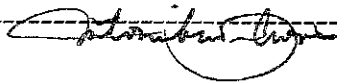


EN BANC

G.R. No. 239215 – RANDY MICHAEL KNUTSON, acting on behalf of minor RHUBY SIBAL KNUTSON, petitioner, v. HON. ELISA R. SARMIENTO-FLORES, in her capacity as Acting Presiding Judge of the Regional Trial Court Branch 69 of Taguig City, and ROSALINA SIBAL KNUTSON, respondents.

Promulgated:

July 12, 2022

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DISSENTING OPINION

SINGH, J.:

Abuse is gender-blind. Women, children, and even men, are all susceptible to abuse and violence at the hands of the very people who are supposed to protect and care for them—their own family members and loved ones. Quite unnaturally, the family has become a breeding ground for violence and abuse.

In 2018, based on the preliminary finding of the 2017 National Demographic and Health Survey, one in every four ever-married women aged 15 to 49 has experienced physical, sexual or emotional violence at the hands of their husband or partner. One in every five women, or 20%, has experienced emotional violence; 14% has experienced physical violence; and 5% has experienced sexual violence from their current or most recent husband or partner.¹ This societal prevalence of violence against women and their children (VAWC) by their intimate partners, *i.e.*, their current or former husband, live-in partner, boyfriend or girlfriend, is what Republic Act No. (R.A.) 9262, otherwise known as the *Anti-Violence Against Women and their Children Act*, sought to address.²

We recognize that women and children are not the only victims of domestic violence. Men are also susceptible to abuse in intimate relationships. The Court itself has conceded that men can also be victims of domestic abuse in a patriarchal society such as ours.³ It is high time that we also acknowledge that a woman, as in this case a mother, who is expected to take care of her

¹ One In Four Women Have Ever Experienced Spousal Violence (Preliminary results from the 2017 National Demographic and Health Survey), accessed at <<https://psa.gov.ph/content/one-four-women-have-ever-experienced-spousal-violence-preliminary-results-2017-national>>.

² VAWC Frequently Asked Question, accessed at <<https://pcw.gov.ph/vaw-faqs/>>.

³ *Estacio vs. Estacio*, G.R. No. 211851, 16 September 2020, accessed at <<https://sc.judiciary.gov.ph/18911/>>.



children and nurture them with love and affection, can also be the perpetrator of the abuse. In such a situation, the courts are expected to step in and breathe life to the children's constitutional right to be protected from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.⁴

However, while it is true that in all actions concerning children, the primordial consideration should always be the best interests of the child,⁵ it is equally true that the first and fundamental duty of the Court is to apply the law in a manner that would give effect to its letter and spirit.

Thus, I take exception to the *ponencia's* conclusion that the protection and custody orders under R.A. 9262 may be issued against a mother who maltreats her own child. Such an interpretation constitutes a clear departure from and an unconstitutional expansion of the scope of the law. The child here and her father are not without any remedy. The present case should be treated as a petition filed under A.M.-03-04-04-SC or the Rule on Custody of Minors and Writ of Habeas Corpus in Relation to Custody of Minors, as pointed out by Associate Justice Alfredo Benjamin Caguioa (**Justice Caguioa**) in his Dissenting Opinion.

This case stemmed from a Petition for the issuance of Temporary and Permanent Protection Orders under R.A. 9262 filed by Randy Michael Knutson (**Randy**) on behalf of his minor daughter, Rhuby Sibal Knutson (**Rhuby**), against his estranged wife and Rhuby's mother, Rosalina Sibal Knutson (**Rosalina**). Generally, Randy averred that Rosalina placed Rhuby in a harmful environment deleterious to the child's physical, emotional, moral, and psychological development. Randy accused Rosalina of neglecting Rhuby and inflicting psychological and physical injury on the child, among others. Claiming that Rosalina was unfit, Randy also prayed that he be given the custody of Rhuby.

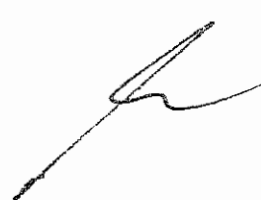
The Regional Trial Court of Taguig City, Branch 69 (**RTC**) dismissed the Petition. According to the RTC, protection and custody orders in R.A. 9262 are not available against a mother who is alleged to have abused her child as the child's mother cannot be considered as an "offender" under the said law. Moreover, citing *Ocampo v. Arcaya-Chua*,⁶ the RTC ratiocinated that a protection order cannot be issued in Randy's favor because he is not a "woman victim of violence."

Randy moved for reconsideration, which was denied by the RTC. Hence, this Petition.

⁴ CONSTITUTION, Art. XV, Sec. 3, par. (2).

⁵ Convention on the Rights of the Child, Art. 3.

⁶ 633 Phil. 79 (2010).



A woman may be the offending party under R.A. 9262 only if she is or were in a same-sex relationship or if there is conspiracy

Citing *Garcia v. Drilon*⁷ (*Garcia*), the *ponencia* maintains that based on the use of the gender-neutral word “person” in Section 3(a) of R.A. 9262, which defines VAWC, the law also contemplates a situation where the mother is the perpetrator of the violent and abusive acts against her own child.

I respectfully differ. The *ponencia* misapplied *Garcia* in the present case.

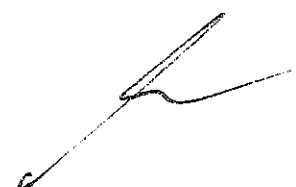
In *Garcia*, where the constitutionality of R.A. 9262 was challenged for being violative of the due process and equal protection clauses, the Court, in holding that the law does not single out men, enunciated that **a woman may also be an offending party under R.A. 9262 in cases where the same-sex partner in a lesbian relationship inflicts violence against her partner or the latter’s child or a child under her care, or in situations where conspiracy is present, but not in a situation where the violence is inflicted on the child by the mother herself, as in the present case.** The Court held:

There is likewise no merit to the contention that R.A. 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.** Moreover, **while the law provides that the offender be related or connected to the victim by marriage, former marriage, or a sexual 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*, 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.⁸

The cardinal rule in statutory construction is that in interpreting the meaning and scope of a term used in the law, a careful review of the whole law as well as the intention of the law must be made. In fact, legislative intent must be ascertained from a consideration of the statute as a whole, and not its

⁷ 712 Phil. 44 (2013).

⁸ Id. at 103-104; citations omitted; emphasis supplied.



isolated parts or particular provisions alone.⁹ *Aisporna v. Court of Appeals*¹⁰ instructs:

x x x Legislative intent must be ascertained from a consideration of the statute as a whole. The particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible. **The meaning of the law, it must be borne in mind, is not to be extracted from any single part, portion or section or from isolated words and phrases, clauses or sentences but from a general consideration or view of the act as a whole.** Every part of the statute must be interpreted with reference to the context. **This means that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment, not separately and independently.** x x x¹¹

Section 3 of R.A. 9262 pertinently provides:

Section 3. *Definition of Terms.*- As used in this Act,

(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. It includes, but is not limited to, the following acts:

x x x

x x x

x x x

(h) "Children" refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Act, it includes the **biological children of the victim and other children under her care.** x x x (Emphasis and underscoring supplied.)

As can be gleaned from the above, the offending party under the law is "any person" who commits violence 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." Concomitantly, the victims under R.A. 9262 are "women and **their** children."

⁹ Laurel, A Study Guide in Statutory Construction: Cases and Materials, Manila: Rex Book Store, 1999.

¹⁰ 198 Phil. 838 (1982).

¹¹ Id. at 847; citations omitted; emphasis supplied.

The primary rule in addressing any problem relating to the understanding or interpretation of a law is to examine the law itself to see what it plainly says.¹² This is the plain meaning rule of statutory construction.¹³

As is evident from the use of the conjunctive word “and” as well as the pronoun “her”/“their” in between the words “women”/“woman” and “child”/“children” all throughout the law, including its short title, violence against a child falls under the ambit of R.A. 9262 only if it is committed against the child of a woman, including a child under her care, by a person with whom the woman has or had a sexual or dating relationship, or with whom the woman has a common child. The legislative intent, as can be gleaned from the plain letter of the law, is to protect women and their children against domestic violence perpetrated by their partners— both men and same-sex partners. **The law recognizes that violence against a woman’s offspring is the most insidious form of violence against the woman herself.**

I agree with Justice Caguioa’s Dissenting Opinion that an examination of the legislative history and congressional deliberations on the bills that eventually became R.A. 9262 reveals the intent of the legislature to limit the application of the law to violence against the child of the abused woman or child under her care, and not extend it to all children subjected to violence and abuse, as the latter case already falls within the ambit of R.A. 7610, or the *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

The Court should not encroach on the realm of the Legislative Department

Again, I concede the basic rule that the best interests of the child should be the primary consideration in cases involving their welfare and custody. However, the bedrock principle of separation of powers, on which our system of democracy is anchored, precludes this Court from exceeding its constitutional duty to apply the law in accordance with its letter and intent and from encroaching on the realm exclusively allocated to the Legislative Department to make laws. Otherwise, the Court will be engaging in judicial legislation and violating its own sacred duty to uphold the Constitution.

The *ponencia* states that R.A. 9262 should be liberally construed and thus the RTC’s restrictive interpretation requiring that the mother and her child be the victims of violence before they may be entitled to the remedies of protection and custody orders should be rejected.¹⁴

¹² *Securities and Exchange Commission v. Commission on Audit*, G.R. No. 252198, 27 April 2021, accessed at < <https://sc.judiciary.gov.ph/19520/>>.

¹³ *Id.*

¹⁴ *Ponencia*, pp. 14-15.



Indeed, Section 4 of R.A. 9262 states that “the [law] shall be liberally construed to promote the protection and safety of victims of violence against women and their children.” However, R.A. 9262’s unequivocal language precludes interpretation, which is resorted to only when the law is ambiguous.¹⁵ If the language of the law is clear, there is no room for interpretation but merely application.¹⁶ Assuming there was an ambiguity, the liberal construction of R.A. 9262 is not a license for the Court to unduly expand the scope of the law and assume a power exclusively vested in the legislature. To rule that R.A. 9262 also applies in cases where the offending party is a woman and the victim of abuse is her own child would defeat the legislature’s clear intent to limit the law’s application to VAWC cases.


To close, it is important to stress that Rhuby and other minors, as well as their fathers, similarly situated are not left without recourse. To stress, abuse by a mother of her own child falls under R.A. 7610. Moreover, protective and custody orders may be applied for against the abusive mother under A.M.-03-04-04-SC.

In conclusion, a remand to the RTC is proper under the premises. There is a need for the court *a quo* to resolve the present Petition on the merits, albeit under A.M.-03-04-04-SC, and not R.A. 9262.

WHEREFORE, I DISSENT and vote to **PARTLY GRANT** the Petition and **REMAND** the case to the Regional Trial Court of Taguig City, Branch 69 for further proceedings under A.M. No. 03-04-04-SC or the Rule on Custody of Minors and Writ of Habeas Corpus in Relation to Custody of Minors, and not under Republic Act No. 9262.


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Prosecutive Officer
Regional Trial Court

¹⁵ *Miramar Fish Co., Inc. v. Commissioner of Internal Revenue*, 735 Phil. 125 (2014).

¹⁶ *Id.* at 145.