REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-621, O-622, O-623, & O-624

-versus-

Members:
UY, *Chairperson, and*
RINGPIS-LIBAN,
MODESTO-SAN PEDRO, *JJ.*

BENEDICT LAZATIN y MANALANG,
Accused.

Promulgated:
FEB 20 2020
10:38 a.m.

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RESOLUTION

For resolution are the:

1) "Amended Notice of Death w/Motion to Dismiss" filed by the counsel for accused;
2) "Comment (To The Amended Notice of Death with Motion to Dismiss of the Accused)" filed by the plaintiff; and
3) "Compliance" filed by the Officer-in-Charge, Philippine Statistics Office (PSA) – Legal Service.

On April 26, 2019, counsel for accused filed an "Amended Notice of Death w/Motion to Dismiss" stating that accused Benedict Lazatin passed away last March 27, 2019. A photocopy of the Death Certificate was attached thereto as Annex "A". In view thereof, accused's counsel prayed that the Court permanently dismiss the cases against the accused pursuant to Article 89 of the Revised Penal Code.

On May 14, 2019, the Court issued a Resolution ordering the plaintiff to file its Comment on the "Amended Notice of Death w/Motion to Dismiss" within ten (10) days from notice. The Court set for hearing the "Amended Notice of Death w/Motion to Dismiss," and ordered the counsel for accused to submit an original copy of the Death Certificate.

On May 24, 2019, the plaintiff filed a "Comment (To The Amended Notice of Death with Motion to Dismiss of the Accused)" stating that the death of accused last March 27, 2019 during the pendency of the criminal action extinguished his criminal liability, but not his civil liability. The civil liability arises not as a consequence of a felonious act but because of the taxpayer's failure to pay taxes. Hence, the extinction of one's criminal liability does not necessarily result in the extinguishment of his civil liability.

During the hearing on October 23, 2019, the Court requested the Philippine Statistics Office (PSA) to issue an official copy of the Certificate of Death of accused Benedict Manalang Lazatin who appeared to have died on March 27, 2019, within fifteen (15) days from notice.

On December 10, 2019, the PSA filed its "Compliance" with attached PSA-issued copy of the Certificate of Death of Benedict Manalang Lazatin with Registry No. 2019-06678.

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:

> *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 National Internal Revenue Code (NIRC) of 1997, as amended. The Informations read as follows:

Criminal Case No. O-621:

> The undersigned Assistant State Prosecutor of the Department of Justice hereby accuses Benedict Lazatin y Manalang of the offense of violation of Section 254 of Republic Act No. 8424 (National Internal Revenue Code of 1997, as amended, committed as follows:
>
> "That on or about the 15th day of April 2010, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with Tax Identification No. 147-252-050-000, did then and there wilfully, unlawfully, and feloniously attempt to evade or defeat payment of tax, by then and there declaring no income for taxable year 2009, despite income in the amount of Php3,381,745.60, thus, resulting in a deficiency income tax in the amount of Php1,031,158.59, exclusive of surcharge and interest, as of the time of the filing of this complaint, to the damage and prejudice of the government."
>
> CONTRARY TO LAW.

Criminal Case No. O-622:

> The undersigned Assistant State Prosecutor of the Department of Justice hereby accuses Benedict Lazatin y Manalang of the offense of violation of Section 255 of Republic Act No. 8424 (National Internal Revenue Code of 1997, as amended, committed as follows:
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> "That on or about the 15th day of April 2010, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with Tax Identification No. 147-252-050-000, required by law to file income tax return (ITR) and pay corresponding tax, did then and there wilfully, unlawfully, and feloniously fail to supply correct and accurate information in his income tax return for taxable year 2009 by then and there declaring no income therein despite income payments in the amount of P3,381,745.60 resulting in deficiency income tax for taxable year 2009 in the total amount of Php1,031,158.59 exclusive of surcharge and interest as of the time of the filing of this complaint, to the damage and prejudice of the government."
>
> CONTRARY TO LAW.

Criminal Case No. O-623:

> The undersigned Assistant State Prosecutor of the Department of Justice hereby accuses Benedict Lazatin y Manalang of the offense of violation of Section 255 of Republic Act No. 8424 (National Internal Revenue Code of 1997, as amended, committed as follows:
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> "That on or about the 15th day of April 2013, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with Tax Identification No. 147-252-050-000, did then and there wilfully, unlawfully, and feloniously fail to supply correct and accurate information in his Income Tax Return (ITR) for taxable year 2012 by declaring in his ITR that he has "No Operation" for the said period, making it appear that he has income/revenue for taxable yearv2012, thus, concealing his true and correct income for taxable year 2012, to the damage and prejudice of the government in the amount of P1,069,031.99, exclusive of surcharge and interest, representing accused's income tax deficiency as of the time of filing of the complaint."
>
> CONTRARY TO LAW.

Criminal Case No. O-624:

> The undersigned Assistant State Prosecutor of the Department of Justice hereby accuses Benedict Lazatin y Manalang of the offense of violation of Section 254 of Republic Act No. 8424 (National Internal Revenue Code of 1997, as amended, committed as follows:
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> "That on or about the 15th day of April 2013, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with Tax Identification No. 147-252-050-000, did then and there wilfully, unlawfully, and feloniously attempt to evade or defeat payment of tax, by then and there ddeclaring no income for taxable year 2012, despite income in the amount of Php3,500,099.96, thus, resulting in a deficiency income tax in the amount of P1,0690,031.99, exclusive of surcharge and interest, as of the time of the filing of the complaint, to the damage and prejudice of the government."
>
> CONTRARY TO LAW.

In the Certificate of Death[1] of accused Benedict M. Lazatin, it was indicated therein that he died on March 27, 2019 and the immediate cause of his death is Acute Myocardial Infarction.

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 these cases is ipso facto extinguished since it arose from the crime committed.

WHEREFORE, premises considered, the "Amended Notice of Death w/Motion to Dismiss" is **GRANTED**. Accused's counsel have established that accused **BENEDICT M. LAZATIN** was already dead. Accordingly, the criminal and civil liabilities of accused arising from delict are hereby automatically extinguished. Hence, the instant cases are **DISMISSED.**

The "**Compliance**" filed by Atty. Henedine P. Palabras, Attorney IV, OIC Legal Service is **NOTED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[1] Registry No. 2019-06678.