



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **08 February 2021** which reads as follows:*

“G.R. No. 253094 (*Fernando Catanaoan y Capuz v. People of the Philippines*).

This is a Petition for Review on *Certiorari*¹ assailing the Court of Appeals’ (CA) Decision² dated January 10, 2020 and Resolution dated July 16, 2020 in CA-G.R. CR. No. 40635 which affirmed the Regional Trial Court’s (RTC) Decision³ dated October 27, 2017 convicting Fernando Catanaoan y Capuz (petitioner) of frustrated homicide.

In the meantime, the Court resolves to **GRANT** petitioner’s motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

Considering the allegations, issues, and arguments adduced in the petition for review on *certiorari*, the Court finds no cogent reason to deviate from the CA and the RTC’s findings that petitioner is guilty of frustrated homicide. However, the imposed indeterminate sentence of (three) 3 years of *prision correccional*, as minimum, to (eight) 8 years of *prision mayor*, as maximum, as well as the award of damages must be modified.

The crime of frustrated homicide is punishable by *prision mayor* which has a range of 6 years and 1 day to 12 years. Applying the Indeterminate Sentence Law, and considering that there are neither mitigating nor

¹ *Rollo*, pp. 11-32.

² *Id.* at 37-47; penned by Associate Justice Ronaldo Roberto B. Martin, with the concurrence of Associate Justices Remedios A. Salazar-Fernando and Danton Q. Bueser.

³ *Id.* at 71-83; penned by Pairing Judge Liwliwa S. Hidalgo-Bucu.

prods

aggravating circumstances, the maximum term of the indeterminate sentence should be taken from the medium period of the prescribed penalty, or between 8 years and 1 day to 10 years. Thus, we deem it proper to adjust the maximum term of the indeterminate sentence to 8 years and 1 day. On the other hand, the CA and the RTC correctly imposed the minimum term of the indeterminate sentence which is within the range of the penalty next lower in degree than that prescribed, or *prision correccional* ranging from 6 months and 1 day to 6 years.

Anent the civil liability of the accused, the CA granted the victim ₱5,000.00 as temperate damages, and ₱5,000.00 as moral damages. In *People v. Jugueta*,⁴ however, the victim of frustrated homicide is entitled to ₱30,000.00 as civil indemnity, and ₱30,000.00 as moral damages. Thus, we deem it proper to delete the award of temperate damages and to increase the amount of moral damages pursuant to prevailing jurisprudence.

FOR THESE REASONS, the petition is **DENIED**. The petitioner **FERNANDO CATANAOAN y CAPUZ** is found guilty of frustrated homicide and is sentenced to suffer an indeterminate penalty of (three) 3 years of *prision correccional*, as minimum, to (eight) 8 years and (one) 1 day of *prision mayor*, as maximum. Also, the petitioner is ordered to pay the victim ₱30,000.00 as civil indemnity, and ₱30,000.00 as moral damages, which shall all earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until full payment. The award of temperate damages is deleted.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:


MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *WJH*

10 JUN 2021

6/10

⁴ 783 Phil. 806 (2016).

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 33
1000 Manila
(Crim. Case No. 15-312863)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR No. 40635

Please notify the Court of any change in your address.

GR253094. 02/08/2021(143)URES 