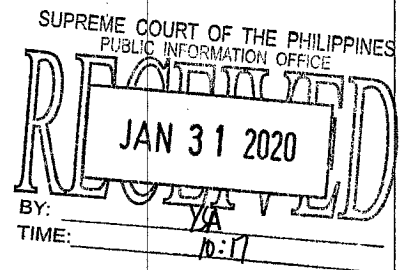




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **11 December 2019** which reads as follows:*

“G.R. No. 249556 (Eduardo Brillantes y Dela Cruz @ “Lilit” v. People of the Philippines). – Acting on the First Motion for Extension of Time to File Petition for Review on *Certiorari* filed by Eduardo Brillantes y dela Cruz @ “Lilit” (petitioner), the Court hereby **GRANTS** him a period of thirty (30) days from the expiration of the reglementary period within which to file the petition.

Considering the allegations, arguments and issues raised in the instant Petition, the Court resolves to **DENY** it for failure of petitioner to show that the Court of Appeals (CA) in its Decision¹ dated January 17, 2019 and Resolution² dated September 23, 2019 in CA-G.R.. CR No. 40834, committed any reversible error in affirming with modification the Judgment³ dated May 2, 2017 of the Regional Trial Court of Manila, Branch 12, (RTC) finding petitioner guilty of Frustrated Homicide in Criminal Case No. 07-258231.

Petitioner contends that the prosecution did not prove that the victim (Alberto Panim) sustained a fatal wound which could have led to the latter's death if not for the prompt medical treatment given him. He also insists that the prosecution witnesses failed to positively identify him as the perpetrator of the crime.

These contentions are untenable.

¹ *Rollo*, pp. 39-49; penned by Associate Justice Manuel M. Barrios with Associate Justices Maria Elisa Sempio Diy and Rafael Antonio M. Santos, concurring.

² *Id.* at 35-37.

³ *Id.* at 72-78; penned by Acting Presiding Judge Amy Ana L. De Villa-Rosero.

Petitioner essentially raises factual matters which are beyond the scope of a petition under Rule 45 of the Rules of Court. The Court is not a trier of facts and only questions of law may be raised in a petition for review on *certiorari*. While there are exceptions to this rule, none of which is shown to exist here.

The Court also finds no cogent reason to disturb the factual findings of the RTC, as affirmed by the CA, that petitioner committed the crime charged. Notably, both the RTC and CA found that petitioner committed Frustrated Homicide for stabbing Alberto Panim. They decreed that petitioner had the intent to kill the victim by the use of a deadly weapon (fan knife or *balisong*) and by reason of the complained act, the latter sustained a fatal wound, which punctured his lung, and would have caused his death if not for the timely medical attention given him. Considering that the elements of the crime charged were established, petitioner is therefore guilty of Frustrated Homicide.⁴

In addition, the Court sustains the penalty imposed against petitioner.

To stress, the penalty to be imposed for Frustrated Homicide is *prision mayor*. There being no modifying circumstance present here, the maximum penalty to be imposed must be within the range of *prision mayor* in its medium period (eight [8] years and one [1] day to ten [10] years). Applying the Indeterminate Sentence Law, the minimum term of the penalty must be within the range of *prision correccional*. Accordingly, the RTC, as affirmed by the CA, correctly imposed against petitioner the indeterminate penalty of imprisonment of two (2) years and five (5) months of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum term.⁵

Pursuant to prevailing jurisprudence,⁶ the CA correctly modified the damages awarded in that petitioner must pay the victim civil indemnity and moral damages in the amount of ₱30,000.00 each. Also, on the basis of prevailing jurisprudence,⁷ the Court decrees that all the monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

⁴ See *People v. Marzan*, G.R. No. 207397, September 24, 2018.

⁵ *Id.*

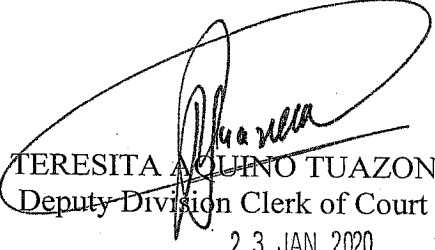
⁶ *People v. Jugueta*, 783 Phil. 806, 852 (2016).

⁷ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

WHEREFORE, the Court **ADOPTS** the factual findings of the trial court as affirmed by the Court of Appeals. The assailed Decision dated January 17, 2019 and Resolution dated September 23, 2019 of the Court of Appeals in CA-G.R. CR No. 40834 are **AFFIRMED with MODIFICATION** in that all the monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until full payment.

SO ORDERED.”

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

23 JAN 2020

P 1/23

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 12
Manila
(Crim. Case No. 07-258231)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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CA-G.R. CR No. 40834

*with copy of CA Decision dated 17 January 2019 and
Resolution dated 23 September 2019
Please notify the Court of any change in your address.
GR249556. 12/11/19A(118)URES