

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE No. O-195
(I.S. No. 2006-694)

For: Violation of Section 255
of the 1997 NIRC (Failure
to File Income Tax Return)

-versus-

Members:

Acosta, Chairman,
Uy, and
Fabon-Victorino, *JI*

ROSALIE DAVID

Proprietor of Victory Talent Promotion
171 Neon Street, San Francisco
Floodway, Cainta, Rizal

Accused.

Promulgated:

DEC 01 2011 ; 3:20 PM

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RESOLUTION

On October 5, 2011, the Court issued a Resolution ordering the case to be archived since the Return of Warrant issued by Police Superintendent Archival D. Macala indicated that Warrant was not served and the Barangay Certification issued by Ms. Wilinda U. Alteza was not verified.

However, on the same day October 5, 2011, a representative of the accused submitted two (2) letters from a certain Rose Ann V. David and Rico Asenjo Victoria, claiming that they are the daughter and brother,

respectively, of the accused; that Rosalina Asenjo Victoria is the same person as Rosalie Victoria David, the accused in this case; and, that Rosalina Asenjo David has died on January 10, 2010.

On November 18, 2011, Assistant State Prosecutor Mederlyn P. Mangalindan filed a “Manifestation” alleging that further verifications on the relations of accused Rosalie David to the deceased Rosalina Asenjo Victoria were made and by virtue of a subpoena to Rose Ann Victoria David, the alleged daughter of the accused, the following documents were submitted:

1. Annex “A” – Affidavit of Rose Ann Victoria;
2. Annex “A-1” - Original Birth Certificate of Rose Ann Victoria indicating therein that her mother is Rosalina Asenjo Victoria;
3. Annex “B” – Original Death Certificate of Rosalina Asenjo Victoria;
4. Annex “C” – Certified photocopy of the passport of Rosalina Asenjo Victoria;
5. Annex “D” – Photocopy of the Postal ID of Rosalina Asenjo Victoria;
6. Annex “E” – Photocopy of ABS CBN Identification Card of Rosalie David.

In light of the submission of new documents and in view of the Manifestation of Assistant State Prosecutor Mangalindan, the case is hereby REINSTATED to note the fact of death of accused Rosalie David, as prayed for by Assistant State Prosecutor Mangalindan.

Consequently, the Court applies Article 89(1) of the Revised Penal Code which states that a criminal liability is totally extinguished upon the death of the accused, to wit:

Art. 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:

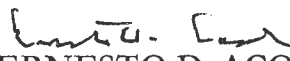
1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment. xxx

As to the civil liability, pertinent is Rule 111 Section 4 of the Rules of Court which states that:

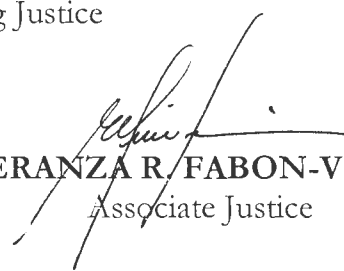
Sec. 4. *Effect of death on civil actions* — xxx If the accused dies before arraignment, the case shall be dismissed without prejudice to any civil action the offended party may file against the estate of the deceased.

WHEREFORE, Criminal Case No. O-195 against Rosalie David, a.k.a. Rosalina Asenjo Victoria, is hereby **DISMISSED**, without prejudice to the filing of any civil action by the State.

SO ORDERED.


ERNESTO D. ACOSTA
Presiding Justice

(On Leave)
ERLINDA P. UY
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice