



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **12 July 2021** which reads as follows:*

**“G.R. No. 256399 (Orlando Diego y Ruar a.k.a. ‘Orlan’ v. People of the Philippines).** - After a judicious review of the case, the Court resolves to **DENY** the instant petition<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> dated September 17, 2020 and Resolution<sup>3</sup> dated March 4, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 43638 for failure of petitioner Orlando Diego a.k.a. ‘Orlan’ (petitioner) to sufficiently show that the CA committed any reversible error in finding him guilty beyond reasonable doubt of the crime of Homicide, defined and penalized under Article 249 of the Revised Penal Code (RPC), with the mitigating circumstance of no intention to commit so grave a wrong. Accordingly, he is sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) years and one (1) day of *prison mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum, and ordered to pay the heirs of Leonardo Ancheta (Leonardo) ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages,<sup>4</sup> and ₱209,686.06 as actual damages,<sup>5</sup> with legal interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until full payment.

As correctly ruled by the CA, the prosecution was able to establish beyond reasonable doubt all the elements of Homicide<sup>6</sup> since it was proven that: (a) the victim, Leonardo, was killed, as evidenced by his Certificate of Death dated June 18, 2011; (b) the testimonies of the prosecution witnesses proved that petitioner physically harmed Leonardo, resulting in his death; (c) the intent to kill is presumed due to the death of Leonardo; and (d) the killing was not attended by any of the qualifying circumstances of murder, parricide, or infanticide. Moreover, the mitigating circumstance of having no intention to commit so grave a wrong under

<sup>1</sup> *Rollo*, pp. 11-25.

<sup>2</sup> *Id.* at 32-51. Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Zenaida T. Galapate-Laguilles and Walter S. Ong, concurring.

<sup>3</sup> *Id.* at 54-58. Penned by Associate Justice Walter S. Ong with Associate Justices Zenaida T. Galapate-Laguilles and Ronaldo Roberto B. Martin, concurring.

<sup>4</sup> See *People v. Jugueta*, 783 Phil. 806, 852 (2016).

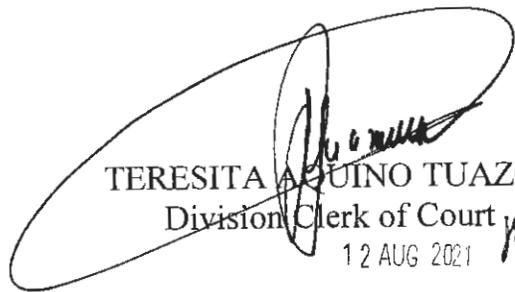
<sup>5</sup> Supported by receipts; *rollo*, p. 76.

<sup>6</sup> The elements of Homicide are the following: (a) a person was killed; (b) the accused killed him without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of Murder, or by that of Parricide or Infanticide. (See *Wacoy v. People*, 761 Phil. 570, 578 [2015]).

Article 13 (3)<sup>7</sup> of the RPC was correctly appreciated in this case as there was no showing that petitioner intended to cause Leonardo’s death during their physical altercation. Case law provides that ‘[i]n determining the presence of this circumstance, it must be considered that since intention is a mental process and is an internal state of mind, the accused's intention must be judged by his conduct and external overt acts.’<sup>8</sup> Here, it is evident that petitioner only intended to maltreat or inflict physical harm on Leonardo, as his actions of boxing and kicking the latter, without more, cannot be interpreted as intended to end Leonardo’s life. Since there is no indication that the lower courts overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>9</sup>

**SO ORDERED.**” (Lopez, J., J., designated additional member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
12 AUG 2021

<sup>7</sup> Article 13 (3) of the RPC reads:  
ARTICLE 13. *Mitigating Circumstances.* — The following are mitigating circumstances:

x x x x

3. That the offender had no intention to commit so grave a wrong as that committed.

x x x x

<sup>8</sup> *Wacoy v. People*, supra at 580.

<sup>9</sup> See *Cahulogan v. People*, 828 Phil. 742, 749 (2018), citing *Peralta v. Pcoople*, 817 Phil. 554, 563 (2017), further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

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HON. PRESIDING JUDGE (reg)  
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(Crim. Case No. U-17761)

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