with obligation under the NIRC to pay the proper income tax in the amount of Php356,911,306.90 from his true and accurate income from the BSP of P1,114,961,571.43 for taxable year 2009, did then and there, willfully, unlawfully and feloniously attempt to evade and defeat payment of the proper income tax by underdeclaring his income for said taxable year only in the amount of P634,227.00, in order to evade payment of the proper income tax, as he did willfully fail to pay basic deficiency income tax amounting to **Three hundred fifty six million nine hundred eleven thousand three hundred six pesos and ninety centavos** (P356,911,306.90), exclusive of charges and penalties, to the damage and prejudice of the government in the latter amount, which is within the jurisdiction of this Honorable Court.”

CONTRARY TO LAW.

Criminal Case No. O-444:

The undersigned Assistant State Prosecutor of the Department of Justice accuses TEOFILO T. ORAA of violation of Section 255 of the National Internal Revenue Code of 1997 (NIRC), committed as follows:

“That on or about the 16th day of April 2010, in Manila, the above-named accused, a natural person engaged in business and earning income from selling gold and silver to the Bangko Sentral ng Pilipinas (BSP), with obligation under the NIRC to supply

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correct and accurate information in his Income Tax Return (ITR) within a certain period (up to April 15, 2010), did then and there, willfully, unlawfully, and feloniously fail to supply correct and accurate information in his ITR for taxable year 2009, by declaring a gross income of only P634,227.00 when his true and accurate income from the BSP for said taxable year was P1,114,961,571.43, thereby under declaring his income by more than 30%, or 175.796% to be exact, for the purpose of not paying the proper tax on his true income, as he did willfully fail to pay basic deficiency income tax in the amount of **Three hundred fifty six million nine hundred eleven thousand three hundred six pesos and ninety centavos** (P356,911,306.90), exclusive of charges and penalties, to the damage and prejudice of the government in the latter amount, which is within the jurisdiction of this Honorable Court.”

CONTRARY TO LAW.

In the Certificate of Death² of accused Teofilo T. Oraa, it was indicated therein that he died on October 24, 2016 at Las Piñas Doctors Hospital, Las Piñas City. The immediate cause of his death is septic shock, while the antecedent cause of death was hospital acquired pneumonia. The other significant conditions contributing to death are colon cancer with progressive liver & lung metastasis, liver failure secondary to hepatic metastasis.

Since it was established that accused was already dead, hence, his criminal liability is extinguished.

As regards accused's civil liabilities, the civil action instituted in the instant criminal cases arose directly from or was dependent upon the crime committed. Hence, the civil liability ex delicto of accused in this case is ipso facto extinguished since it arose from the crime committed.

WHEREFORE, premises considered, the accused's counsel having established that accused **TEOFILO T. ORAA** is already dead, his criminal liability and civil liability arising from delict are hereby automatically extinguished. Hence, the instant cases are **DISMISSED**.

Consequently, the posted cash bail bonds with O.R. No. 4113892 in the amount of P8,000.00 and O.R. No. 4113893 in the amount of P20,000.00 are **CANCELLED**.

The Office of the Clerk of Court of the Third Division of this Court is authorized to cause the release of the same to any of the accused's family

² Exhibit "A-10", Docket, page 2220.

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members or counsels upon presentment of the original receipt of the cash bail bonds.

SO ORDERED.


LOVELL R. BAUTISTA
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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