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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JAIME ARAZA y JARUPAY,
Petitioner,

G.R. No. 247429

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

SEP 08 2020

X-----X

DECISION

PERALTA, C.J.:

This is a petition for review on *certiorari* filed by petitioner Jaime Araza y Jarupay (*Araza*), praying for the reversal of the December 17, 2018 Decision¹ of the Court of Appeals (*CA*) in CA-G.R. CR No. 40718 and its May 10, 2019 Resolution,² which affirmed the October 30, 2017 Decision³ of the Regional Trial Court of Las Piñas City, Branch 199 (*RTC*), in Criminal Case No. 15-1287, finding petitioner guilty of violating Republic Act (*R.A.*) No. 9262, or the *Anti-Violence Against Women and Their Children Act of 2004*.

Antecedents

The Information filed against Araza reads:

¹ Penned by Associate Justice Danton Q. Bueser, with Associate Justices Miraflor P. Punzalan Castillo and Rafael Antonio M. Santos, concurring; *rollo*, pp. 34-45.

² *Id.* at 47-48.

³ Penned by Presiding Judge Josélito dj. Vibandor; *id.* at 69-83.

That on or about the month of September 2007, prior and subsequent thereto, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to humiliate and degrade his lawful wife AAA,⁴ did then and there willfully, unlawfully and feloniously commit acts of psychological abuse upon his wife by then and there committing acts of marital infidelity by having an affair with his paramour Tessie Luy Fabillar and begetting three illegitimate children with his paramour thus causing [his] wife emotional anguish and mental suffering.

CONTRARY TO LAW.⁵

When arraigned, Araza pleaded not guilty to the charge.

Evidence for the Prosecution

The prosecution presented three (3) witnesses: 1) private complainant AAA; 2) Armando Que (*Que*); and 3) Dr. Kristina Ruth Lindain (*Dr. Lindain*).

As culled from the records of the RTC, the prosecution elicited the following:

[AAA] testified that she and [Araza] were married on October 5, 1989 at Malate Catholic Church. Initially and at the onset of their marriage[,] her husband [Araza] was hardworking, loving and faithful. She had no marital issues with [Araza] until x x x [he] went to Zamboanga City in February 2007[,] for their networking business. [Araza] was formerly working as an Overseas Filipino Worker but decided to stop in 1993 to join [AAA] in her business.

It was at this point that she began to notice [Araza's] change in behavior. Allegedly, he would act x x x depressed and would cry. He always appeared absent[-]minded. She was concerned and would ask [him about it] but [he] would just stay quiet, [and] x x x stare at her[,] full of anxiety.

One day, she received a text message from a certain Edna and Mary Ann who told her that her husband x x x is having an affair with their best friend. At first, she did not believe them. However, that information brought [AAA] to Zamboanga to see for her herself whether [it] is true. Indeed[,] on

⁴ The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610; "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes"; Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

⁵ *Rollo*, p. 69.



September 3, 2007[,] she was able to confirm that her husband was living with another woman[,] a certain Tessie Luy Fabillar [*Fabillar*].

She instituted a complaint against [her husband Araza] x x x and his alleged mistress, [for Concubinage,] at the Philippine National Police. The case was subsequently amicably settled after the parties executed an Agreement whereby [Araza] and [Fabillar] committed themselves never to see each other again.

After the case was settled x x x, [Araza again] lived with [AAA] x x x. However, [it] x x x was only for a short time. Without saying a word, [Araza] left [AAA] on November 22, 2007. She was looking for [Araza] and out of desperation[,] she sought the help of the NBI to search for [him]. To her surprise, [Araza] had returned to live with his mistress again.

In the days to come, she would receive text messages from her husband's supposed mistress using various numbers. The messages would tell her that [Araza] is sick and needed money for medicines. There was also another text message threatening her that she will kill [AAA's] husband. Because of this, sometime in 2013, she sought a law firm who issued a letter addressed to [Fabillar,] demanding for the release of [Araza].

[AAA] was emotionally depressed and anxious of her husband's condition. She believed that [Araza's] liberty was being restrained by [Fabillar]. She was determined to bring her husband home. Thus, [i]n May 2014[,] she went to Zamboanga to search for [Araza]. She looked for him from one [b]arangay to another; she would ask help from [p]olice [s]tations giving out pictures of her husband. She would promise a reward to those who are able to locate [Araza]. She was desperate looking for [him] and she fell ill and [was] confined in a hospital.

Thereupon, thinking that [Fabillar] was restraining the liberty of [Araza], she filed a Petition for Habeas Corpus before the [CA,] Manila[,] on June 20, 2014. The [CA] deputized a [National Bureau of Investigation] NBI agent to conduct a thorough investigation on [Araza] and [Fabillar].

[Based on the investigation, Araza] left their conjugal abode on his own volition and he has been living with his mistress[,] as husband and wife. As a matter of fact, three children were born out of their cohabitation. Hence, the petition for habeas corpus was dismissed.

The truth cause[d] AAA emotional and psychological suffering. She was suffering from insomnia and asthma. Allegedly, she is still hurting and crying[.] [S]he could not believe x x x what had happened in their marriage as they were living harmoniously as husband and wife.

At present[,] she is [taking] x x x anti-depressant and sleeping pills to cope with her severe emotional and psychological turmoil brought about by [Araza's] marital infidelity and having children with his mistress.

She claimed she had spent a large amount of money to search for her husband[,] [which] includes the filing of several cases.

Armando Que, a friend of AAA and x x x [Araza], x x x testified that he is a member of Boardwalk, a direct selling and networking business. Allegedly, he met AAA and [Araza] for the first time in 2001 in this Boardwalk business. He alleged that while he was recruiting and selling

items of Boardwalk in Zamboanga, he frequently saw [Araza] and [Fabillar] together[,] [and] holding hands.

Allegedly, he kept that information to himself because he knew once AAA would know about it[,] there would be trouble in their relationship.

After the reception of prosecution evidence, they formally offered their exhibits, which were all admitted by the court[,] but only as part of the testimonies of witnesses who testified thereon.⁶

x x x

On rebuttal, the prosecution presented Dr. Lindain as expert witness, who testified:

[S]he met x x x AAA for the first time on September 9, 2016 when she was referred to her by the Women's Desk of the PGH[,] in relation to her filing of a VAWC complaint against her husband[,] [Araza].

Allegedly, she saw AAA on September 9, x x x 22, and x x x 29, 2016[,] on an hour per session. Based on her assessment and expert opinion, the symptoms AAA was having was like the depressed mood; her occasional difficulty in sleeping are secondary to the relational distress with [Araza]. It was [her] wanting to be with [her] husband that was causing those symptoms. However, [Dr. Lindain] clarified that the manifestations exhibited by [AAA] are not sufficient to be considered as a psychiatric disorder. She advised AAA to undergo counsel[ing] or psychotherapy[,] in order to help her accept [her] situation x x x.⁷

Evidence for the Defense

The defense presented Araza as its sole witness. According to Araza:

[H]e and AAA were married in 1989. He averred that he was a former taxi driver and an [Overseas Filipino Worker] OFW for [two] years. When he stopped being an OFW, he went back to being a taxi driver. [O]n the other hand[,] [AAA] was into buy and sell of Boardwalk. In order to extend help to his wife AAA, he helped in the recruitment of Boardwalk dealers to the extent of even going to various provinces.

He recalls that initially, their marriage was going smoothly[,] but when AAA started earning money, her behavior changed. He revealed that he did not earn anything from recruiting agents who worked under AAA. All the commissions went to AAA[']s account.

He disclosed that when he was in Cagayan de Oro to recruit agents for their business, AAA had told him that his sister had a stroke. He was

⁶ *Id.* at 70-72. (Citations omitted)

⁷ *Id.* at 74.

allegedly dismayed when his wife did not even offer any help as she claimed she has nothing to spare. He felt hurt about it and sadly, his sister died.

He testified that since 2007[,] his relationship with his wife has gone sour. Oftentimes, she would believe rumors and accuse him of being a womanizer.

He denied having an affair with x x x Fabillar[,] who was acting as his guide in his recruiting activities in Zamboanga. He revealed that when AAA went to Zamboanga, she filed a complaint against him at the Women's Desk. He was arrested as a consequence and was forced to sign an agreement. He returned to Manila with his wife hoping that she would change her ways towards him[,] but she [did not].

About a month, he sought a friend['s] help [for him to secure] a plane ticket [bound] to Zamboanga. He left his wife because he could no longer stand [her] attitude towards him. He also denied fathering children with x x x Fabillar.⁹

Ruling of the RTC

In its Decision dated October 30, 2017, the RTC found that all the elements of the crime of violence against women under Section 5(i) of R.A. No. 9262 were satisfied. Araza and AAA were married, as required by the first element. The prosecution was able to establish through testimonial and documentary evidence that Araza was the perpetrator of the mental and emotional anguish suffered by AAA.¹⁰ Araza left their conjugal abode and chose to live with his mistress; and he reneged his promise to stop seeing his mistress, contrary to the written agreement between him and his mistress. AAA's psychological and emotional sufferings due to the said ordeals can also be gleaned from Dr. Lindain's testimony, who was presented as an expert witness.¹¹

With regard to AAA's testimony, the RTC is convinced by her sincerity and candor.¹² Her testimony was able to show that due to Araza's acts of infidelity, she suffered emotional and psychological harm.¹³ Since there are no facts and/or circumstances from which it could be reasonably inferred that AAA falsely testified or was actuated by improper motives, her testimony is worthy of full faith and credit.¹⁴

On the other hand, Araza only offered the defense of denial, which cannot be given greater weight than that of the declaration of a credible

⁹ *Id.* at 73.

¹⁰ *Id.* at 75-76.

¹¹ *Id.* at 79.

¹² *Id.* at 82.

¹³ *Id.*

¹⁴ *Id.*

witness who testifies on affirmative matters. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, this court finds accused JAIME ARAZA y JARUPAY GUILTY beyond reasonable doubt for Violation of Section 5(i) of Republic Act 9262 and hereby imposes an indeterminate penalty of imprisonment for SIX (6) MONTHS and ONE (1) DAY of PRISION CORRECCIONAL as its minimum, to EIGHT (8) YEARS and ONE (1) DAY of PRISION MAYOR as its maximum.

In addition to imprisonment[,] accused shall pay a FINE in the amount of ONE HUNDRED THOUSAND PESOS [P100,000.00] and to indemnify the private complainant moral damages in the amount of TWENTY-FIVE THOUSAND PESOS [P25,000.00].

The period during which accused has remained under detention shall be credited to him in full[,] provided that[,] he complies with the terms and conditions of the City Jail.

Let a copy of this Decision be furnished the prosecution, the private complainant, the accused[,] as well as his counsel for their information and guidance.

SO ORDERED.¹⁵

Aggrieved, Araza appealed to the CA.

Ruling of the CA

The CA denied Araza's appeal, and motion for reconsideration, *in toto*. The appellate court echoed the RTC's factual findings and conclusions. The CA found that the prosecution sufficiently established the elements of the crime as defined in Section 5(i) of R.A. No. 9262, and as alleged in the Information filed against Araza. Psychological violence as an element of the crime, and the mental and emotional anguish she suffered, were proven through the testimonies of AAA and Dr. Lindain. The defense of denial of Araza, which were not supported by clear and convincing evidence, cannot prevail over the positive declarations of the victim.¹⁶

The CA concluded that R.A. No. 9262 does not criminalize acts such as the marital infidelity *per se*, but the psychological violence causing mental or emotional suffering on the wife.¹⁷

Araza filed a motion for reconsideration, which was denied by the CA in its May 10, 2019 Resolution.

¹⁵ *Id.* at 82-83.

¹⁶ *Id.* at 42.

¹⁷ *Id.* at 44.

Hence, this petition.

Issues

1. Whether the CA erred in affirming Araza's conviction for violation of Section 5(i) of R.A. No. 9262 although his conviction was based on facts not alleged in the Information.
2. Whether the CA gravely erred in affirming Araza's conviction for violation of Section 5(i) of R.A. No. 9262 on the ground that the prosecution failed to prove beyond reasonable doubt the acts allegedly committed by Araza.
3. Whether the CA gravely erred in affirming Araza's conviction for violation of Section 5(i) of R.A. No. 9262, considering that the prosecution failed to prove beyond reasonable doubt that AAA suffered mental and emotional anguish and Araza's act was the proximate cause thereof.

Our Ruling

The Petition is denied for lack of merit.

The elements of violation of Section 5(i) of R.A. No. 9262 were sufficiently alleged in the Information.

Araza argued that nothing in the Information mentioned his alleged abandonment of the conjugal home, and his pretenses that he was forcefully detained, specifically caused AAA's emotional anguish and mental suffering. For this reason, he cannot be convicted based on these acts, which were not part of the charge against him.¹⁸

In *Dela Chica v. Sandiganbayan*,¹⁹ an Information is sufficient if it accurately and clearly alleges all the elements of the crime charged, to wit:

The issue on how the acts or omissions constituting the offense should be made in order to meet the standard of sufficiency has long been settled. It is fundamental that every element of which the offense is composed must be alleged in the information. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.

¹⁸ *Id.* at 19.

¹⁹ 462 Phil. 712, 719 (2003). (Emphases ours)

Section 6, Rule 110 of the Revised Rules of Court requires, *inter alia*, that the information must state the acts or omissions so complained of as constitutive of the offense. Recently, this Court emphasized that **the test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law.** In this examination, matters *aliunde* are not considered. The law essentially requires this to enable the accused suitably to prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.

This is in consonance with the fundamental right of an accused to be informed of the “nature and cause of accusation.”²¹

In order to determine the sufficiency of the averments in a complaint or information, Section 5(i) of R.A. No. 9262 must be referred to, being the law defining the offense charged in this case.

Section 3(c) of R.A. No. 9262, in relation to Section 5(i), provides:

Section 3. *Definition of Terms.* — As used in this Act:

X X X

C. "Psychological violence" refers to acts or omissions, causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

On the other hand, Section 5(i) of R.A. No. 9262 penalizes some forms of psychological violence that are inflicted on victims who are women and children through the following acts:

- (i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and *denial of financial support or custody of minor children* or access to the woman's child/children. (Emphasis supplied)

In *Dimamling v. People*,²² the elements of violation of Section 5(i) of R.A. No. 9262 are enumerated:

²¹ *Sen. De Lima v. Judge Guerrero, et al.*, 819 Phil. 616 (2017).
²² 761 Phil. 356, 373 (2015).

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) The offender causes on the woman and/or child mental or emotional anguish; and
- (4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar acts or omissions.

To determine whether the elements of violation of Section 5(i) were sufficiently alleged, the accusatory portion of the Information is reproduced below:

That on or about the month of September 2007, prior and subsequent thereto, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to humiliate and degrade his lawful wife AAA, did then and there willfully, unlawfully and feloniously commit acts of psychological abuse upon his wife by then and there committing acts of marital infidelity by having an affair with his paramour Tessie Luy Fabillar and begetting three illegitimate children with his paramour thus causing [his] wife emotional anguish and mental suffering.

*CONTRARY TO LAW.*²³

Araza is correct that he cannot be convicted based on acts of abandonment of the conjugal home, and pretenses that he was forcefully detained. These were not alleged in the Information. However, there were other acts alleged in the Information that caused emotional anguish and mental suffering on AAA.

In this case, the Court finds that the Information contains the recital of facts necessary to constitute the crime charged. It clearly stated that: (1) The offended party AAA, is the wife of offender Araza; (2) AAA sustained emotional anguish and mental suffering; and (3) such anguish and suffering is inflicted by Araza when he had an extramarital affair with Fabillar and had three illegitimate children with her.

The CA was correct in ruling that Araza committed psychological violence upon his wife AAA by committing marital infidelity, which caused AAA to suffer emotional anguish and mental suffering.

Psychological violence is an indispensable element of violation of Section 5(i) of R.A. No. 9262.²⁴ Equally essential is the element of emotional anguish and mental suffering, which are personal to the complainant.²⁵ Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party.²⁶ The law does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser. Rather, the law only requires emotional anguish and mental suffering to be proven. To establish emotional anguish or mental suffering, jurisprudence only requires that the testimony of the victim to be presented in court, as such experiences are personal to this party.²⁷

In order to establish psychological violence, proof of the commission of any of the acts enumerated in Section 5(i) or similar of such acts, is necessary.

The prosecution has established Araza's guilt beyond reasonable doubt by proving that he committed psychological violence upon his wife by committing marital infidelity. AAA's testimony was strong and credible. She was able to confirm that Araza was living with another woman:

Q: You also mentioned in your complaint affidavit that in September 2007 there was some sort of an agreement entered into by you[,] the complainant and your complainant's alleged mistress, do you confirm that?

A: Yes, sir.

X X X

COURT

Q: What was the agreement all about?

WITNESS

A: I went to Zamboanga when I learned that my husband has a live[-]in relationship with one Tessie Fabillar. I went to the police station to ask for assistance. I had them arrested and I had them sign a document saying that they will stay apart from each other.

²⁴ *Esteban Donato Reyes v. People*, G.R. No. 232678, July 3, 2019.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Dinamling v. People*, *supra* note 22, at 376.

X X X

FISCAL MACASAET

Q: What happened to that agreement Madam Witness?

WITNESS

A: He stayed in my house for a short period only and then after November 22, 2007 he fled without asking for my permission.

Q: Do you know where he went?

A: I'm aware that he went to his mistress.

Q: How did you know that he went to his mistress?

A: Because my colleagues in the office told me.

Q: Were you able to confirm that he went to his mistress?

A: Yes[,] sir, because I went to Zamboanga[,] I secured NBI assistance to investigate on my husband and we discovered that he had a mistress.

Q: Who was that mistress as discovered by the National Bureau of Investigation?

A: Tessie Luy Fabillar, sir.²⁸

X X X

Q: When did you discover that indeed your husband is living with another woman?

A: When I went back to Zamboanga last December and the police caught Jaime Araza and Tessie Luy Fabillar living in one house.

Q: Were you able to see them living in that house?

A: Yes, Your Honor.

Q: You were also saying that there was a policeman, what did the policeman do?

A: They just brought Tessie Luy Fabillar and Jaime Araza to the police and sign an agreement that they be separated and no more relationship will be made.

Q: Were you able to confirm the relationship of your husband from himself?

A: Yes, Your Honor.²⁹

On the part of Araza, he admitted that he deserted AAA in order to live with Fabillar:

Q: Was there a time that you lived with Tessie Fabillar?

A: Yes[,] sir.

X X X

²⁸ TSN, Testimony of AAA, April 26, 2016, pp. 7-8. (Emphases ours)
²⁹ *Id.* at 12-13. (Emphases ours)

Q: Nagsama kayo sa iisang bubong ni [Fabillar]?

A: Yes, I stayed in her place.

Q: In the house of [Fabillar]?

A: Yes[,] sir.

Q: You are in one room?

A: In one house, your [H]onor.

x x x

Q: For how long did you stay with [Fabillar] and in her house?

A: Now, I'm staying with her, your [H]onor.

COURT

Continue.

FISCAL MACASAET

Q: When did you start living in the same house with [Fabillar]?

x x x

WITNESS

A: For 1 year only.

Q: Are you sure Mr. Witness for one year only?

A: Yes[,] sir.

FISCAL MACASAET

I have to warn you Mr. Witness if you are lying you can be...

COURT

Naiintindihan po ba ninyo ang sabi ni Fiscal kung ikaw ay nagsisinungaling mananagot ka sa batas.

Q: I'm giving you a chance, how long have you been living with [Fabillar] under one roof.

A: Since 2008, sir.³⁰

Marital infidelity, which is a form of psychological violence, is the proximate cause of AAA's emotional anguish and mental suffering, to the point that even her health condition was adversely affected.

The RTC ruled:

Logic and experience dictate that any woman who goes through that kind of ordeal would suffer psychologically and emotionally as a consequence. The prosecution was able to prove this in the case of AAA as can be gleaned from the testimony of Dr. Kristina Ruth B. Lindain who was presented as an expert witness.³¹

³⁰ TSN, Testimony of Jaime Araza y Jarupay, January 18, 2017, pp. 21-22. (Emphases ours)

³¹ Rollo, p. 79.

On the other hand, the CA held:

In addition to [Araza's] marital infidelity[,] [i]t was the thought that her husband was being detained, sick and ailing, and in the danger of being killed if she will not send money that caused [AAA's] emotional and psychological turmoil that drove her to the brink of despair. [AAA] became so depressed that she had to be hospitalized.³²

In the RTC Decision, and as affirmed by the CA, these acts were in accord with the Information to have caused emotional and mental anguish on AAA:

No doubt that the prosecution **has successfully established that [Araza] left his wife AAA and decided to stay in Zamboanga City where he maintained an illicit affair with x x x Fabillar during the subsistence of their marriage.** The record is brimming with evidence that [Araza] intentionally left AAA groping in the dark. Without any explanation or mature conversation with his wife, x x x [Araza] simply left his wife causing the latter emotional and psychological distress.³³

First, the prosecution was able to prove the case of AAA, as can be gleaned from the testimony of Dr. Lindain, who was presented as an expert witness:

COURT

Q: In other words[,] doctor[,] it cannot be denied that the separation and the non-providing of support from the accused has exposed the private complainant to emotional suffering, is this correct?

WITNESS

A: Yes, Your Honor.

Q: And you were saying that at that time when you conducted the psychiatric evaluation of the patient, it is possible that in the past after the separation of the private complainant with [Araza,] that was the time that she suffered the most and the possibility that she had suffered the anxiety and depression, is this correct?

A: Yes, Your Honor.

x x x

Q: So, just because she could not accept that the accused can no longer be with her and stay with her she then suffered anxiety and insomnia?

A: It's part of it[,] but it's not solely.

Q: What other factors could have triggered those manifestations of psychological or psychiatric problem?

³² *Id.* at 44.

³³ *Id.* at 76. (Emphasis ours)

A: Well, separation po, even that they have been together from 1989 to 2007[,] it's been a marriage wherein there's a commitment, the fact that he was not there *nawala siya* counted as a loss so, the actual loss can actually perpetrate symptoms of depression, anxiety so *na-test yung* reaction it's a contegration but the actual loss of him not being there anymore can trigger the symptom.³⁴

x x x

Q: Just the sole act of leaving a spouse, can you already qualify that as psychological or emotional abuse?

A: In my opinion, yes.

Q: Why so?

A: During the separation there was no understanding of what had actually happened and from her story that per 2007 until 2013[,] she was making an effort to actually find the husband and she was worried what was happening to the husband, it is enough to be the cause of emotional and psychological abuse.³⁵

Second, AAA narrated how she received several information about Araza's affair with Fabillar; how she was able to confirm the affair herself which led to the filing of the complaint for concubinage; and despite the complaint being settled and that both Araza and Fabillar agreed to stop living together, Araza repeated his affair with Fabillar.³⁶

AAA's testimony that she suffered mental and emotional anguish due to Araza's acts, was categorical and straightforward, to wit:

Q: In this letter Madam Witness, [Fabillar] was asked to release your husband from her custody and to send your husband to you, what was the result of this letter, if you know?

A: The case was not given due course because the truth is, my husband was living with x x x Fabillar.

Q: Was your husband returned to you by x x x Fabillar?

A: No, sir.

x x x

Q: What was the effect of your husband's unfaithfulness to you?

A: I became so depressed until now, I was always hospitalized.

Q: What was your proof that you were hospitalized?

A: I have a medical certificate from Perpetual Help.

x x x

Q: And if you see those medical records, will you be able to identify them?

A: Yes, sir.

³⁴ TSN, Testimony of Dr. Kristina Ruth B. Lindain, August 22, 2017, pp. 12-14.

³⁵ *Id.* at 18.

³⁶ *Rollo*, p. 36.

Q: I'm showing you [these] documents marked as Exhibits "E" up to "E-6", will you please look at them and tell us if those are the medical records that you are referring to?

A: Yes, sir.

FISCAL MACASAET

Your Honor, just for the record the witness identified Exhibits "E" up to "E-6".

Q: Now in filing this complaint against your husband, what do you wish to attain?

WITNESS

A: He must be put in jail so that he knows that he is really, he had done something wrong to me because I love him so much but then he has different attitudes and he has a different answer against me. I want to put him in jail that's all.

FISCAL MACASAET

We want to make it on record Your Honor, that the witness is crying.

Q: What if he...

A: The main purpose of mine today is to put him in jail.

Q: That's all?

A: After the case I will also present the case against Tessie Luy Fabillar so that both of them will be put in jail.³⁷

x x x

Q: And you said that your husband came back and live with you again as husband and wife?

A: Only for two (2) months.

Q: And then after two (2) months?

A: He went back to x x x Fabillar.

x x x

Q: And this time when your husband left you to live with her mistress once more, how did you feel about this?

A: Until now I am depressed, I can't forget my husband.

Q: So, you want to impress upon this court that you still love your husband?

A: Yes of course, but then a punishment should be made.

Q: Have you forgiven your husband about this?

A: I'm still hurt.³⁸

x x x

Q: You said in your affidavit in no. 28 of that document Madam Witness, Jaime is engaging in conduct that causes substantial emotional or

³⁷ TSN, Testimony of AAA, April 26, 2016, pp. 8-10.
³⁸ *Id.* at 12-13.

psychological distress to you, can you please tell us what do you mean by that?

A: First of all[,] when my husband left me[,] I didn't eat, I didn't sleep until 2013 when I found out that he's still alive[,] then that's the time I changed my mind so I tried my health to be better so that I can move to another case.

Q: Isn't it that the matter that you told us is just an effect of love being unreturned and not because of what Jaime intentionally did to you?

A: No, it's not, ma'am.

Q: You considered those things as the effect of actions of Jaime, not loving you back?

A: Yes, ma'am.

Q: And what you wanted now to do is that you filed this case so that he will love you back?

A: I think no more because until now I know he doesn't love me anymore because he wants to stay with another woman so, I want him to be punished so that he will know how it feels to be hurt, both of them.³⁹

Third, while Araza denied that he committed marital infidelity against AAA, he ~~we~~ would later on admit that that he left his wife AAA to live with Fabillar, and that he was fully aware that AAA suffered emotionally and psychologically because of his decision:

[ATTY. SOMERA]

Q: After a month more or less[,] where did you go?

A: When I couldn't take her behavior anymore, I called my friend who's in Zamboanga, ma'am.

Q: And what did you ask this friend[,] if there be any?

A: I asked the help of my friend for him to secure a plane ticket for me because I was intending to go back and work in Zamboanga.⁴⁰

x x x

Q: You decided to finally leave your wife in 2007 because you cannot stand her character anymore, is that correct?

A: Yes[,] sir.

Q: And you know very well that your separation from her is affecting her emotionally and psychologically, is that correct? You know that?

COURT

Please answer the question.

A: Yes[,] sir.

Q: And despite knowing that your wife is suffering emotionally and psychologically because of your decision to leave [her] you still choose to stay [away] from her, is that correct?

A: Yes, sir.

³⁹ *Id.* at 22.

⁴⁰ TSN, Testimony of Jaime Araza y Jarupay, January 18, 2017, p. 14.

x x x

Q: Was there a time that you lived with Tessie Fabillar?

A: Yes[,] sir.

x x x

COURT

Q: I'm giving you a chance, how long have you been living with [Fabillar] under one roof.

A: Since 2008, sir.⁴¹

x x x

Q: And it is correct to say based on this document that you and [Fabillar] agreed not to live [together] anymore, is that correct?

COURT

Please don't nod.

Q: What's the answer?

A: Yes, sir[.]

Q: And yet after signing that agreement you and [Fabillar] lived together under one roof, is that correct?

A: Yes[,] sir[.]⁴²

The RTC was convinced by the sincerity and truthfulness of AAA's testimony. AAA, who only intended to bring justice to what happened to her, was able to testify and to show through her testimony that due to Araza's act of infidelity and failure to stay true to his promise, she suffered emotional and psychological harm.

This Court will not disturb the findings of the RTC and as affirmed by the CA, as regards AAA's credibility as a witness. The RTC is in a better position to observe her candor and behavior on the witness stand. Its assessment is respected unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.⁴³

Araza can only offer the defense of denial. The defense of denial is inherently weak and cannot prevail over the positive and credible testimonies of the prosecution witnesses that the accused committed the crime.⁴⁴ Denial, being a self-serving negative defense, cannot be given greater weight than the declaration of credible witnesses who testify on affirmative matters.⁴⁵

⁴¹ *Id.* at 20-22. (Emphases ours)

⁴² *Id.* at 24-25.

⁴³ *People v. Dizon*, 453 Phil. 858, 881 (2003).

⁴⁴ *People v. Leonardo*, 638 Phil. 161, 195 (2010).

⁴⁵ *People v. Peteluna, et al.*, 702 Phil. 128, 142 (2013).

The prosecution has established beyond reasonable doubt that Araza committed the crime of psychological violence, through his acts of marital infidelity, which caused mental or emotional suffering on the part of AAA.

Having ascertained the guilt of Araza for violation of Section 5(i), We shall now proceed to determine the appropriate penalty.

Section 6 of R.A. No. 9262 provides:

SECTION 6. Penalties.- The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

(f) Acts falling under Section 5(h) and Section 5(i) shall be punished by *prision mayor*.

If the acts are committed while the woman or child is pregnant or committed in the presence of her child, the penalty to be applied shall be the maximum period of penalty prescribed in the section.

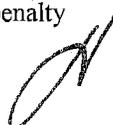
In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

Applying the Indeterminate Sentence Law, the minimum term of the indeterminate penalty shall be taken from the penalty next lower in degree, which is *prision correccional*, in any of its period which is from six (6) months and one (1) day to six (6) years, while the maximum term shall be which could be properly imposed under the law, which is eight (8) years and one (1) day to ten (10) years of *prision mayor*, there being no aggravating or mitigating circumstance attending the commission of the crime.⁴⁶ This Court deems it proper to impose on petitioner Araza, the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

Also, petitioner Araza is **DIRECTED TO PAY** a fine in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00), and moral damages in the amount of TWENTY-FIVE THOUSAND PESOS (P25,000.00).

⁴⁶ **Article 64. Rules for the application of penalties which contain three periods.** - In cases in which the penalties prescribed by law contain three periods, x x x the courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

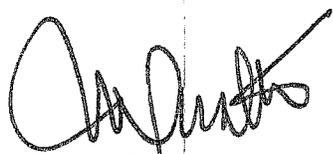
1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.



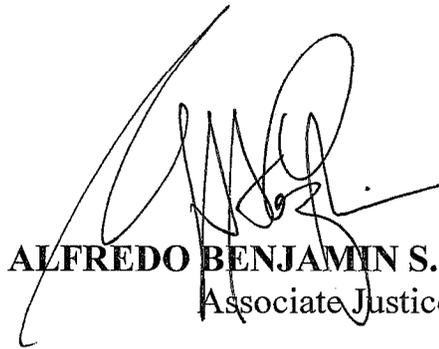
WHEREFORE, premises considered, the petition is **DENIED** for failure of the petitioner to show any reversible error in the assailed CA Decision. The assailed Decision dated December 17, 2018 and the Resolution dated May 10, 2019 of the Court of Appeals in CA-G.R. CR No. 40718 are hereby **AFFIRMED** with **MODIFICATION**:

1. Petitioner Jaime Araza y Jarupay is found **GUILTY** beyond reasonable doubt of Violation of Section 5(i) of Republic Act No. 9262 and is sentenced to suffer the indeterminate penalty of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum;
2. Petitioner is **ORDERED** to **PAY** a fine equivalent to One Hundred Thousand Pesos (₱100,000.00), and moral damages in the amount of Twenty-Five Thousand Pesos (₱25,000.00); and
3. Further, petitioner is **DIRECTED** to **UNDERGO** a mandatory psychological counselling or psychiatric treatment, and to **REPORT** his compliance therewith to the court of origin within fifteen (15) days after the completion of such counselling or treatment.

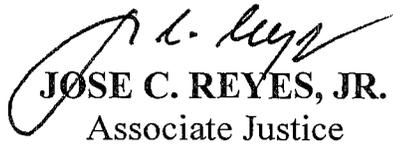
SO ORDERED.


DIOSDADO M. PERALTA
Chief Justice

WE CONCUR:



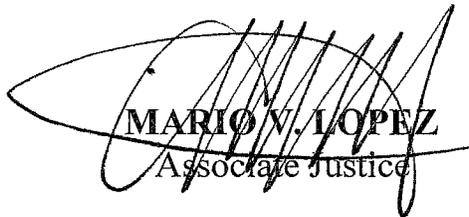
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice