

BY: 769  
TIME: 1:39

Republic of the Philippines

Supreme Court

Manila

THIRD DIVISION

## NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **November 13, 2019**, which reads as follows:

**G.R. No. 248222 (Rizaldy Guiniguin Duran v. People of the Philippines)** – After a review of the records, this Court resolves to **DENY** the petition for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in its February 12, 2019 Decision<sup>1</sup> and July 5, 2019 Resolution<sup>2</sup> as to warrant the exercise of this Court's appellate jurisdiction.

As correctly held by the CA, all the elements of the crime of frustrated homicide under Article 249<sup>3</sup> of the Revised Penal Code (RPC) were proven by the prosecution's evidence warranting the affirmance of the judgment of the courts *a quo* convicting petitioner.

However, in light of recent jurisprudence, this Court deems it proper to modify the award of damages granted by the Regional Trial Court (RTC) and the CA. In *People v. Jugueta*,<sup>4</sup> this Court ruled that where the crime of frustrated homicide is committed, moral damages, as well as civil indemnity, should be awarded to the victim in the amount of ₱30,000.00 each. Hence, Rizaldy Guiniguin Duran (*petitioner*) is ordered to pay Rustico Pimentel, Jr. the amount of ₱30,000.00 as civil indemnity, in addition to the award of actual damages and moral damages previously imposed by the RTC as modified by the CA.

**WHEREFORE**, the petition is **DENIED**. The February 12, 2019 Decision and July 5, 2019 Resolution of the Court of Appeals in CA-G.R. CR No. 41012, finding petitioner Rizaldy Guiniguin Duran guilty beyond reasonable doubt of Frustrated Homicide, as defined under Article 249 and penalized under Article 250 of the RPC, is **AFFIRMED with**

<sup>1</sup> *Rollo*, pp. 36-47; penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Maria Elisa Sempio Diy and Pablito A. Perez, concurring.

<sup>2</sup> *Id.* at 49-51.

<sup>3</sup> Art. 249. *Homicide*. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

<sup>4</sup> 783 Phil. 806 (2016).

**MODIFICATION**, in that petitioner is also **ORDERED** to pay the victim ₱30,000.00 as civil indemnity, in addition to the monetary award of actual damages in the amount of ₱19,079.50 and moral damages of ₱30,000.00, with legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until full payment thereof.

**SO ORDERED.** (Leonen, J., on Official Business per Special Order No. 2737 dated November 8, 2019; Lazaro-Javier, J., designated as Additional Member per Special Order No. 2728 dated October 25, 2019, on Wellness Leave.)

Very truly yours,

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Deputy Division Clerk of Court*

*gn 11/12/19*

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 8, La Trinidad  
2601 Benguet  
(Crim. Case No. 15-CR-10955)

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