SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
DEC 04 2019
BY:
TIME: 2:42

Republic of the Philippines
Supreme Court
Manila

EN BANC

SISTER PILAR VERSOZA,
Petitioner,

-versus-

PEOPLE OF THE PHILIPPINES, MICHELINA S. AGUIRRE-OLONDRIZ, PEDRO AGUIRRE, and DR. MARISSA PASCUAL,
Respondents.

G.R. No. 184535

Present:

BERSAMIN, *J., Chief Justice,*
CARPIO,
PERALTA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A., JR.,
GESMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, *JJ.*

Promulgated:
September 3, 2019

x----------x

RESOLUTION

***PER CURIAM*:**

A petitioner's demise extinguishes his or her legal capacity, which would warrant the dismissal of any of his or her pleadings pending in court. Moreover, when one acts as a private complainant to a criminal action, his or

her role is confined to being a mere witness whose interest is limited only to the civil liability. The criminal aspect can only be undertaken by the State through the Office of the Solicitor General or any other person specifically authorized by law. Without any action on their part, the criminal action cannot prosper.

This case involves a man with cognitive disability[1] who, at 24 years old, was made by his legal guardians to undergo bilateral vasectomy without his consent. Aware of the special circumstances of this case, this Court is called upon to draw the line between a valid exercise of parental authority over a person with disability, and the commission of child abuse as contemplated and penalized by Republic Act No. 7610, or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act. This case also seeks to establish whether the cause of action and attribution of criminal liability survive the death of petitioner Sister Pilar Versoza (Sister Versoza), pending resolution of her Petition.

This Court resolves the Petition for Review on Certiorari[2] filed by Sister Versoza, assailing the Decision[3] and Resolution[4] of the Court of Appeals. The Court of Appeals affirmed the dismissal of the Information for violation of Republic Act No. 7610 filed against Pedro Aguirre (Pedro), Michelina S. Aguirre-Olondriz (Michelina), and Dr. Marissa Pascual (Dr. Pascual).[5] Sister Versoza further prays for the issuance of an order directing the Regional Trial Court "to proceed with the indictment and prosecution of the accused-respondents"[6] and to allow "petitioner through private prosecutor, to prosecute said case under the direction, supervision and control of the public prosecutor."[7]

Both this case and the 2008 case of *Aguirre v. Secretary of the Department of Justice*[8] originated from the same set of facts.

Laureano "Larry" Aguirre (Larry) was a ward of the Heart of Mary

---

1 While a legitimate medical term, "mental retardate" is no longer preferred due to its derogatory implications. Cognitive disability or intellectual disability was explained in *People v. Quintos*, 746 Phil. 809 (2014) [Per J. Leonen, Second Division]: "[a]n intellectually disabled person is not necessarily deprived of reason or demented. This court had even ruled that they may be credible witnesses. However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and peers. Because of such impairment, he or she does not meet the "socio-cultural standards of personal independence and social responsibility." (Citations omitted)

2 *Rollo*, pp. 9–23. Filed under Rule 45 of the Rules of Court.

3 Id. at 24–39. The Decision dated May 16, 2008 in CA-G.R. CR. No. 30082 was penned by Associate Justice Juan Q. Enriquez, Jr., and concurred in by Associate Justices Isaias P. Dicdican and Ramon R. Garcia of the Twelfth Division, Court of Appeals, Manila.

4 Id. at 46–47. The Resolution dated September 17, 2008 in CA-G.R. CR. No. 30082 was penned by Associate Justice Juan Q. Enriquez, Jr., and concurred in by Associate Justices Isaias P. Dicdican and Ramon R. Garcia of the Former Twelfth Division, Court of Appeals, Manila.

5 Id. at 14.

6 Id. at 20.

7 Id.

8 571 Phil. 138 (2008) [Per J. Chico-Nazario, Third Division].

Villa, a child-caring agency under the Good Shepherd Sisters and licensed by the Department of Social Welfare and Development.[9] On June 19, 1980, Larry, then two (2) years and nine (9) months old, was taken in as a ward by Pedro and his wife, Lourdes (the Aguirre Spouses).[10] The Heart of Mary Villa, through Sister Mary Concepta Bellosillo, executed an Affidavit of Consent to Legal Guardianship in favor of the Aguirre Spouses.[11] Sister Versoza was the nursery supervisor at that time.[12]

On June 19, 1986, the Regional Trial Court, Branch 3 of Balanga, Bataan appointed the Aguirre Spouses to be the legal guardians of Larry and of his properties.[13]

Elaborating on Larry's condition, this Court noted in *Aguirre*:

> As Larry was growing up, the Aguirre spouses and their children noticed that his developmental milestones were remarkably delayed. His cognitive and physical growth did not appear normal in that "at age 3 to 4 years, Larry could only crawl on his tummy like a frog . . ." he did not utter his first word until he was three years of age; did not speak in sentences until his sixth year; and only learned to stand up and walk after he turned five years old. At age six, the Aguirre spouses first enrolled Larry at the Colegio de San Agustin, Dasmariñas Village, but the child experienced significant learning difficulties there. In 1989, at age eleven, Larry was taken to specialists for neurological and psychological evaluations. The psychological evaluation done on Larry revealed the latter to be suffering from a mild mental deficiency. Consequent thereto, the Aguirre spouses transferred Larry to St. John Ma. Vianney, an educational institution for special children.
>
> In November of 2001, respondent Dr. Agatep, a urologist/surgeon, was approached concerning the intention to have Larry, then 24 years of age, vasectomized. Prior to performing the procedure on the intended patient, respondent Dr. Agatep required that Larry be evaluated by a psychiatrist in order to confirm and validate whether or not the former could validly give his consent to the medical procedure on account of his mental deficiency.
>
> In view of the required psychiatric clearance, Larry was brought to respondent Dr. Pascual, a psychiatrist, for evaluation. In a psychiatric report dated 21 January 2002, respondent Dr. Pascual made the following recommendation:
>
> > [T]he responsibility of decision making may be given to his parent or guardian.

---

9 Id. at 143.
10 *Rollo*, p. 12.
11 Id. at 12 and *Aguirre v. Secretary of Justice*, 571 Phil. 138, 143 (2008) [Per J. Chico-Nazario, Third Division].
12 Id. at 12.
13 *Aguirre v. Secretary of the Department of Justice,* 571 Phil. 138, 143 (2008) [Per J. Chico-Nazario, Third Division].

. . . .

Larry grew up with a very supportive adoptive family. He is the youngest in the family of four sisters. *Currently, his adoptive parents are already old and have medical problem and thus, they could no longer monitor and take care of him like before. His adoptive mother has Bipolar Mood Disorder and used to physically maltreat him.* A year ago, he had an episode of dizziness, vomiting and headaches after he was hit by his adoptive mother. Consult was done in Makati Medical Center and several tests were done, results of which were consistent with his developmental problem. There was no evidence of acute insults. *The family subsequently decided that he should stay with one of his sisters to avoid similar incident and the possibility that he would retaliate although he has never hurt anybody. There has been no episode of violent outburst or aggressive behavior. He would often keep to himself when sad, angry or frustrated.*

He is currently employed in the company of his sister and given assignment to do some photocopying, usually in the mornings. He enjoys playing billiards and basketball with his nephews and, he spends most of his leisure time watching TV and listening to music. *He could perform activities of daily living without assistance except that he still needs supervision in taking a bath. He cannot prepare his own meal and never allowed to go out and run errands alone. He does not have friends and it is only his adoptive family whom he has significant relationships. He claims that he once had a girlfriend when he was in high school who was more like a best friend to him. He never had sexual relations.* He has learned to smoke and drink alcohol few years ago through his cousins and the drivers. There is no history of abuse of alcohol or any prohibited substances.

. . . .

Larry's mental deficiency could be associated with possible perinatal insults, which is consistent with the neuroimaging findings. Mental retardation associated with neurological problems usually has poorer prognosis. Larry is very much dependent on his family for his needs, adaptive functioning, direction and in making major life decisions. At his capacity, he may never understand the nature, the foreseeable risks and benefits, and consequences of the procedure (vasectomy) that his family wants for his protection. Thus, the responsibility of decision making may be given to his parent or guardian.[14] (Emphasis supplied, citations omitted)

---

[14] Id. at 143–147.

While no explanation was provided in Dr. Marissa Pascual's (Dr. Pascual) psychiatric report, medical journals have discussed perinatal insults as having the effect of altering brain development.[15]

Using this assessment as basis, and upon the instruction and written consent of Pedro, Dr. Juvido Agatep (Dr. Agatep) performed a bilateral vasectomy on Larry on January 31, 2002.[16]

Two (2) cases arose simultaneously after the vasectomy.

The first case, docketed as G.R. No. 170723, was *Aguirre*.

In *Aguirre*, Pedro's eldest daughter, Gloria Aguirre (Gloria), filed a criminal case on June 11, 2002 against her father and the doctors who cleared and conducted the procedure on Larry. She alleged that they violated Article 172 for falsification and Article 262 for mutilation, both under the Revised Penal Code, in relation to Sections 3 and 10 of Republic Act No. 7610.[17]

By way of defense, Pedro argued that the decision was a valid exercise of his parental authority as Larry's legal guardian. Moreover, assuming that Larry could make a decision regarding his vasectomy, Pedro argued that Gloria had no legal personality to file the criminal case, "for only Larry would have the right to do so."[18]

In a January 8, 2003 Resolution, the Assistant City Prosecutor recommended that Gloria's Complaint be dismissed for lack of probable cause and for insufficiency of evidence.[19]

On February 18, 2003, Gloria filed before the Department of Justice a Petition for Review.[20] However, in a February 11, 2004 Resolution, her

---

15 Id. at 146–147. *See* Tiago Savignon, Everton Costa, Frank Tenorio, Alex C. Manhães, and Penha C. Barradas, *Prenatal Hypoxic-Ischemic Insult Changes the Distribution and Number of NADPH-Diaphorase Cells in the Cerebellum* (2012), available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0035786> (last visited on September 2, 2019). *See also* Abstract of the article by Richard Berger, Yves Garnier, and Arne Jensen, *Perinatal Brain Damage: Underlying Mechanisms and Neuroprotective Strategies*, 9 Journal of the Society for Gynecologic Investigation 319 (2002), available at <https://www.researchgate.net/publication/11022719_Perinatal_brain_damage_Underlying_mechanisms_and_neuroprotective_strategies> (last visited on September 2, 2019).

16 Id. at 147.

17 Id. at 154.

18 Id. at 151.

19 Id. at 155.

20 Id.

Petition was dismissed.[21] Her subsequent Motion for reconsideration was likewise denied.[22]

Undeterred, Gloria filed before the Court of Appeals a Petition for Certiorari, Prohibition, and Mandamus, praying that the Resolutions of the Department of Justice be reversed.[23]

When the Court of Appeals dismissed the Petition for lack of merit, Gloria brought her case before this Court, which was docketed as G.R. No. 170723.[24] In its March 3, 2008 Decision, this Court later denied the Petition for lack of merit.[25]

The second case is this Petition filed by Sister Versoza.

When she learned about the procedure done on her former ward, Sister Versoza filed a criminal case against Pedro, Dr. Pascual, Dr. Agatep, and Michelina, one (1) of the Aguirre Spouses' children with whom Larry grew up.[26] Sister Versoza, like Gloria, charged them of falsification under Article 172 and mutilation under Article 262, both under the Revised Penal Code and child abuse under Sections 3 and 10 of Republic Act No. 7610.[27]

In its January 8, 2003 Resolution, the Office of the City Prosecutor of Quezon City dismissed Sister Versoza's Complaint.[28]

Thus, she moved for reconsideration, praying that an information for violation of Republic Act No. 7610 be filed instead.[29] However, in an August 26, 2003 Resolution, the Office of the City Prosecutor also denied the Motion.[30]

On May 13, 2005, while Gloria's Rule 65 Petition in *Aguirre* was pending before the Court of Appeals, the Office of the City Prosecutor granted a Motion for Reconsideration filed by one "Gloria Pilar S. Versoza," which questioned the City Prosecutor's January 8, 2003 Resolution.[31] In granting the Motion, the Office of the City Prosecutor recommended the filing of an information for violation of Sections 3 and 10 of Republic Act

---

21 Id. at 156.
22 Id.
23 Id. at 158.
24 Id. at 156.
25 Id. at 169.
26 *Rollo*, pp. 10 and 12.
27 Id.
28 Id.
29 Id. at 11.
30 Id.
31 Id. at 26.

No. 7610.[32]

Accordingly, an Information was filed against Pedro, Michelina, and Dr. Pascual for violation of Republic Act No. 7610. The case was subsequently raffled off to Branch 102 of the Regional Trial Court of Quezon City. Warrants of arrest were issued against the accused, who then posted their respective bail bonds.[33]

Pedro and Michelina respectively moved for the dismissal of the case and for the re-determination of probable cause. Dr. Pascual filed several motions seeking the quashal of the information and warrant of arrest and the disqualification of the private prosecutor. In addition, Pedro and Michelina filed a motion requesting a stipulation from the trial prosecutor if she intended to prosecute the case under Republic Act No. 7610 considering that the matter had been previously decided by the Department of Justice and was under the review of the Court of Appeals.[34]

On November 8, 2005, the Regional Trial Court issued an Order[35] dismissing the case as there was "no probable cause . . . to hold the accused for trial for violation[s] of Sections 3 and 10 of [Republic Act No.] 7610[.]"[36] In the Order, the Quezon City Regional Trial Court declared:

> As to the first issue of whether or not the case should be dismissed, the Court finds merit to grant the motion. After a careful re-evaluation and scrutiny of the records of the case, the Court is inclined to reverse its former Order dated August 26, 2005, finding the existence of probable cause to hold the accused for trial. It was only later after the Court made a determination of probable cause that the supporting documents were attached to the records of the case particularly the Resolution of the Prosecutor's Office dated August 26, 2003 dismissing the Complaint for violation of RA 7610. Further, the Court was not aware that there was already a Decision rendered by the Court of Appeals dismissing the Complaint for falsification and mutilation against the accused because the same evidence was only attached to the records during the filing of the motions of the parties. In the said Decision, bilateral vasectomy performed on Larry does not constitute mutilation, the same issue being raised in the instant case for violation of RA 7610 as bilateral vasectomy has never been a crime and cannot be considered a form of child abuse. It does not find print in the said law. At most, it is a widely accepted and recognized medical procedure.
>
> . . . .
>
> After going through re-evaluation of the records and evidence of

---

32 Id.
33 Id. at 27.
34 Id. at 48.
35 Id. at 48–55. The Order was penned by Judge Ma. Lourdes A. Giron of Branch 102, Regional Trial Court, Quezon City.
36 Id. at 55.

the case, the Court finds merit to re-determine the existence of probable cause.

. . . .

In the case at bar, there was already a pronouncement made by the Court of Appeals, which was learned by this Court only after it made a prior determination of probable cause, that there was neither a case of falsification nor mutilation. This stands to reason that the Court was misled by the circumstances surrounding the case for the determination of probable cause. Had it known that there was already contradictory resolutions issued by the Public Prosecutors and the Decision rendered by the [C]ourt of Appeals touching the core issue of mutilation, this Court would have dismissed the case. However, this Court belatedly learned such facts. Consequently, there is a need to re-determine the existence of probable cause.

. . . .

In the case at bar, the main core for the filing of the instant Information for violation of RA 7610 sprung from the bilateral vasectomy performed on Larry Aguirre. There was already a judicial determination made by the Court of Appeals that no probable cause exists with respect to bilateral vasectomy to be considered as mutilation. Consequently, there would also be no violation of RA 7610. But then, it appears in the instant case that the prosecutors have similarly misappropriated, if not abused, their discretion by filing an Information for violation of RA 7610. There is no reason to hold the accused for trial and further expose them to an open and public accusation of the crime when no probable cause exists.

A prosecuting officer is in a peculiar and very definite sense the servant of law, the two fold aim of which is that the guilt shall not escape or innocence suffers. . . . But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much as (*sic*) his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just once (*sic*) (*Suarez vs. Judge Platon* 69 Phil 556).

It is therefore imperative upon the fiscal or the judge as the case maybe, (*sic*) to relieve the accused from the pain of going thru a trial once it is ascertained that the evidence is *insufficient to sustain a prima facie case or that no probable cause exists* to form a sufficient belief as to the guilt of the accused.

In sum the Court finds that no probable cause exists to hold the accused for trial.[37] (Emphasis in the original)

As to Sister Versoza's standing to sue, the Regional Trial Court held:

Under the law, once an adoption has been decreed, the legal ties between the biological parents and the children severed (*sic*). By analogy, since the subject child, Larry Aguirre was under an authorized adoption

[37] Id. at 49–53.

> agency, the relationship between the said institution and the said child was severed and parental authority is now vested with the adopting parents. This is now safe to assume that Sister Pilar is divested of personality to file a complaint against the accused for violation of Sections 3 and 10 of RA 7610. If at all, it is only the State who has the right to prosecute for violation of the said law.[38]

Sister Versoza moved for reconsideration, but her Motion was denied in the Regional Trial Court's January 31, 2006 Order.[39] The trial court again emphasized her lack of legal capacity to sue:

> As to the second issue of the legal capacity of herein movant to participate in the proceedings, the Court has likewise ruled in the questioned order to the effect that inasmuch as herein movant merely represents the institution which took care of the victim Larry Aguirre prior to his adoption and facilitated the same until he was eventually legally adopted, she has, technically, no more legal capacity to appear in his behalf[.][40]

Thus, Sister Versoza appealed the Regional Trial Court Orders.[41]

In its May 16, 2009 Decision,[42] the Court of Appeals denied her appeal and upheld the dismissal of the Information against Pedro, Michelina, and Dr. Pascual. It stated:

> [The] bilateral vasectomy performed on Larry Aguirre cannot be considered a form of child abuse. In fact, the bilateral vasectomy is not a surgical procedure that totally divests him of the essential organ of reproduction for the simple reason it does not entail the taking away of a part or portion of the male reproductive organ. Vasectomy as an elective surgical sterilization prevents conception from taking place but the male reproductive organs remain intact as the body continues to produce sperm, the intentional act of vasectomy procedure prevents pregnancy which is not the same thing as saying that the reproductive capacity is permanently impaired . . . . While the bilateral vasectomy does not totally preclude him from siring an offspring and/or raising a family, the operation is reversible and therefore, has not caused permanent damage on his person; neither does it demeans, (*sic*) debases (*sic*) and degrades (*sic*) the intrinsic worth and dignity of Larry Aguirre as a person. Thus, the surgical procedure cannot be considered prejudicial to the child's development.
>
> Neither is the bilateral vasectomy considered an act of cruelty. *Black's Law Dictionary* defines "cruelty" as the intentional and malicious infliction of physical or mental suffering upon living creatures, particularly human beings, or, as applied to the latter, the wanton,

---

38 Id. at 54–55.
39 Id. at 27.
40 Id. at 37.
41 Id. at 24.
42 Id. at 24–39.

> malicious and unnecessary infliction of pain upon the body, or the feelings and emotions. The test is whether the accused deliberately and sadistically augmented the victim's suffering by causing another wrong not necessary for its commission or inhumanly increased the victim's suffering or outraged (*sic*) . . . .
>
> It is settled that once an information has been filed in Court, any disposition of the case such as its dismissal or its continuation rests on the sound discretion of the court. The Court remains the best and sole judge on what to do with the case before it notwithstanding the power of the prosecutor to retain the direction and control of the prosecution of criminal cases. The determination of the case is within its exclusive jurisdiction and competence[.][43] (Citations omitted)

Affirming the trial court's finding that Sister Versoza had "no personality to prosecute the [criminal] complaint[,]"[44] the Court of Appeals declared that her being part of Heart of Mary Villa did not authorize her to appear as a private complainant. It found that she was not Larry's parent, adopter, or legal guardian, and was at most only a witness who "was not actually or directly injured by the punishable act or omission complained of."[45] Citing Article 189 of the Family Code, the Court of Appeals also noted that the ties between Larry and Heart of Mary Villa were severed after adoption, when the parental authority or legal guardianship had been transferred to Larry's adopters.[46]

Sister Versoza moved for reconsideration, but her Motion was denied in the Court of Appeals' September 17, 2008 Resolution.[47] Hence, she filed this Petition.[48]

Petitioner asserts that as the nursery supervisor of the child-caring agency where Larry was a former ward, she had the duty to continuously be concerned about his welfare. She argues that, as an officer of a licensed child-caring agency, she qualifies under Section 27 of Republic Act No. 7610, which enumerates those who may file a complaint for unlawful acts committed against children.[49]

Petitioner also argues that this Court's ruling in *Aguirre*—that bilateral vasectomy was not mutilation under Article 262 of the Revised Penal Code—does not apply to this case. She posits that mutilation and child abuse are two (2) distinct criminal offenses. Although bilateral vasectomy does not constitute mutilation, it is still punishable as child abuse under Republic Act No. 7610. She asserts that vasectomy is an act of cruelty,

---

43 Id. at 33–34.
44 Id. at 38.
45 Id.
46 Id.
47 Id. at 46–47.
48 Id. at 9–23.
49 Id. at 19–20.

especially if it is performed on a child who cannot by himself give consent, such as Larry.[50]

Though chronologically, Larry was a 24-year-old man when the procedure was conducted, petitioner claims that he was "comparable to a 7-8 year old[.]"[51] Legally, he should have been considered a child, and the forced commission of the bilateral vasectomy robbed him of his worth and dignity.[52] Petitioner says that tampering with Larry's anatomy, without his consent, "debases, degrades[,] or demeans [his] intrinsic worth and dignity . . . as a human being."[53] It is prejudicial to Larry's overall development.[54]

Respondents Michelina and Pedro counter that according merit to petitioner's line of reasoning would result in a situation where "any person from any licensed child caring agency can file a case for child abuse without need of showing one's private interest or personal knowledge on the circumstances of the alleged abuse[,] thus flooding the Court's dockets with baseless complaints."[55] They further assert that petitioner's failure to file the Petition with the conformity of the Office of the Solicitor General renders her case procedurally defective.[56]

Respondents Michelina and Pedro also argue that vasectomy is a legal, safe, and widely-accepted procedure with "little or no known side effects"[57] and has even been promoted by the government as a safe and effective family planning method.[58] Hence, they say that it can neither be considered a form of cruelty or an act that debases, degrades, or demeans the intrinsic worth and dignity of a person.[59]

Respondent Dr. Pascual also argues that Republic Act No. 7610 does not expressly categorize vasectomy as an act of child abuse.[60] She then points out that the issue being raised is one of morality, which is not cognizable by courts.[61]

The Office of the Solicitor General, on behalf of respondent People of the Philippines, argues that petitioner neither has legal interest nor the authority to file the complaint.[62] First, petitioner is not the offended party.[63]

---

50 Id. at 14–15.
51 Id. at 15.
52 Id. at 15–17.
53 Id. at 16.
54 Id. at 16–18.
55 Id. at 145.
56 Id.
57 Id. at 139.
58 Id. at 139–140.
59 Id. at 139–143.
60 Id. at 109.
61 Id. at 113.
62 Id. at 188.
63 Id.

Second, she is not covered under Rule 110, Section 3 of the Revised Rules of Criminal Procedure as she was not a peace officer or public officer charged with enforcement of the law violated.[64]

The Office of the Solicitor General further argues that the right and duty to assume care and custody of Larry belong to the Aguirre Spouses under Rule 96, Section 1 of the Rules of Court.[65] It posits that the Aguirre Spouses' appointment "as Larry's legal guardians severed the ties between the child-caring agency and Larry."[66] In supporting this claim, it quoted a portion of the Decision of the Court of Appeals, which read:

> Under the law, once an adoption has been decreed, the legal ties between the biological parents and the child severed (*sic*). By analogy, since the subject child, Larry Aguirre was under an authorized adoption agency, the relationship between the said institution and the said child was severed and parental authority is now vested with the adopting parents. This is now (*sic*) safe to assume that Sister Pilar is divested of personality to file a complaint against the accused for violation of Sections 3 and 10 of RA 7610. If at all, it is only the State who has the right to prosecute for violation of the said law[.][67]

On November 6, 2012, respondents Michelina and Pedro moved to dismiss the Petition due to petitioner's untimely demise on September 9, 2012.[68] They posit that petitioner's death extinguished her alleged cause of action against them, if any. As such, they claim that whether she had legal standing has become a moot issue. They also reiterate that petitioner failed to explain why she may be allowed to appear as a private complainant, stressing that she was not Larry's guardian and had no private interest in the case.[69]

On November 20, 2012, petitioner's counsel, Atty. Jose C. Sison (Atty. Sison), filed an Opposition[70] underscoring that the principal party in this case is respondent People of the Philippines. He argued that the main

---

64 Id. RULES OF COURT, Rule 110, sec. 3 provides:
SECTION 3. *Complaint defined.* — A complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated.

65 Id. at 188–190. RULES OF COURT, Rule 96, sec. 1 provides:
SECTION 1. *To what guardianship shall extend.*— A guardian appointed shall have the care and custody of the person of his ward, and the management of his estate, or the management of the estate only, as the case may be. The guardian of the estate of a non-resident shall have the management of all the estate of the ward within the Philippines, and no court other than that in which such guardian was appointed shall have jurisdiction over the guardianship.

66 Id.

67 Id. at 189.

68 Id. at 210–214. They cite reports from Inquirer.net and the Catholic Bishops' Conference of the Philippines.

69 Id. at 211.

70 Id. at 215–217.

this case is respondent People of the Philippines. He argued that the main issue to be resolved is whether the bilateral vasectomy performed on Larry constitutes child abuse under Republic Act No. 7610.[71] Consequently, petitioner's death did not render the case moot and the criminal case can still proceed "should this Court resolve the issue in the affirmative."[72]

Atty. Sison also categorized the issue as one of "transcendent importance[,]" which survives petitioner's death.[73]

This case presents the following issues for this Court's resolution:

First, whether or not the death of petitioner Sister Pilar Versoza warrants the case's dismissal;

Second, whether or not petitioner has the legal personality to institute the criminal case against respondents Michelina S. Aguirre-Olondriz, Pedro Aguirre, and Dr. Marissa Pascual; and

Finally, whether or not respondents committed a violation of Republic Act No. 7610.

The Petition is denied.

I

This Court has consistently held that "[t]he authority to represent the State in appeals of criminal cases before the Supreme Court and the [Court of Appeals] is solely vested in the Office of the Solicitor General[,]"[74] with the private complainant's role as only that of a witness.[75] In *Chiok v. People*:[76]

> The OSG is the law office of the Government.
>
> To be sure, in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned. . . .

---

71 Id. at 215.
72 Id. at 216.
73 Id.
74 *Chiok v. People*, 774 Phil. 230, 245 (2015) [Per J. Jardeleza, Third Division] *citing Villareal v. Aliga*, 724 Phil. 47 (2014) [Per J. Peralta, Third Division].
75 Id.
76 774 Phil. 230 (2015) [Per J. Jardeleza, Third Division].

. . . .

> The rationale behind this rule is that in a criminal case, the party affected by the dismissal of the criminal action is the State and not the private complainant. The interest of the private complainant or the private offended party is limited only to the civil liability. In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. The private offended party or complainant may not take such appeal, but may only do so as to the civil aspect of the case.[77] (Citations omitted)

As a private complainant to the criminal action, petitioner's role is confined to being a mere witness, her interest in the case limited to only the civil liability. Only the State, through the Office of the Solicitor General, can appeal the criminal aspect of the case. Thus, absent any action on the part of the Office of the Solicitor General, the appeal cannot prosper.

Moreover, considering that petitioner died during the pendency of this case, she no longer has the legal capacity to pursue the appeal.

For these reasons, the Petition should be denied.

II

The prosecution of criminal offenses begins with the filing of a complaint or an information. Ordinarily, a complaint is "subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated."[78] On the other hand, an information is subscribed by a prosecutor.[79] It is usually the offended party or a law enforcer who commences the case's prosecution. This is the traditional concept of the prosecution of criminal offenses.

However, the rule is different in cases involving private crimes and those punishable under special laws. The crimes of adultery, concubinage, seduction, abduction, acts of lasciviousness,[80] and defamation[81] cannot be prosecuted except at the instance of certain persons. Rule 110, Section 5 of the Revised Rules of Criminal Procedure enumerates crimes that require the intervention of specific individuals before criminal proceedings can be had:

---

77 Id. at 245–246.
78 RULES OF COURT, Rule 110, sec. 3.
79 RULES OF COURT, Rule 110, sec. 4.
80 REVISED PENAL CODE, art. 344.
81 REVISED PENAL CODE, art. 360.

SECTION 5. *Who must prosecute criminal actions.* — . . .

The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse. The offended party cannot institute criminal prosecution without including the guilty parties, if both are alive, nor, in any case, if the offended party has consented to the offense or pardoned the offenders.

The offenses of seduction, abduction and acts of lasciviousness shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents or guardian, nor, in any case, if the offender has been expressly pardoned by any of them. If the offended party dies or becomes incapacitated before she can file the complaint, and she has no known parents, grandparents or guardian, the State shall initiate the criminal action in her behalf.

The offended party, even if a minor, has the right to initiate the prosecution of the offenses of seduction, abduction and acts of lasciviousness independently of her parents, grandparents, or guardian, unless she is incompetent or incapable of doing so. Where the offended party, who is a minor, fails to file the complaint, her parents, grandparents, or guardian may file the same. The right to file the action granted to parents, grandparents, or guardian shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the preceding paragraph.

No criminal action for defamation which consists in the imputation of any of the offenses mentioned above shall be brought except at the instance of and upon complaint filed by the offended party.

The prosecution for violation of special laws shall be governed by the provisions thereof. (Emphasis supplied)

As to offenses punished under special laws, their prosecution would be governed by the relevant provisions of the special law violated.[82]

In cases concerning violations of Republic Act No. 7610, Section 27 enumerates seven (7) classes of persons who may initiate criminal proceedings, namely:

SECTION 27. *Who May File a Complaint.* — Complaints on cases of unlawful acts committed against children as enumerated herein may be filed by the following:

(a) Offended party;

(b) Parents or guardians;

(c) Ascendant or collateral relative within the third degree of consanguinity;

---

82 RULES OF COURT, Rule 110, sec. 5.

> (d) Officer, social worker or representative of a licensed child-caring institution;
>
> (e) Officer or social worker of the Department of Social Welfare and Development;
>
> (f) Barangay chairman; or
>
> (g) At least three (3) concerned responsible citizens where the violation occurred.

The literal meaning of a statute must prevail if the text is clear. In *Globe-Mackay Cable and Radio Corporation v. National Labor Relations Commission*:[83]

> Under the principles of statutory construction, if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This plain-meaning rule or *verba legis* derived from the maxim *index animi sermo est* (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing it differently. The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or from the words of a statute there should be no departure.[84] (Citations omitted)

Here, petitioner hinged her legal standing on being a representative of a licensed child-caring institution under Section 27(d) of Republic Act No. 7610.[85] She brought this case as an officer or representative of the Heart of Mary Villa, the foster home that had custody of Larry before his guardianship was passed to the Aguirre Spouses.

Respondents Michelina and Pedro oppose this and claim that the Aguirre Spouses' appointment as Larry's legal guardians divested petitioner of the authority to file a criminal case for child abuse. They further argue that the parental authority and responsibility over Larry were transferred to the Aguirre Spouses, to the exclusion of all others, including the child-caring agency that took in Larry as a ward.[86]

By itself, respondents' position of an almost jealous monopoly of parental authority may seem to have basis. Guardianship, similar to adoption, is one (1) of the instances under the Family Code where parental authority may be legally transferred:

---

83 283 Phil. 649 (1992) [Per J. Romero, En Banc].
84 Id. at 660.
85 *Rollo*, p. 20.
86 Id. at 144–145 and 190.

TITLE IX
Parental Authority

. . . .

ARTICLE 210. Parental authority and responsibility may not be renounced or transferred except in the cases authorized by law.

. . . .

ARTICLE 222. The courts may appoint a guardian of the child's property, or a guardian *ad litem* when the best interests of the child so require.

However, these provisions do not exist independently of other Family Code provisions pertaining to parental authority. In particular, Article 220 enumerates the rights and duties that parents and those exercising parental authority have to their children or wards:

ARTICLE 220. The parents and those exercising parental authority shall have with respect to their unemancipated children or wards the following rights and duties:

(1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;

(2) *To give them love and affection, advice and counsel, companionship and understanding*;

(3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;

(4) *To enhance, protect, preserve and maintain their physical and mental health at all times;*

(5) *To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;*

(6) *To represent them in all matters affecting their interests;*

(7) To demand from them respect and obedience;

(8) To impose discipline on them as may be required under

> the circumstances; and
>
> (9) To perform such other duties as are imposed by law upon parents and guardians. (Emphasis supplied)

Taken together, the exercise of parental authority should be understood more as "a sum of duties"[87] to be exercised in favor of the child's best interest. The nature of parental authority was explained in *Santos, Sr. v. Court of Appeals*:[88]

> The right of custody accorded to parents springs from the exercise of parental authority. *Parental authority* or *patria potestas* in Roman Law is the juridical institution whereby parents rightfully assume control and protection of their unemancipated children to the extent required by the latter's needs. *It is a mass of rights and obligations which the law grants to parents for the purpose of the children's physical preservation and development, as well as the cultivation of their intellect and the education of their heart and senses. As regards parental authority, "there is no power, but a task; no complex of rights, but a sum of duties; no sovereignty but a sacred trust for the welfare of the minor."*[89] (Emphasis supplied, citations omitted)

The authority granted to the Aguirre Spouses to raise Larry as their ward is a responsibility that went beyond the mere transfer of the child's physical custody. When they were granted guardianship, the Aguirre Spouses committed themselves to protect and uphold Larry's best interests. The State entrusted Larry's growth and development to the Aguirre Spouses, so that when the time comes, he may be an empowered citizen of the country, capable of making his own choices and fully undertaking his own responsibilities.

Granted, family affairs cannot always be subject to the State's inquiry, especially if no one comes forward to shed light on ongoing abuses, or worse still, if the abused merely sees the acts as matters of fact. Indeed, in child abuse cases, the parents or guardians may be the abusers themselves. Those entrusted with the care and protection of the child could very well be complicit in the abuse, if not its perpetrators. In these situations, allowing another person to represent the abused becomes apparent and more urgent, which is why barangay chairs, social workers, and concerned responsible citizens are enjoined to file a complaint.[90] When the abuse happens, no one else will protect them from such harm.

Thus, the argument that the transfer of parental authority has severed all ties between Larry and Heart of Mary Villa does not hold water. To

---

87 *Santos, Sr. v. Court of Appeals*, 312 Phil. 482, 488 (1995) [Per J. Romero, Third Division].
88 312 Phil. 482 (1995) [Per J. Romero, Third Division].
89 Id. at 487–488.
90 Republic Act No. 7610 (1992), sec. 27.

tolerate this line of reasoning would be to allow the persistence of abuses against children. Under no circumstances must child abuse be allowed to hide behind a shroud of secrecy, even more so if it is committed under the guise of parental authority. The title of a parent or guardian is not a magic word to be wielded with immunity. With it comes the ultimate responsibility of raising the child or ward under the best conditions, allowing him or her to mature into an empowered individual.

III

The protection afforded under Republic Act No. 7610 recognizes persons with mental or intellectual impairments that prevent them from fully engaging in the community. Our laws accord a high level of protection to those with cognitive disability.

Section 3(a) of Republic Act No. 7610 states:

> SECTION 3. Definition of Terms. —
>
> (a) "Children" refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition[.]

The provision recognizes a distinction between a person's chronological age and mental age, such that someone with cognitive disability, regardless of his or her chronological age, would automatically be entitled to the protective mantle of the law.

A person's mental age and chronological age were differentiated in *People v. Quintos*,[91] a case involving the rape of a person with intellectual disability. This Court defined "twelve (12) years of age" under Article 266-A(1)(d) of the Revised Penal Code as either the chronological age of a child or the mental age if a person has intellectual disability:

> We are aware that the terms, "mental retardation" or "intellectual disability," had been classified under "deprived of reason." The terms, "deprived of reason" and "demented," however, should be differentiated from the term, "mentally retarded" or "intellectually disabled." An intellectually disabled person is not necessarily deprived of reason or demented. This court had even ruled that they may be credible witnesses. However, his or her maturity is not there despite the physical age. He or she is deficient in general mental abilities and has an impaired conceptual, social, and practical functioning relative to his or her age, gender, and

[91] 746 Phil. 809 (2014) [Per J. Leonen, Second Division].

> peers. Because of such impairment, he or she does not meet the "socio-cultural standards of personal independence and social responsibility."
>
> Thus, a person with a chronological age of 7 years and a normal mental age is as capable of making decisions and giving consent as a person with a chronological age of 35 and a mental age of 7. Both are considered incapable of giving rational consent because both are not yet considered to have reached the level of maturity that gives them the capability to make rational decisions, especially on matters involving sexuality. Decision-making is a function of the mind. *Hence, a person's capacity to decide whether to give consent or to express resistance to an adult activity is determined not by his or her chronological age but by his or her mental age. Therefore, in determining whether a person is "twelve (12) years of age" under Article 266-A (1) (d), the interpretation should be in accordance with either the chronological age of the child if he or she is not suffering from intellectual disability, or the mental age if intellectual disability is established.*[92] (Emphasis supplied)

In light of this interpretation, and based on the distinction set forth in Section 3(a), a person who has a cognitive disability would be considered a child under Republic Act No. 7610 based on his or her mental age, not chronological age.

In this case, it is without question that, despite his chronological age, Larry is a child under the law. He has a mild mental deficiency rendering him incapable of making crucial decisions on his own, let alone fend for himself. At the time of the vasectomy, he had a mental age of an 8-year-old.

While the case before us presents a novel issue, this Court reached the consensus that the action must be denied for lack of a party, on account of petitioner's death, and for lack of an appeal from the Office of the Solicitor General. Therefore, the substantive issue of whether there was a violation of Republic Act No. 7610 will not be tackled here. However, in light of the ramifications and gravity of the issue involved, the *ponente* submits his own opinion separate from the opinion of this Court *En Banc*.

WHEREFORE, the Petition is **DENIED**.

SO ORDERED.

LUCAS P. BERSAMIN
Chief Justice

I join the separate opinions of J. Peralta, Jr. Jardeleza and J. Leonen

---

92 Id. at 830–831.

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the court.

LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court