



Republic of the Philippines
Supreme Court
Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
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RANDY MICHAEL
KNUTSON, acting on behalf of
minor RHUBY SIBAL
KNUTSON,
Petitioner,

— versus —

HON. ELISA R.
SARMIENTO-FLORES, in her
capacity as Acting Presiding
Judge of Branch 69, Regional
Trial Court, Taguig City, and
ROSALINA SIBAL
KNUTSON,
Respondents.

G.R. No. 239215

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

July 12, 2022

[Signature]

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DECISION

LOPEZ, M., J.:

The judicial quest to discern who may be offenders as defined in a penal statute is at times abstruse in itself. One such instance is whether

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Republic Act (RA) No. 9262,¹ or the Anti-Violence Against Women and Their Children Act of 2004, allows the father to apply for protection and custody orders against the mother who is alleged to have committed violence against their child.

ANTECEDENTS

In 2005, Randy Michael Knutson (Randy), an American citizen, met Rosalina Sibal Knutson (Rosalina) in Singapore. They got married and had a daughter named Rhuby Sibal Knutson (Rhuby). In 2011, the family lived in the Philippines. However, Randy and Rosalina became estranged after he discovered her extra-marital affairs. Anyhow, Randy supported Rosalina and Rhuby. Thereafter, Rosalina got hooked in casinos. Randy learned that Rosalina spent weeks in gambling dens and left Rhuby under the care of strangers. Worse, Rosalina incurred large debts from casino financiers prompting her to sell the house and lot, condominium unit, and vehicles that Randy provided for the family. Rosalina then rented an apartment and got herself a boyfriend. Randy advised Rosalina to be discreet in her illicit affairs because it is not good for Rhuby to see her mother with another man. Later, Randy discovered that Rosalina maltreated her own mother in Rhuby's presence. Rosalina also hurt Rhuby by pulling her hair, slapping her face and knocking her head. One time, Rosalina pointed a knife at Rhuby and threatened to kill her. Rosalina even texted Randy about her plan to kill their daughter and commit suicide. Randy reported the matter to the police station but the authorities explained that they cannot assist him in domestic issues. Afterwards, Rosalina sent Randy her naked pictures with a message that he would not see that body again. Meantime, the neighbors of Rosalina complained about noisy parties and pot sessions in her apartment. The lessor even terminated the lease after marijuana plants were confiscated in the premises.² On December 7, 2017, Randy, on behalf of minor Rhuby, filed against Rosalina a petition under RA No. 9262 for the issuance of Temporary and Permanent Protection Orders before the Regional Trial Court of Taguig City, Branch 69 (RTC) docketed as JDRC Case No. 313. Randy averred that Rosalina placed Rhuby in a harmful environment deleterious to her physical, emotional, moral, and psychological development.³

In an Order⁴ dated January 10, 2018, the RTC dismissed the petition explaining that protection and custody orders in RA No. 9262 cannot be issued against a mother who allegedly abused her own child. The RTC ratiocinated that the child's mother cannot be considered as an offender under the law. Moreover, the remedies are not available to the father because he is not a "*woman victim of violence*." The RTC cited the ruling in *Ocampo v.*

¹ Entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004.

² *Rollo*, pp. 11-25, 106-107, and 136-138.

³ *Id.* at 51-74.

⁴ *Id.* at 106-110. Penned by Acting Presiding Judge Elisa R. Sarmiento-Flores.

*Arcaya-Chua*⁵ (*Ocampo*) that a protection order cannot be issued in favor of a husband against his wife,⁶ thus:

Notably, the offender under [RA No.] 9262 is any person who is the husband, former husband, those who had sexual or dating relationship with the woman or with whom she has a common child. On the other hand, the offended party may be the wife, former wife, a woman who has or had sexual or dating relationship, or with whom the man has a common child or HER child.

From the foregoing, it can be seen that in the definition of an offender, a **child's mother is not included as one of the offenders**. In stark contrast, a **child's mother is specifically mentioned in the definition for offended party**. This could lead to no other conclusion that a child's mother cannot be considered as an offender under [RA No.] 9262.

Moreover, a protection order is defined under Section 8 of [RA No.] 9262, to quote:

“SECTION 8. *Protection Orders*. — A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. The relief granted under a protection order should serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. [x x x]”

Based on the foregoing, the issuance of a protection order is for [the] purpose of preventing further violence committed by an offender (any person who is the husband, former husband, those who had sexual or dating relationship with the woman or with whom she has a common child) against a woman or her child. **It does not pertain to a mother who allegedly abused her own child. Hence, a protection order under [RA No.] 9262 cannot be issued against a mother who allegedly abused her own child.**

Further, petitioner's prayer for the granting of a temporary or permanent custody of Rhuby under [RA No.] 9262 is likewise misplaced as Section 28 of the said law specifically states:

“SECTION 28. *Custody of children*. — The woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old [or] older but with mental or physical disabilities shall automatically be given to the mother, with right to support, unless the court finds compelling reasons to order otherwise.[”]

As it is, [RA No.] 9262 does not apply in the case at bar. The petitioner, who is not a “woman victim of violence[,”] cannot avail of the remedies provided therein particularly the issuance of a

⁵ 633 Phil. 79 (2010).

⁶ *Rollo*, pp. 107-110.

Temporary/Permanent Protection Order and the granting of a temporary or permanent custody of Rhuby to him.

To be further enlightened, in OFFICE OF THE COURT ADMINISTRATOR versus JUDGE EVELYN S. ARCAYA-CHUA, Regional Trial Court, Branch 144, Makati City [633 Phil. 79 (2010)], a judge in a custody case issued a TPO under Sec. 15, [RA No.] 9262, granting, among others, the custody of the subject minor, Rafi Pulliam, to therein petitioner, Albert Chang Tan, and directing therein respondent, Stephanie Pulliam, to stay away from the home and office of Chang Tan as well as from the school of the subject minor. The issuance of said TPO was questioned considering that it was issued in favor of petitioner, Albert Chang Tan. In [its] ruling[,] the Supreme Court pronounced:

“X X X X

In A.M. No. R1J-07-2049 (*the Chang Tan/RCBC Case*), the Court upholds the finding of Justice Salvador-Fernando that respondent Judge Arcaya-Chua is guilty of gross ignorance of the law for issuing a TPO in favor of petitioner Albert Chang Tan in SP Case No. M-6373, since a TPO cannot be issued in favor of a man against his wife under [RA] No. 9292 (sic), known as the Anti[-]Violence Against Women and Their Children Act of 2004. Indeed, as a family court judge, Judge Arcaya-Chua is expected to know the correct implementation of [RA] No. 9292 (sic).”

Applying the foregoing jurisprudence to the case at bar, considering that the petitioner is the husband, a Protection Order cannot be issued against herein respondent, his wife.

On a final note, granting that respondent neglected, abandoned or physically abused Rhuby, her minor daughter, there are laws and rules specifically created for the latter’s protection and safety that petitioner and/or Rhuby could avail of. Unfortunately, [RA No.] 9262 is not one of them.

WHEREFORE, premises considered, the instant case is DISMISSED.

SO ORDERED.⁷ (Emphases supplied)

Randy moved for a reconsideration⁸ and argued that RA No. 9262 used the term “*any person*” which is not limited to male offenders. The law must be liberally construed to promote the protection and safety of victims of violence against women and their children. In an Order⁹ dated March 14, 2018, the RTC denied the motion and reiterated that RA No. 9262 does not apply to a situation where the mother committed violence against her own child. The RTC expounded that the word “*children*” should not be isolated with the term “*women*” because the title of the law used the conjunction “*and*” which denotes joinder of words, phrases, and clauses. As such, the children

⁷ Id. at 108-110.

⁸ See Urgent Motion for Reconsideration dated January 17, 2018; id. at 115-135.

⁹ Id. at 111-114.

being protected refer to those under the care of the woman victim of violence,¹⁰ viz.:

In his Motion for Reconsideration, petitioner alleged that a **mother may be the offender under [RA No.] 9262**. He submits that Section 3 of [RA No.] 9262 does not limit the offender to a male person. Otherwise, the law could have used the term, “any male person”, and not “any person”. Citing the case of *Garcia v. Drilon*, petitioner argued that the term “any person” includes lesbian relationships, to quote:

“There is likewise no merit to the contention that [RA No.] 9262 singles out the husband or father as the culprit. As defined above, VAWC may likewise be committed “against a woman with whom the person has or had a **sexual or dating relationship**.” Clearly, the use of the **gender-neutral word “person”** who [has] or had a sexual or dating relationship with the woman **encompasses even lesbian relationships**.” ([Emphases in the original])

Petitioner’s reliance on foregoing jurisprudence is misplaced.

Notably, the aforementioned pronouncement is not applicable to the case at bar considering that there is no lesbian relationship between respondent [and Rhuby] as they are mother and child.

Moreover, the “person” referred to in the afore-quoted pronouncement pertains to the individual who [has] or had a sexual or dating relationship with the woman as a victim of violence.

It is thus clear that the foregoing provision does not apply to a situation where it was the mother herself who had committed violent and abusive acts against her own child.

Petitioner further argued that the restrictive interpretation of the court on the definition of an offender under [RA No.] 9262 does not hold water, taking into account Section 4 of [RA No.] 9262, which speaks of the liberal construction of the act to promote the protection and safety of victims of violence against women and their children.


The said argument is without merit.

Petitioner isolates the word “children” in order to avail the relief of a protection order under [RA No.] 9262 in favor of Rhuby against her own mother. However, a perusal of the title of [RA No.] 9262 explicitly states: “An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefore, And For Other Purposes”. **The conjunction used in the title is the conjunctive word “and” not the word “or”. Hence, there is joinder and not independence.** x x x

x x x x

For emphasis, violence against women and their children is defined under Section 3 of [RA No.] 9262 as:

¹⁰ Id. at 111-113.



(a) “*Violence against women and their children*” refers to **any act or a series of acts committed by any person against a woman** who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, **or against her child**[,] whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.

Aside from the foregoing, the definition of children under Sec. 3(h) of said act is clear, to quote:

“(h) “*Children*” refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under [RA No.] 7610. **As used in this Act, it includes the biological children of the victim and other children under her care.**”

Obviously, the victim being referred to in said definition is the woman subjected to acts of violence by her offender. As it is, children being protected under [RA No.] 9262 refer to the biological children and other children under the care of the woman/victim. Thus, the court maintains its position that a child’s mother is not included as one of the offenders under [RA No.] 9262.

WHEREFORE, premises considered, petitioner’s motion for reconsideration is DENIED.

SO ORDERED.¹¹ (Emphases supplied)

Aggrieved, Randy directly filed a Petition for *Certiorari*¹² before the Court ascribing grave abuse of discretion on the part of the RTC in dismissing the application for protection and custody orders. Randy contends that he availed of these remedies on behalf of his daughter, who is a victim of violence in the hands of her own mother. Furthermore, Randy maintains that RA No. 9262 does not limit the offender to a male person and the legislative intent is to provide all possible protection to children.¹³

RULING

The original jurisdiction of the Supreme Court to issue writs of *certiorari* is not exclusive but shared with the Court of Appeals (CA) and the RTC.¹⁴ However, this concurrence of jurisdiction does not give a party unbridled freedom to choose the venue of action. The policy on the hierarchy of courts adjures the Court from dealing with causes that are also well within

¹¹ Id. at 111-114.

¹² Id. at 3-48.

¹³ Id. at 26-47.

¹⁴ See Section 4, Rule 65 of the Rules of Court.

the competence of the CA and the RTC to resolve.¹⁵ This Court is a court of last resort and must so remain if it is to satisfactorily perform its constitutional functions.¹⁶ The doctrine of hierarchy of courts is both a constitutional imperative and a filtering mechanism to enable the Court to focus on more important matters.¹⁷ Corollarily, the Court's jurisdiction to issue extraordinary writs should generally be exercised with respect to actions or proceedings before the CA, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the CA.¹⁸

However, the doctrine of hierarchy of courts is not an iron-clad rule and is subject to recognized exceptions, to wit: (a) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (b) when the issues involved are of transcendental importance; (c) *cases of first impression where no jurisprudence yet exists that will guide the lower courts on the matter*; (d) the constitutional issues raised are better decided by the Court; (e) where exigency in certain situations necessitate urgency in the resolution of the cases; (f) the filed petition reviews the act of a constitutional organ; (g) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; and (h) *the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice*, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.¹⁹

Here, circumstances exist to justify direct recourse to this Court. The case presents an issue of first impression, *i.e.*, whether the father can avail of the remedies under RA No. 9262 on behalf of his minor child against the mother's violent and abusive acts. To be sure, there is no definite ruling yet on this question to serve as a guidepost for future cases.²⁰ Also, the interests of justice and public welfare demand the resolution of the controversy because it will benefit not only the parties but also children similarly situated. More importantly, the petition raises a pure question of law and does not involve an examination of facts and probative value of evidence.²¹ Hence, it is an

¹⁵ *Banez, Jr. v. Concepcion*, 693 Phil. 399, 412 (2012).

¹⁶ *Vergara, Sr. v. Suelto*, 240 Phil 719, 732 (1987).

¹⁷ *Gios-Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019, 896 SCRA 213, 284 and 290.

¹⁸ *Vergara, Sr. v. Suelto*, *supra* note 16, at 732-733.

¹⁹ *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 331-335 (2015).

²⁰ See *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, 450 Phil. 744, 805 (2003); and *Government of the United States of America v. Hon. Purganan*, 438 Phil. 417, 435-436 (2002).

²¹ See *Malayan Insurance Company, Inc. v. St. Francis Square Realty Corporation*, 836 Phil. 442, 458 (2018); *CE Construction Corporation v. Araneta Center, Inc.*, 816 Phil. 221, 262 (2017); *Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 767 (2013), citing *Heirs of Nicolas Cabigas v. Limbaco*, 670 Phil. 274, 285 (2011); *Taglay v. Daray*, 693 Phil. 45, 54 (2012); *F.F. Cruz & Co., Inc. v. HR Construction Corp.*, 684 Phil. 330, 347 (2012), citing *Philippine National Construction Corporation v. CA*, 541 Phil. 658, 669-670 (2007); *Vda. De Formoso v. Philippine National Bank*, 665 Phil. 184, 197 (2011); and *Republic v. Malabanan*, 646 Phil. 631, 637-638 (2010), citing *Leoncio v. De Vera*, 569 Phil. 512, 516 (2008).

opportune time for this Court to answer the novel query with far reaching implications on whether the father may apply for protection and custody orders against the mother who is alleged to have committed violence against their child.

RA No. 9262 allows the father of the offended party to apply for protection and custody orders.

In *Garcia v. Drilon*²² (*Garcia*), the Court pointed out that the Congress excluded men as victims under RA No. 9262. The legislative intent is to limit the protection against violence to women and children only. The classification rests on substantial distinctions because women and children are vulnerable victims of abuse compared to men.²³ The difference in treatment is consistent with the declared policy of the law to value the dignity of women and children, and protect them from violence and threats to their personal safety and security.²⁴ In that case, the Court likewise upheld the constitutionality of the remedies of protection and custody orders to prevent further acts of violence committed by the offender against women and their children.²⁵ Inarguably, the offended parties under the law are only women and children. Nevertheless, it is improper to conclude that the law denies a father of these remedies solely because of his gender or that he is not a “*woman victim of violence.*”

Section 9 (b)²⁶ of RA No. 9262 explicitly allows “*parents or guardians of the offended party*” to file a petition for protection orders. The exact provision was incorporated in Section 12 (b)²⁷ of the Implementing Rules and Regulations of RA No. 9262 and Section 8 (b)²⁸ of A.M. No. 04-10-11-SC,²⁹ or the Rule on Violence Against Women and Their Children. The statute categorically used the word “*parents*” which pertains to the father and the mother of the woman or child victim. *Absolute Sentencia Expositore Non Indiget.* The law speaks in clear language and no explanation is required.³⁰ There is no occasion for the Court to interpret but only to apply the law when

²² 712 Phil. 44 (2013).

²³ Id. at 137.

²⁴ See Section 2 of RA No. 9262.

²⁵ *Garcia v. Drilon*, supra note 22, at 104-105.

²⁶ Section 9. *Who May File Petition for Protection Orders.* — A petition for protection order may be filed by any of the following:

x x x x

(b) parents or guardians of the offended party;

x x x x

²⁷ Section 12. *Who May File for Protection Orders.* —

x x x x

b) parents or guardians of the offended party;

x x x x

²⁸ Section 8. *Who may file petition.* — A petition for protection order may be filed by any of the following:

x x x x

(b) Parents or guardians of the offended party;

x x x x

²⁹ Approved on October 19, 2004 and took effect on November 15, 2004.

³⁰ *Barcellano v. Bañas*, 673 Phil. 177, 187 (2011).

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it is not ambiguous.³¹ Similarly, the statute did not qualify on who between the parents of the victim may apply for protection orders. *Ubi lex non distinguit, nec nos distinguere debemus*. When the law does not distinguish, the courts must not distinguish.³²

In any event, A.M. No. 04-10-11-SC states that the Rules of Court shall apply in a suppletory manner to petitions for protection orders.³³ Under Section 5, Rule 3 of Rules of Court, “[a] minor or a person alleged to be incompetent, may sue or be sued with the assistance of his father, mother, guardian, or if he has none, a guardian ad litem.” In this case, the title of the petition for issuance of a protection order is unequivocal, to wit: “*RANDY MICHAEL KNUTSON acting on behalf of minor RHUBY SIBAL KNUTSON, Petitioner, –versus– ROSALINA SIBAL KNUTSON, Respondent.*”³⁴ There is no question that the offended party is Rhuby, a minor child, who allegedly experienced violence and abuse. Thus, Randy may assist Rhuby in filing the petition as the parent of the offended party.

Contrary to the RTC’s theory, the ruling in *Ocampo* is inapplicable. In that case, respondent judge issued a protection order directing the common law wife to stay away from her common law husband’s house and office. Respondent judge also granted the father provisional custody of his minor daughter. The Investigating Justice found that the protection order is justified with respect to the minor daughter but not to the common law husband. Under the law, a protection order cannot be issued in favor of the husband against the wife. The Investigating Justice explained that the “*TPO against [the wife], insofar as it directed the latter to stay away from the home and office of [the husband], to cease and desist from harassing, intimidating or threatening [the husband] and to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of [the husband], was anomalous.*”³⁵ However, the Investigating Justice clarified that there is justification to award the temporary custody of the minor daughter to the father. There is substantial evidence that the protection order in favor of the minor daughter was necessary and would serve her paramount interest. The psychological evaluation report and the statements of material witnesses all confirmed that the mother has not been a good influence to her daughter. The Court sustained these factual findings and adopted the recommendation of the Investigating Justice that respondent judge is guilty of gross ignorance of the law.³⁶

³¹ *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, 826 Phil. 329, 344-345 (2018).

³² *Kida v. Senate of the Philippines*, 683 Phil. 198, 219 (2012).

³³ See Section 1 of A.M. No. 04-10-11-SC, which provides:


Section 1. *Applicability.* — x x x

The Rules of Court shall apply suppletorily.

³⁴ *Rollo*, p. 51.

³⁵ *Ocampo v. Arcaya-Chua*, supra note 5, at 113.

³⁶ See *id.* at 107-115.



On the other hand, Randy is not asking for a protection order in his favor. As intimated earlier, Randy filed the petition on behalf of their minor daughter Rhuby. The petition is principally and directly for the protection of the minor child and not the father. Admittedly, Randy also asked for the temporary custody of their daughter because the mother was allegedly unfit. Yet, the RTC did not evaluate the case whether the mother may be divested of custody over the child. The RTC ignored the evidence on the pretext that the father is not allowed to apply for protection and custody orders because he is not a woman victim of violence. On this point, the Court finds grave abuse of discretion on the part of the RTC that amounted to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.³⁷ As in *Ocampo*, the RTC should have examined the evidence on record and made a *prima facie* determination as to the ideal person to whom the temporary custody of the child should be awarded. The best interest of the child should be the primordial and paramount concern.

RA No. 9262 covers a situation where the mother committed violent and abusive acts against her own child.

Section 3 (a) of RA 9262 defines violence against women and their children as “*any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.*” The law criminalizes acts of violence against women and their children perpetrated by women’s intimate partners, *i.e.*, *husband; former husband; or any person who has or had sexual or dating relationship with the woman, or with whom the woman has a common child.* However, the Court in *Garcia* emphasized that the law does not single out the husband or father as the culprit. The statute used the gender-neutral word “*person*” as the offender which embraces any person of either sex. The offender may also include other persons who conspired to commit the violence, thus:

As defined above, VAWC may likewise be committed “against a woman with whom the person has or had a sexual or dating relationship.” **Clearly, the use of the gender-neutral word “person” who has or had a sexual or dating relationship with the woman encompasses even lesbian relationships.** Moreover, while the law provides that the offender be related or connected to the victim by marriage, former marriage, or a sexual

³⁷ *Yu v. Reyes-Carpio*, 667 Phil. 474, 481-482 (2011).

or dating relationship, **it does not preclude the application of the principle of conspiracy under the Revised Penal Code (RPC).** Thus, in the case of *Go-Tan v. Spouses Tan* [588 Phil. 532 (2008)], the parents-in-law of Sharica Mari L. Go-Tan, the victim, were held to be proper respondents in the case filed by the latter upon the allegation that they and their son (Go-Tan's husband) had community of design and purpose in tormenting her by giving her insufficient financial support; harassing and pressuring her to be ejected from the family home; and in repeatedly abusing her verbally, emotionally, mentally and physically.³⁸ (Emphases supplied)

Differently stated, the fact that a social legislation affords special protection to a particular sector does not automatically suggest that its members are excluded from violating such law. This is not the first time that social legislations in the Philippines with penal character used the phrase "*any person*" to describe who may be offenders. There are parallel provisions in RA No. 7610,³⁹ or the *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*,⁴⁰ RA No. 7277,⁴¹ as amended by RA No. 9442,⁴² or the *Magna Carta for Disabled Persons*,⁴³ RA No. 8042,⁴⁴ as amended by RA No. 10022,⁴⁵ or the *Migrant Workers and Overseas Filipinos Act of 1995*,⁴⁶ RA No. 4670,⁴⁷ or the *Magna Carta for Public School*

³⁸ *Garcia v. Drilon*, supra note 22, at 103-104.

³⁹ Entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES," approved on June 17, 1992.

⁴⁰ See Sections 6, 7, 8, 9 10, 16, and 20 of RA No. 7610.

⁴¹ Entitled "AN ACT PROVIDING FOR THE REHABILITATION, SELF-DEVELOPMENT AND SELF-RELIANCE OF DISABLED PERSONS AND THEIR INTEGRATION INTO THE MAINSTREAM OF SOCIETY AND FOR OTHER PURPOSES," approved on March 24, 1992.

⁴² Entitled "AN ACT AMENDING REPUBLIC ACT NO. 7277, OTHERWISE KNOWN AS THE 'MAGNA CARTA FOR DISABLED PERSONS, AND FOR OTHER PURPOSES'," approved on April 30, 2007.

⁴³ See Sections 42, 44, and 46, as amended, which provide:

Section 42. Any individual, group or community is hereby prohibited from vilifying any person with disability which could result into loss of self-esteem of the latter.

x x x x

Section 44. *Enforcement by the Secretary of Justice.* — x x x

b) *Potential Violations* — If the Secretary of Justice has reasonable cause to believe that —

1) any person or group of persons is engaged in a pattern or practice of discrimination under this Act; or

2) any person or group of persons has been discriminated against under this Act and such discrimination raises an issue of general public importance, the Secretary of Justice may commence a legal action in any appropriate court.

x x x x

Section 46. *Penal Clause.* — (a) Any person who violates any provision of this Act shall suffer the following penalties: x x x x

(b) Any person who abuses the privileges granted herein shall be punished with imprisonment of not less than six months or a fine of not less than Five thousand pesos ([P]5,000.00), but not more than Fifty thousand pesos ([P]50,000.00), or both, at the discretion of the court.

x x x x

⁴⁴ Entitled "AN ACT TO INSTITUTE THE POLICIES OF OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES," approved on June 7, 1995.

⁴⁵ Entitled "AN ACT AMENDING REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995, AS AMENDED, FURTHER IMPROVING THE STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES," approved on March 8, 2010.

⁴⁶ See Section 6 of RA No. 8042, as amended by Section 5 of RA No. 10022.

⁴⁷ Approved on June 18, 1966.

Teachers,⁴⁸ RA No. 9433,⁴⁹ or the *Magna Carta for Public Social Workers*,⁵⁰ and RA No. 7305,⁵¹ or the *Magna Carta of Public Health Workers*.⁵² In other words, identification or association with such groups will not exempt their members from criminal liability. A child 16 years old and above who acted with discernment may still be charged with violation of RA No. 7610 if he induces or coerces another child to perform in obscene exhibitions. A person with disability is likewise criminally liable under RA No. 7277, as amended, if he discriminates or publicly ridicules another person suffering from restriction, impairment, or a different ability. The same is true with a migrant worker who engages in the act of illegal recruitment punished under RA No. 8042, as amended. Lastly, a public school teacher, a public social worker, or a public health worker who interferes or prevents similar professionals in the exercise of their rights and performance of their duties are criminally liable.

Logically, a mother who maltreated her child resulting in physical, sexual, or psychological violence defined and penalized under RA No. 9262 is not absolved from criminal liability notwithstanding that the measure is intended to protect both women and their children. In this case, however, the RTC dismissed Randy's petition for protection orders on behalf of his minor daughter on the ground that the mother cannot be considered as an offender under the law. To restate, the policy of RA No. 9262 is to guarantee full respect for human rights. Towards this end, the State shall exert efforts to address violence committed against children in keeping with the fundamental freedoms guaranteed under the Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and other international human rights instruments of which the Philippines is a party.

Specifically, Section 3 (2), Article XV of the 1987 Constitution espoused the State to defend “[t]he right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development; x x x.” Also, Article 25 (2) of the Universal Declaration of Human Rights advocated that “[m]otherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.” Further, the Philippines as a state party to the Convention on the Rights of the Child has the following international commitments, to wit:

⁴⁸ See Section 32 of RA No. 4670, which provides:

Section 32. *Penal Provision.* — A person who shall wilfully interfere with, restrain or coerce any teacher in the exercise of his rights guaranteed by this Act or who shall in any other manner commit any act to defeat any of the provisions of this Act shall, upon conviction, be punished by a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment, in the discretion of the court.

x x x x

⁴⁹ Entitled “AN ACT PROVIDING FOR A MAGNA CARTA FOR PUBLIC SOCIAL WORKERS,” approved on April 11, 2007.

⁵⁰ See Sections 20 and 24 of RA No. 9433.

⁵¹ Approved on March 26, 1992.

⁵² See Sections 32 and 39 of RA No. 7305.

Preamble

The States Parties to the present Convention,

x x x x

Recognizing that **the child, for the full and harmonious development of his or her personality, should grow up in a family environment**, in an atmosphere of happiness, love and understanding,

x x x x

Article 2

x x x x

2. States Parties shall take all **appropriate measures to ensure that the child is protected against all forms of discrimination or punishment** on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.**

2. States Parties undertake to **ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.**

x x x x

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, **except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.** Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

x x x x

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures **to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.**

x x x x

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. (Emphases supplied)

Notably, the Committee on the Rights of the Child commented that “*all forms of violence against children, however light, are unacceptable. x x x Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence.*”⁵³ The United Nations Children’s Fund recognized “*violence against children x x x as global human rights and public health problems of critical importance.*”⁵⁴ Also, violence against children “*takes many forms, including physical, sexual, and emotional abuse, and may involve neglect or deprivation. Violence occurs in many settings, including the home, school, community and over the Internet. Similarly, a wide range of perpetrators commit violence against children, such as family members, intimate partners, teachers, neighbors, strangers and other children.*”⁵⁵ The World Health Organization said that “[v]iolence against children includes all forms of violence against people under 18 years old, **whether perpetrated by parents or other caregivers, peers, romantic partners, or strangers.**”⁵⁶ Verily, mothers may be offenders in the context of RA No. 9262. The Court finds no substantial distinction between fathers and mothers who abused their children that warrants a different treatment or exemption from the law. Any violence is reprehensible and harmful to the child’s dignity and development.

The RTC maintained its position that the child’s mother is not included as one of the offenders under RA No. 9262 anchored on the interpretation based merely on the title of the law. To recall, the RTC explained that the word “*children*” should not be isolated with the term “*women*” because the title of the law used the conjunction “*and*” which denotes joinder of phrases and clauses. As such, the children being protected refer to those under the care of the woman victim of violence. Yet, the penal provisions under Section 5 of RA No. 9262 do away with the conjunctive word “*and*” and used the disjunctive term “*or*” that signals disassociation or independence, thus:

⁵³ See United Nations Convention on the Rights of the Child, Committee on the Rights of the Child, General Comment No. 13 (2011).

⁵⁴ Unicef, *Gender Dimensions of Violence Against Children and Adolescents*, available at <<https://www.unicef.org/media/93986/file/Child-Protection-Gender-Dimensions-of-VACAG-2021.pdf>> (last visited July 12, 2022).

⁵⁵ Unicef, *Children from all walks of life endure violence, and millions more are at risk*, available at <<https://data.unicef.org/topic/child-protection/violence/>> (last visited July 12, 2022).

⁵⁶ World Health Organization, *Violence Against Children*, available at <<https://www.who.int/news-room/fact-sheets/detail/violence-against-children>> (last visited July 12, 2022).

Section 5. *Acts of Violence Against Women and Their Children.* — The crime of violence against women and their children is committed through any of the following acts:

- (a) Causing physical harm to the woman **or** her child;
- (b) Threatening to cause the woman **or** her child physical harm;
- (c) Attempting to cause the woman **or** her child physical harm;
- (d) Placing the woman **or** her child in fear of imminent physical harm;
- (e) Attempting to compel or compelling the woman **or** her child to engage in conduct which the woman **or** her child has the right to desist from or to desist from conduct which the woman **or** her child has the right to engage in, or attempting to restrict or restricting the woman's **or** her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman **or** child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:
 - (1) Threatening to deprive or actually depriving the woman **or** her child of custody to her/his family;
 - (2) Depriving or threatening to deprive the woman **or** her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - (3) Depriving or threatening to deprive the woman **or** her child of a legal right;
 - (4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;
- (f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;
- (g) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;
- (h) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:
 - (1) Stalking or following the woman **or** her child in public or private places;

(2) Peering in the window or lingering outside the residence of the woman **or** her child;

(3) Entering or remaining in the dwelling or on the property of the woman **or** her child against her/his will;

(4) Destroying the property and personal belongings or inflicting harm to animals or pets of the woman **or** her child; and

(5) Engaging in any form of harassment or violence;

(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 denial of access to the woman's child/children. (Emphases supplied)

Section 4 of RA No. 9262 mandates that the law "*shall be liberally construed to promote the protection and safety of victims of violence against women and their children.*" Obviously, the RTC's restrictive interpretation requiring that the mother and her child to be victims of violence before they may be entitled to the remedies of protection and custody orders will frustrate the policy of the law to afford special attention to women and children as usual victims of violence and abuse. The approach will weaken the law and remove from its coverage instances where the mother herself is the abuser of her child. The cramping stance negates not only the plain letters of the law and the clear legislative intent as to who may be offenders but also downgrades the country's avowed international commitment to eliminate all forms of violence against children including those perpetrated by their parents. The RTC's consoling statement that children who suffered abuse from the hands of their own mothers may invoke other laws except RA No. 9262 is discriminatory. The supposed reassurance is an outright denial of effective legal measures to address the seriousness and urgency of the situation. Suffice it to say that only RA No. 9262 created the innovative remedies of protection and custody orders. Other laws have no mechanisms to prevent further acts of violence against the child.

In sum, the Court refuses to be an instrument of injustice and public mischief perpetrated against vulnerable sectors of the society such as children victims of violence. The Court will not shirk its bounden duty to interpret the law in keeping with the cardinal principle that in enacting a statute, the legislature intended right and justice to prevail.⁵⁷

FOR THESE REASONS, the Petition for *Certiorari* is **GRANTED**. The Orders dated January 10, 2018 and March 14, 2018 of the Regional Trial Court of Taguig City, Branch 69 in JDRC Case No. 313 are **SET ASIDE**. Let a **PERMANENT PROTECTION ORDER** be issued immediately.

⁵⁷ See Article 10 of the Civil Code.



SO ORDERED.

Mario Lopez
MARIO V. LOPEZ
Associate Justice

WE CONCUR:

*See separate
dissenting opinion*
Aggichur
ALEXANDER G. GESMUNDO
Chief Justice

I concur. See separate opinion
M. Leonen
MARVIC M. V. LEONEN
Senior Associate Justice

See Dissent.
Alfredo Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Ramon Paul L. Hernandez
RAMON PAUL L. HERNANDO
Associate Justice

See Concur
Amy C. Lazaro-Javier
AMY C. LAZARO-JAVIER
Associate Justice

Henri Jean Paul B. Inting
HENRI JEAN PAUL B. INTING
Associate Justice

*With Dissenting
Opinion*
Rodil V. Zalameda
RODIL V. ZALAMEDA
Associate Justice

Samuel H. Gaerlan
SAMUEL H. GAERLAN
Associate Justice

Ricardo R. Rosario
RICARDO R. ROSARIO
Associate Justice

Jhosef Y. Lopez
JHOSEF Y. LOPEZ
Associate Justice

Japar B. Dimaampao
JAPAR B. DIMAAMPAO
Associate Justice

Jose Midas P. Marquez
JOSE MIDAS P. MARQUEZ
Associate Justice

*I join the dissent of Justice
Caguioa*
Antonio T. Kho, Jr.
ANTONIO T. KHO, JR.
Associate Justice

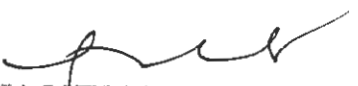
Maria Filomena D. Singh
MARIA FILOMENA D. SINGH
Associate Justice *See Dissenting
Opinion*

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.


ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Lawyer Clerk of Court and
Administrative Officer
Office of the Chief Justice