

Are Penalties And Their Effects Totally Extinguished By Absolute Pardon?

By *Bienvenido C. Ambion* *

"Humanity and good policy conspire to dictate that the benign prerogative of pardoning should be as little as possible fettered or embarrassed. The Criminal Code of every country partakes of so much of necessary severity; that without an easy access to exceptions in favor of unfortunate guilt, justice would wear a countenance too sanguinary and cruel."

Hamilton, *Federalist* No. 74 cited
in *Ex-Parte A. H. Garland*, 71 U.S.
375, 18 L. Ed. 368.

Nature and purpose of pardoning power.—Our Revised Penal Code includes absolute pardon among the causes for the total extinction of criminal liability.¹ Alike its American counterpart, the Philippine Constitution has vested the pardoning power in the Chief Executive.² It is but natural to have the pardoning power lodged in the President inasmuch as a pardon is an act of grace proceeding from the power entrusted with the execution of the laws which exempts the grantee from the punishment inflicted by the law for the crime committed. Furthermore the nature of the power requires the fullest discretion in its exercise, such that the Constitution confers this discretion upon the Chief Magistrate—the highest officer in the Nation—in the faith that there will be no abuse thereof.³ Except for the two limitations imposed by our Constitution, to wit, that pardon may be given only to offenders who have already been convicted, and that pardon cannot be extended in impeachment proceedings, the exercise of the pardoning power is unfettered. Thus the courts could not inquire into the wisdom or propriety of a pardon granted by the President and neither could the pardoning power be restricted or controlled by legislative action.⁴

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¹ Paragraph 4, Article 89, Act 3815 of the Philippine Legislature.

² Article VII, Section 10, Subsection 6 of the Philippine Constitution provides:

The President shall have the power to grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction for all offenses, except in cases of impeachment, upon such conditions and with such restrictions and limitations as he may deem proper to impose. x x x

³ *Ex Parte Grossman*, 267 N. S. 87, 69 L. ED. 521.

⁴ *Ex Parte Garland*, 71 U.S. 375, 18 L. Ed. 368; *Cristobal vs. Labrador*, 40 O.G. (9 S) No. 13, p. 298.

Courts in administering justice do sometimes err. Under the principle of check and balance of powers, executive clemency exists to afford relief from such evident judicial mistakes. No wonder this check or power to avoid particular judgments is therefore entrusted to some authority other than the courts. The courts in construing and applying the penal laws may have dealt with the accused with undue harshness and may have failed to consider attendant circumstances which might have mitigated the guilt of the offender. Criminals by accident, according to modern criminologists led by Ferri, should not be treated with the same degree of severity as should be accorded criminals by nature, habit, and passion. There may arise instances wherein the trial judge after pronouncing the penalty properly applicable under the Code believes that the strict enforcement of the provisions of the Code results in the imposition of a clearly excessive penalty considering the "degree of malice and the injury caused by the offense". In such a predicament, the trial judge, without however suspending the execution of the sentence, is authorized by the Revised Penal Code to recommend to the Chief Executive, through the Department of Justice, the grant of clemency to the offender.⁵

According to its nature and extent, a pardon may be absolute and complete, or it may be conditional or partial. Plenary pardon releases the offender from the entire penalty imposed upon him; while a partial pardon frees him only from a portion of the penalty, that is, so much 'only of it as may be expedient. To place the convict upon trial and probation as to his good faith and intention, a part of the penalty may be forgiven now and another part at a future time, until the entire penalty is forgiven. Conditions may also be appended to a pardon, but such must not be immoral, illegal, or inconsistent with the pardon.⁶

Effects of pardon in general.—The effects of a pardon are far-reaching. As declared by the United States Supreme Court, "A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full, it releases the punishment and blots out the existence of the guilt, so that in the eye of the law, the offender is as innocent as if he had never committed the offense."⁷ Granted after conviction, absolute pardon removes the penalties and disabilities imposed by the judgment and restores to the offender all his civil rights. The offender is made a new man, given a new credit and capacity, and rehabilitated to that extent in his former position. The crime is forgiven and remitted and the individual is relieved from all its legal consequences. The pardoning power granted to the United States President is the same as that had been ex-

⁵ Paragraph 2, Article 5, Act 3815.

⁶ 11 Ops. Atty. Gen. (U.S.) 227, Field Cases on Constitutional Law, 450.

⁷ Ex Parte Garland, *Supra*.

exercised before by the Crown of England, and it is now settled that a pardon whether by the England King or by act of Parliament, removes not only the crime but also all the legal disabilities consequent to the crime.⁸

When a convict was pardoned by the Governor-General, the offense was wiped out as if it had never been committed, and the offender was restored to all his civil rights and was relieved of the principal and accessory penalties attaching to the conviction.⁹ In the same manner if an attorney-at-law has been disbarred due to the commission of an offense and the offense has been pardoned, such pardon rehabilitates him to the practice of his profession.¹⁰ Imprisonment is not the only penalty imposed by law upon malefactors inasmuch as there are other accessories and other resultant disabilities. Where absolute pardon restoring an offender to full civil and political rights, is granted after the expiration of the term of imprisonment, it is but natural that such pardon removes all that is left of the consequences of the conviction.¹¹

Limitations to operation of pardon.—From the cases aforesaid, foremost among which is *Ex Parte Garland*, supra, it could be observed that the language of the court is too broad, sweeping, and extensive, in reference to the effects of a pardon. Does an absolute pardon totally extinguish the penalty and all its effects? There are limitations to the operation of an absolute pardon. The legal infamy of the crime is removed by the pardon, but the guilt is not taken away.¹² Pardon does not close the judicial eye to the fact that at one time the offender has committed the acts constituting the offense, for the pardon though obliterating the offense does not obliterate the acts themselves. Pardon does not remove the moral turpitude involved. Though pardon restores rights and privileges, and creates new capacity and credit, yet it cannot be asserted that the grantee is as honest, reliable and fit to hold a public office as if he has constantly been a law-abiding citizen.¹³ Although a pardoned officer is competent to be a witness yet his conviction for the pardoned offense may be shown as an index to the character and credibility of the witness.¹⁴

⁸ *Gilb. Ev.* 128, *Fitzg.* 107, *Notes* 18 L. Ed. 882; 46 C. J. 1192, Sec. 32-B.

⁹ *Alimon vs. Chief of Constabulary*, 60 *Phil.* 456.

¹⁰ *In re Lontok*, 43 *Phil.* 293.

¹¹ *Cristobal vs. Labrador*, *Supra*.

¹² *People vs. McIntyre et al.*, 163 N Y S 530.

¹³ *U.S. vs. Swift*, 186 *Fed.* 1002; *People ex rel. Atty. Gen. vs. Burton*, 39 *Colo.* 164, 121 *Am. St. Rep.* 165, 88 *Pac.* 1063; *State ex rel. Atty. Gen. vs. Hawkins*, 44 *Ohio St.* 117, 5 N. E. 228.

¹⁴ *U.S. vs. Jones*, 2 *Wheeler Crim. Cas.* 461; Sections 25 and 80 Rule 123, *Rules of Court in the Philippines*.

A pardon granted to an appellant has no retroactive effect upon the judgment of conviction which has not been set aside and which remains unreversed. As to the unenforced penalties the offender is relieved therefrom, but the pardon does not make amends for the past such that there can be no restoration for penalties already endured or paid.¹⁵ No relief or compensation is given for what has been suffered in person by imprisonment, hard labor, or others. Pardon does not restore offices forfeited, or the property or interests vested in others as a consequence of the judgment of conviction. Thus third persons who by statutory provision have acquired rights to a share in the penalties or in the property forfeited and sold, as the right to a moiety of the penalty going to a customs house officer, or the right of an informer to a part of the fine imposed, are not affected whatsoever by an absolute pardon.¹⁶

Criminal and civil liabilities for an offense.—Viewed from its effects, crime has a dual aspect, first, as an offense against the state or society whose peace and order have been disturbed, and second, as an offense against the individual or person victimized by the crime. For the first aspect, the offender incurs criminal liability such that the penalty imposed to vindicate the social order which has been disturbed has for its purpose to deter others and to reform, punish, or even totally eliminate the offender. For the second aspect, the offender incurs civil liability which has for its purpose to repair the damage suffered by the offended party who should, as much as possible, be placed in the same position in which he is, prior to the injury. Thus Article 100 of the Revised Penal Code provides "Every person criminally liable for a felony is all civilly liable." Though sweeping in its language, yet civil liability is incurred only where damages are suffered by private persons for there are crimes where no such damages are inflicted, as contempt, rebellion, and offenses against religious cult, to mention a few.¹⁷

Generally a judgment rendered in a criminal case determines both the criminal and civil liabilities of the offender, for when a criminal action is instituted, the civil action arising from the same offense is deemed impliedly instituted with the criminal action, unless the complaining witness expressly waives the civil action or reserves his right to file it separately. Although these criminal and civil actions can be filed separately, yet once the criminal action has been commenced the civil action cannot be instituted until after the rendition of the final judgment in the criminal case. In the same manner, though the civil

¹⁵ *Knote vs. U.S.*, 95 U.S. 149, 24 L. Ed. 442; *Roberts vs. State*, 160 N. Y. 217; *in re Deming*, 10 Johns. (N.Y.) 232; *Ex Parte Garland*, *Supra*.

¹⁶ *Kirk vs. Lewis*, 9 Fed. 645.

¹⁷ *U.S. vs. Heery*, 25 Phil. 611.

action has been filed earlier, yet once the criminal action has been instituted, the said civil action, in whatever stage it may be, cannot be prosecuted, and it has to be suspended until the rendition of the final judgment in the criminal proceeding. "Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist."¹⁸ However where a separate action is instituted to demand the civil liability arising from the crime, and during the pendency thereof, no criminal action is filed, the civil action has to be terminated and as proof for the act complained of, a mere preponderance of evidence is sufficient.¹⁹

Civil Code innovations on the matter.—However under the new Civil Code which would be effective next year, there are several instances wherein a separate civil action for damages arising from a criminal offense, may proceed independently of the criminal proceedings and regardless of the result of the latter and may be proved by a preponderance of evidence. In Article 32, any person, whether a private individual or a public officer or employee, who directly or indirectly obstructs, violates, or impairs any of the nineteen enumerated constitutional rights, freedoms, and liberties, of another person shall be liable to the latter for damages which shall include moral and exemplary damages as well, it being understood however that a judge could not be held liable under this article unless his act or omission constitutes a criminal offense. Article 33 authorizes civil action for damages independent of the criminal prosecution in the crimes of defamation, fraud, and physical injuries, and Article 34 makes a city or municipal policeman who refuses or fails to render aid or protection to any person whose life or property is in danger, primarily liable for damages, and the city or municipality subsidiarily liable therefor. In all the instances provided for by the aforementioned articles, if the criminal prosecution has been instituted for the act complained of, the civil action for damages, to be proved by the preponderance of evidence, shall proceed independently of and irrespective of the result of the criminal proceedings.

Other innovations relative to the matter appear in Articles 35 and 29 of the new Civil Code. In Article 35, where the complainant charges another with a criminal offense for which no independent civil action is granted in the Civil Code or any special law, but the justice of the peace finds no probable cause, or the prosecuting attorney refuses or fails to file the information, the complaining witness may institute a civil action for damages against the alleged offender. In Article

¹⁸ Rule 107, Rules of Court.

¹⁹ Article 30, Republic Act 386, the new Civil Code of the Philippines.

29 where the accused is acquitted in the criminal case on the ground that his guilt has not been proved beyond reasonable doubt, the complainant may still institute a civil action for damages for the same act or omission complained of. In both articles a mere preponderance of evidence would suffice, and the plaintiff, upon motion of defendant, may be required to file a bond to answer for damages in case the complaint turns out to be malicious. Of course under Article 35 if the information should be subsequently filed, during the pendency of the civil action, the general rule then applies such that the civil action shall be suspended until after the termination of the criminal action.

Effects of pardon upon criminal and civil liabilities.—In judgments rendered in criminal cases, the State is primarily interested in the criminal liability of the accused. Speaking of the civil liability of the offender, the State has no interest other than its undertaking to help the offended party in obtaining compensation for his injuries. If a pardon is therefore granted by the State, through the Chief Executive, it extends only over the penalty inflicted for the criminal liability of the offender, and it does not extinguish the civil indemnity. Regarding criminal liability, absolute pardon therefore relieves the offender from the principal and accessory penalties as well as the additional penalty in case of habitual delinquency, if there be any. However Article 36 of the Revised Penal Code provides in part: "A pardon shall not work the restoration of the right to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon." A pardon granted to an offender is absolute in so far as "it restores him to full civil and political rights", and an absolute pardon granted after the term of imprisonment has expired or been served, removes all the consequences of conviction, including the disqualification from voting which is one of the disabilities resulting from the conviction.

Civil damages granted are not part of the punishment for the crime as they are rendered in favor of the citizen and not to the State.²⁰ Article 2230 of the new Civil Code specifies that exemplary damages consequent to the commission of a crime should be granted the offended party and must therefore be distinct from any fine which may be imposed. No wonder the complainant may negotiate with the criminal or his representative relative to the civil indemnity, and the complainant may even entirely renounce the same. Article 2034 of the new Civil Code which is a reproduction of Article 1813 of the existing Code, provides that a civil action arising from a crime may be compromised, but the criminal action for the imposition of the penalty

²⁰ U.S. vs. Heery, *Supra*

shall not be extinguished thereby inasmuch as the prosecution of crimes could not be stifled.²¹

Although an absolute pardon has been granted the offender, he is still obliged to satisfy the civil liability, for as Article 36 of the Revised Penal Code provides in part: "A pardon shall in no case exempt the culprit from the payment of the civil indemnity imposed upon him by the sentence." This is reinforced by Article 113 of the same Code which states: "Except in case of extinction of his civil liability as provided in the next preceding article,²² the offender shall continue to be obliged to satisfy the civil liability resulting from the crime committed by him, notwithstanding the fact that he has served his sentence consisting of deprivation or liberty or other rights, or has not been required to serve the same by reason of amnesty, pardon, commutation of sentence, or any other reason." A catena of decisions bears out the principle that though the crime may be against property or person or both, yet the defendant discharged by pardon, amnesty, service of sentence, or commutation of sentence, may nevertheless be held civilly liable in a separate civil action.²³

Repetition of crimes.—Modern and positivist writers regard penalty as an instrument of social defense. As stated before, penalty may be intimidatory, correctional, or eliminatory. However penalty alone would not suffice as a means of social defense such that it must necessarily be supplemented by measures of prevention and security. Laws on juvenile delinquency belong to these measures of prevention which seek the elevation of the social, moral, intellectual, and physical well-being of society. Laws on recidivism, habitual delinquency, and other forms of repetition of crimes exemplify these measures of security which aim for the education and adoption of delinquent to society, or the elimination of those incapable of being so adopted.²⁴

Under the Revised Penal Code there are four (4) classes of repetition of crimes, to wit, reiteration or habituality, recidivism multi-recidivism or habitual delinquency, and quasi-recidivism. Each constitutes an aggravating circumstance, and thus habituality and recidivism are generic aggravating circumstances; while habitual delinquency

²¹ *Hibberd vs. Rhode*, 32 Phil. 476.

²² Art. 112, Act 3815 provides that civil liability arising from crimes shall be extinguished in the same manner as other obligations in accordance with the provisions of the civil law; and under Article 1231 of the new Civil Code, which corresponds to Article 1156 of the existing Code, obligations are extinguished by payment or performance, loss of the thing due, condonation or remission, confusion or merger, compensation, novation and other causes as annulment, rescission, fulfillment of resolutive condition, and prescription.

²³ *U.S. vs. Madlangbayan*, 2 Phil. 246, *Oro vs. Pajarillo*, 23 Phil. 484, *U.S. vs. Pagan*, 37 Phil. 90.

²⁴ *Cuello Calon, Derecho Penal*, pp. 412-413.

and quasi-recidivism are extraordinary or special aggravating circumstances which could not off-set by any mitigating circumstance.²⁵ A person who at the time of his trial for one crime shall have been previously convicted by final judgment of another crime embraced in the same title of the Code is deemed a recidivist by Article 14, paragraph 9 of the Revised Penal Code, while paragraph 10 thereof provides that habituality exists when an offender has been previously punished for "an offense to which the law attaches an equal or greater penalty or for two or more crimes to which it attaches a lighter penalty." Relative to recidivism and habituality, a previous prosecution and conviction by final judgment of a crime are necessary for either of these aggravating circumstances to be attendant. If the offense at bar falls under the same title of the Revised Penal Code which also embraces the prior offense of which the offender is convicted, then recidivism is present; otherwise, only habituality may exist depending upon the relative severity or duration of the penalties imposed in the prior and present offenses.

As amended by Republic Act No. 18, the Revised Penal Code in Article 62, paragraph 5, provides that a person shall be considered a habitual delinquent "if within a period of ten years from the date of his release or last conviction of the crimes or serious or less serious physical injuries, **robo, hurto, estafa**, or falsification, he is found guilty of any of said crimes a third time or oftener. "When the special aggravating circumstance of habitual delinquency is present, he shall be sentenced not only to the penalty provided by law for the last crime of which he is found guilty, but also to an additional penalty which varies and increases in duration depending upon whether it is a third, fourth, or fifth, or additional conviction.²⁶ For effective social security this additional penalty which is determinative of the criminal jurisdiction of the trial court, must necessarily be applied by the courts in all degrees of execution of the crime, the imposition of said additional penalty being mandatory and not merely discretionary. Such

²⁵ Guevarra, Commentaries on the Revised Penal Code (1946) p. 75; Padilla, Revised Penal Code Annotated (1949) pp. 160-163.

²⁶ Article 62, paragraph 5, Act 3815 provides: x x x 5. Habitual delinquency shall have the following effects:

(a) Upon a third conviction the culprit shall be sentenced to the penalty provided by law for the last crime of which he be found guilty and to the additional penalty of prison correccional in its medium and minimum periods;

(b) Upon a fourth conviction the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prison mayor in its minimum and medium periods;

(c) Upon a fifth or additional conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prison mayor in its maximum period to reclusion temporal in its minimum period;

Notwithstanding the provisions of this article, the total of the two penalties to be imposed upon the offender, in conformity herewith shall in no case exceed thirty years.

additional penalty could not be enhanced by recidivism for recidivism, being inherent in habitual delinquency, could aggravate only the principal penalty.²⁷

Besides the provision of paragraph 5, Article 62 of the Revised Penal Code, any person who after having been convicted by final judgment, shall commit an offense before beginning to serve such sentence or while serving the same, shall be punished by the maximum period of the penalty prescribed by law for the new offense. Article 160 of the Revised Penal Code provides further that if the convict is not a habitual criminal, he shall be pardoned upon reaching seventy years of age if he shall have already served out his original sentence or when he shall complete it after reaching said age "unless by reason of his conduct or other circumstances, he shall not be worthy of such clemency." The special aggravating circumstance of quasi-recidivism embodied in said Article 160, requires the imposition of the maximum of the penalty of the new offense. The term "new offense" should not be taken literally, inasmuch as any offense committed by a convict prior to or during service of sentence would brand him as a quasi-recidivist, such that whether the new or subsequent offense is different or similar to the prior offense for which the culprit is serving or is about to serve sentence, is completely immaterial.²⁸

Heavier penalty for repetitious offender.—Each kind of repetition of crimes constitutes therefore a circumstance which aggravates the penalty imposed upon the malefactor. On the occasion of committing another crime, the law seeks to correct the depravity, and stop the criminality or persistence in evil of the offender. The propriety of inflicting a severer punishment upon a habitual, or repetitious offender, has long been recognized. The earlier offense is not punished for a second time but the repetition of the criminal conduct aggravates the guilt and justifies the imposition of heavier penalty in a subsequent conviction.²⁹ Thus where the efforts of the State to reform the criminals by means of ordinary penalties have failed, the State, could resort to habitual delinquency laws, in order to rid itself of depravity. By so doing, no constitutional guarantee is being violated by the State. As stated, there is no attempt to punish the former crimes for which the offender has been prosecuted, and the punishment provided for by habitual delinquency legislations is only for the crime at bar and the penalty therefor being heavier on account of the criminal propensities

²⁷ *People vs. de Jesus*, 63 Phil. 760; *People vs. Abuyen*, 52 Phil. 722; *People vs. Navales*, 59 Phil. 496.

²⁸ *U.S. vs. Mohamad*, 22 Phil. 524; *People vs. Durante*, 53 Phil. 363; *People vs. Yabut*, 58 Phil. 499.

²⁹ *Graham vs. West Virginia*, 56 L. Ed. 917 cited in *People vs. Salinas*, 54 Phil. 39; *People vs. Rama*, 55 Phil. 981.

of the accused. Thus laws enhancing penalties for habitual delinquents and other repetitious offenders do not partake of the nature of ex-post-facto laws, and neither do they violate the double-jeopardy clause of the Constitution.

Absolute pardon and repetition of crimes.—A final judgment of conviction is required in an offense for the latter to be reckoned for purposes of recidivism, habituality, habitual delinquency, and quasi-recidivism. If an offender convicted of an offense has been granted an absolute pardon, could such conviction be considered by the courts in determining whether any of the ordinary aggravating circumstances of habituality and recidivism or the special aggravating circumstances of habitual delinquency and quasi-recidivism, is present to enhance the penalty for the last offense for which the offender is prosecuted? In American law, while there is contrariety of opinions, the better-reasoned authorities sustain the view that the pardon does not wipe out the conviction to the extent of preventing such prior conviction from being the basis of a charge as a second offender or a habitual criminal.³⁰ Absolute pardon relieves the culprit of all the unenforced penalties annexed to the conviction, but the fact remains that the judgment of the conviction was unreversed and not set aside.

Though an accused has been pardoned for the first offense, yet the increased penalty can be imposed for the second offense. Pardon extends only over the penalty incurred by the offense pardoned, and could not afford relief from any penal consequences resulting from a different offense committed after the pardon and which has not been pardoned. The augmented punishment for the second offense is no part of the penal consequences of the first offense but is applied exclusively to the last or second offense as aggravated by the repetition of the specified crimes. The increased punishment is for the last offense and not for the prior offense so much so that a pardon of the prior offense could in no manner whatsoever influence or operate as a pardon of the last offense.³¹ In the Philippines inasmuch as pardon does not completely extinguish the penalty and all its effects, pardon does not prevent the consideration of the former conviction as an aggravating circumstance, even though the offender has been pardoned for the same. Quoting Viada, the Philippine Supreme Court declares: "A pardon should not be an impediment to the consideration of recidivation as an aggravating circumstance, for according to Article 130,

³⁰ *People vs. McIntyre et al.*, 163 N.Y.S. 530 citing *People vs. Carlesi*, 154 App. Div. 481, 139 N.Y.S. 309.

³¹ *Stewart vs. Commonwealth*, 2 Ky. Law Rep. 386 cited in *Herndon vs. Commonwealth*, 48 SW 989.

paragraph 4 of the (old) Code, a pardon only produces the extinction of the penalty, but not of its effects.”³²

Based upon the same logic or reasoning pertinent to recidivism, a pardon therefore should not prevent the consideration of habituality, or habitual delinquency, or quasi-recidivism as an aggravating circumstance. Even should this be the case yet there are certain qualifications or limitations thereto. Final sentences promulgated against an accused while he was still a minor, and within the purview of the juvenile delinquency laws, cannot be reckoned as previous convictions for purposes of habitual delinquency.³³ Besides two or more convictions taking place on the same day shall be considered as one. In the same manner two previous convictions for crimes committed on the same date should be considered as one conviction. Where a short space of time intervened between the two convictions, that is, they are so near each other in point of time, or where the second offense was committed prior to the conviction for the first offense, then the two convictions, in each instance, shall be reckoned only as one conviction, for the purpose of declaring the offender as a habitual delinquent.³⁴ The underlying reason is that the short span between the two convictions does not afford the offender an ample time within which to reform and abandon his criminal propensities. Subject to the limitations and qualifications therein mentioned, although an absolute pardon has been extended to an offense yet such conviction has to be considered in sentencing a subsequent offense wherein the penalty is to be aggravated by reason of recidivism, quasi-recidivism, habituality, or habitual delinquency, as the case may be.

Conclusion.—From the foregoing discussions it could therefore be concluded that absolute pardon does not totally extinguish the penalty and all its effects. As expressed by the dual nature of a crime, absolute pardon does not relieve the offender from his civil liability. Though absolute pardon is a cause for total extinction of criminal liability, yet there are consequences of conviction left inspite of the grant of such clemency. While pardon removes the legal infamy, yet the moral stain is not washed out, and the crime still goes to the credit of the pardoned offender. The offense is effaced but the facts of the commission of the crime and the conviction therefor are not obliterated.³⁵ Absolute pardon, therefore, is not absolute in the fullest sense of the term inasmuch as absolute pardon involves forgiveness only, but not forgetfulness, as well!

³² U.S. vs. Sotelo, 28 Phil. 160.

³³ People vs. Tanyaquin, 57 Phil. 426.

³⁴ People vs. Santiago, 55 Phil. 266; People vs. Ventura, 56 Phil. 5; People vs. Kaw Liang, 57 Phil. 839; People vs. Albuquerque, 40 O.G. 7 (S) No. 11, p. 2; Paguntalan vs. Director of Prisons, 57 Phil. 140.

³⁵ Nelson vs. Commonwealth, 128 Ky. 779, 16 L R A, N S 272.