



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROBERTO ESTACIO y G.R. No. 211851
SALVOSA,
Petitioner, Present:

-versus-

LEONEN, *J.*, Chairperson,
GISMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, *JJ.*

MA. VICTORIA ESTACIO y
SANTOS,
Respondent.

Promulgated:
September 16, 2020

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DECISION

LEONEN, J.:

A stay-away directive in a protection order may cover members of the household, including a couple's common children, if it is shown that the offender commits violence against the victim through the household members.

This Court resolves a Petition for Review on Certiorari¹ assailing the Decision² of the Court of Appeals, which affirmed the Regional Trial Court Decision making permanent an earlier issued Temporary Protection Order.

¹ *Rollo*, pp. 4–18.

² *Id.* at 48–72. The March 19, 2014 Decision in CA-G.R. CV No. 100945 was penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Eduardo B. Peralta, Jr. of the Special Second Division, Court of Appeals, Manila.

Roberto Estacio (Roberto) and Ma. Victoria Estacio (Victoria) have been married since January 2, 1978.³ They have three children, namely: Manuel Roberto, Maria Katrina Ann, and Sharlene Mae, who were all adults at the time of the controversy.⁴

On December 7, 2011, Victoria filed before the Regional Trial Court of Parañaque City a Petition seeking a permanent protection order under Republic Act No. 9262, or the Anti-Violence Against Women and Their Children Act of 2004. This came with an urgent prayer for a temporary protection order.⁵

After finding the application sufficient in form and substance, the Regional Trial Court issued an *ex-parte* Temporary Protection Order, which contained the following terms:

1. Prohibiting Respondent from threatening or committing any acts that constitute acts of violence, from directly or indirectly harassing, annoying, contracting or otherwise communicating with petitioner, including the sending of harassing, degrading, demeaning and/or threatening text messages and any other [text] messages to petitioner, as well [as] similar text messages to their relatives, common friends, and acquaintances that serve to degrade, demean, harass and threaten petitioner;
2. To immediately remove his own person from 77828 Beachwood Gem Block, Phase 2, Marcelo Green Village, Barangay Marcelo Green, Parañaque City, where petitioner resides, for the latter's own protection;
3. To stay away from petitioner and her children, as well as other household members including household help, at a reasonable distance as may be specified by the Honorable Court, and to stay away from the place of business and other specified places frequented by petitioner and her children;
4. To cease and desist from using or going near any firearm or other deadly weapon, and to immediately turn over any firearms that he may have to the Court for appropriate disposition, including revocation of license and disqualification of any license (sic) to use or to possess any firearm.⁶

In his Answer, Roberto denied the allegations in the Petition. He also prayed for damages, attorney's fees, and other litigation expenses by way of counterclaim.⁷

In a January 18, 2012 Order, the Regional Trial Court denied the reliefs Roberto had sought. It also modified the Temporary Restraining Order⁸ to read:

³ Id. at 57.

⁴ Id. at 59 and 64.

⁵ Id. at 49.

⁶ Id. at 50.

⁷ Id. at 50-51.

⁸ Id. at 51.

1. Prohibiting respondent from threatening or committing any acts that constitute acts of violence, from directly or indirectly harassing, annoying, contacting or otherwise communicating with petitioner, **in any form, by landline telephone, mobile phone, fax machine, e-mail and other means**, including the sending of harassing, degrading, demeaning, and/or threatening text messages, and any other text messages to their relatives, common friends, and acquaintances that serve to degrade, demean, harass, and threaten [petitioner] or in any form;
2. To immediately remove his own person from **77828 Beachwood Gem Block, Phase 2, Marcelo Green Village, Barangay Marcelo Green, Parañaque City**, where petitioner resides, for the latter's own protection;
3. To stay away from petitioner and her children, **namely: Manuel Roberto S. Estacio II, Maria Katrina Ann S. Estacio and Sharlene Mae S. Estacio**, through whom respondent would find a way to **communicate to, and/or physically reach petitioner**, as well as other household members, including househelp, **namely: Charita Sermonit Santos and 'Neneng'**, at a distance of no less than two (2) kilometers radius, to stay away from the residence of dwelling, place of business or employment or such places known to both petitioner and respondent to be frequented by petitioner, and the above-named family members or household members;
4. To stay away from coming within five hundred (500) meters radius from the entrance and/or exit gates of Marcelo Green Village, Parañaque City; and
5. To cease and desist from using or going near any firearm or other deadly weapon, and to immediately turn over and surrender any firearms that he may have to the Court for appropriate disposition, including revocation of license and disqualification of any license (sic) to use or to possess any firearm.⁹ (Emphasis in the original)

This modified Temporary Restraining Order was extended several times in the course of the trial.¹⁰ Finally, in a February 20, 2013 Decision, the Regional Trial Court made the Temporary Protection Order permanent.¹¹

Roberto appealed to the Court of Appeals. While he did not oppose the Permanent Protection Order, he questioned some of its terms, such as the inclusion of his adult children. He claimed that the term "children" only covers those below 18 years old, or those incapable of taking care of themselves, as defined under Section 3(h) of Republic Act No. 9262.¹² He also argued that the directive that he should stay away from Victoria at a distance of a two-kilometer radius was excessive.¹³

In its March 19, 2014 Decision,¹⁴ the Court of Appeals affirmed the Regional Trial Court's Decision. It ruled that Section 8(d) of Republic Act

⁹ Id. at 51–52.

¹⁰ Id. at 52.

¹¹ Id. at 48.

¹² Id. at 64. Republic Act No. 9262 (2004), sec. 3(h) states:

(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.

¹³ Id.

¹⁴ Id. at 48–72.

e

No. 9262 does not only limit protection orders to women and her children, but includes “any designated family or household member” as well.¹⁵

Examining Section 4 of this Court’s Rule on Violence Against Women and Their Children,¹⁶ which states that family members include among others “husband and wife, parents and children, the ascendants or descendants,” the Court of Appeals ruled that the provision does not limit what “children” means, and thus, may include the spouses’ adult children.¹⁷ It cited Section 4 of Republic Act No. 9262, which calls for the law’s liberal construction to attain its objective of protecting abuse victims.¹⁸

The Court of Appeals also saw from Victoria’s testimony how Roberto used their children to harass her, warranting their inclusion in the Permanent Protection Order. She testified that since Roberto could not talk to her personally and she would not reply to his messages, he would instead message their children, but copy furnish them to Victoria.¹⁹ One of his text messages reads: “[B]akit ninyo kinakampihan [ang] nanay nyo samantalang siya ay isang puta, siya ay magnanakaw.”²⁰

The Court of Appeals also found that the children were subjected to psychological violence, as defined under Section 3(c) of Republic Act No. 9262.²¹ The children witnessed how Roberto physically and verbally abused Victoria, prompting them to advise their mother to leave their house for fear that Roberto might kill her. They also received text messages from Roberto, manifesting his intent to commit suicide. To the Court of Appeals, the Permanent Protection Order “preserved what little respect the children have left for their father and the bond between them,” given that Roberto had violated the Temporary Protection Order and continued to hound Victoria and her children.²²

The Court of Appeals also rejected Roberto’s argument that the two-kilometer radius was excessive. It ruled that Section 8(d) of Republic Act No. 9262 leaves this determination to the court’s discretion, which must not be disturbed absent grave abuse of discretion.²³

The dispositive portion of the Decision reads:

¹⁵ Id. at 64–65. Republic Act No. 9262 (2004), sec. 8(d) states:
(d) Directing the respondent to stay away from petitioner and any designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member.

¹⁶ A.M. No. 04-10-11-SC (2004).

¹⁷ *Rollo*, p. 65.

¹⁸ Id.

¹⁹ Id. at 66–67.

²⁰ Id. at 66.

²¹ Id. at 67.

²² Id. at 68.

²³ Id. at 69.

WHEREFORE, premises considered, the appeal is **DENIED** and the assailed decision dated February 20, 2013 of the RTC, Parañaque City, Branch 194, in Civil Case No. 11-0527 is hereby **AFFIRMED**.²⁴

Hence, Roberto filed this Petition²⁵ against Victoria.

Petitioner argues that when the alleged acts occurred, their children were already past 18 years old; thus, the acts could not have fallen under the definition of “violence” under Republic Act No. 9262 because its Section 3(h) defines children as those under 18 years old, or older but are incapable of protecting themselves. While he admits that violence can also be committed against adult children, he insists that their case is not the kind that justifies the law’s application.²⁶

Petitioner concedes that adult children may be included in a stay-away directive under a protection order. He qualifies this, however, arguing that such directive must only be issued when needed to ensure the petitioning party’s protection, and must still be in line with restorative justice.²⁷

Expounding on this, petitioner posits that issuing the “extreme measure of a stay away directive” judicially severs a family relationship by removing physical presence among family members.²⁸ Given the State policy of protecting the family as a basic social institution, petitioner argues that the factual basis for a stay-away directive covering adult children must be determined separately from the issue of whether the wife is entitled to the relief sought. He says that the family relations between husband and wife on one hand, and those between a father and his children on the other, are related but are ultimately independent of each other.²⁹

Meanwhile, in invoking restorative justice, petitioner submits that a permanent protection order should not affect the offending party’s relations with other family members, especially those not parties to the case.³⁰ He argues that restorative justice demands a rigorous determination of the circumstances in each case, and that any doubts should be resolved in favor of preserving what is left of the family relations.³¹ He cites *Republic v. Molina*³² to show that actions resulting in severing family relations require a rigorous judicial determination.³³

²⁴ Id. at 71.

²⁵ Id. at 4–18.

²⁶ Id. at 7.

²⁷ Id.

²⁸ Id. at 8.

²⁹ Id.

³⁰ Id.

³¹ Id. at 8–9.

³² 335 Phil. 664 (1997) [Per J. Panganiban, En Banc].

³³ *Rollo*, pp. 9–11.

In her Comment,³⁴ respondent echoes the Court of Appeals in arguing that adult children can be included in a protection order. Citing Section 8(d) of Republic Act No. 9262 and the Rule on Violence Against Women and Their Children, she maintains that the court can designate family members as beneficiaries of protection orders,³⁵ including adult children.³⁶

Respondent claims that there is undisputed evidence on record showing that petitioner directly and indirectly harassed and inflicted psychological violence on his own children. She claims that this further justifies the children's inclusion in the Permanent Protection Order.³⁷

Citing congressional records,³⁸ respondent posits that the legislative intent behind Republic Act No. 9262 was to also cover children, regardless of age.³⁹ She claims that to apply protection orders only to children below 18 years old would be to suppress the law's purpose.⁴⁰

Respondent also belies petitioner's claim that the issue of whether the petitioning party is entitled to a protection order must be determined separately from the issue of who are covered by it. In any case, she says that such determination is factual and is outside this Court's power of review.⁴¹

Respondent also asserts that petitioner's reliance on the principle of restorative justice is misplaced. She points out that restorative justice entails that the offenders acknowledge their transgression, which petitioner has not done.⁴²

Finally, respondent cites *Go-Tan v. Tan*⁴³ and maintains that the Court of Appeals correctly applied the liberal construction rule in ruling that family members can also include adult children.⁴⁴

In his Reply,⁴⁵ petitioner proposes an interpretation that would supposedly harmonize the definition of "children" under Section 3(h) and the term "other family members" under Section 8(d) of Republic Act No. 9262.⁴⁶ He suggests that adult children can only fall within the ambit of the

³⁴ Id. at 85–117.

³⁵ Id. at 92–94.

³⁶ Id. at 94.

³⁷ Id. at 95.

³⁸ Id. at 100–101.

³⁹ Id. at 99.

⁴⁰ Id. at 101.

⁴¹ Id. at 103.

⁴² Id. at 109.

⁴³ 588 Phil. 532 (2008) [Per J. Austria-Martinez, Third Division].

⁴⁴ *Rollo*, pp. 111–113.

⁴⁵ Id. at 156–168.

⁴⁶ Id. at 159.

law in the following instances: *first*, when filing for protection orders on their mother's behalf; *second*, when included in the protection order, provided that they are also household members of their mother; and *third*, when included in the protection order even if they are not household members of their mother, provided that it would safeguard their mother from further harm, minimize disruption in her daily life, and facilitate her opportunity and ability "to independently regain control over her life."⁴⁷

Petitioner also claims that Section 11 of the Rule on Violence Against Women and Their Children requires the consent of any designated family member who may be included in a protection order. According to him, their children never consented to be included, as they wanted to remain neutral in the case.⁴⁸

The sole issue for this Court's resolution is whether or not the adult children of Roberto Estacio y Salvosa and Ma. Victoria Estacio y Santos may be included in the stay-away directive under the Permanent Protection Order issued pursuant to Republic Act No. 9262.

I

Republic Act No. 9262 is a social legislation enacted as a measure to address domestic violence. It acknowledges that in situations where abuse happens at home, women are the likely victims. This is largely due to the unequal power relationship between men and women, and the widespread gender bias and prejudice against women which have historically prevented their full advancement, forcing them into subordination to men.⁴⁹

The law specifically protects women from violence committed in the context of an intimate relationship, which can be physical violence, sexual violence, psychological violence, or economic abuse. This also includes those committed against the woman's child.⁵⁰

This law's constitutionality was challenged in *Garcia v. Drilon*.⁵¹ There, a woman sought a temporary protection order for herself and her minor children against her husband, who committed physical, emotional, psychological, and economic abuse against her. At one point, the physical abuse caused some bruises, hematoma, and bleeding. The husband also had an extramarital affair and even boasted his sexual relations to their house help. He would also turn his ire on their daughter, whom he beat on the chest and slapped many times, because he thought she was the one who

⁴⁷ Id. at 161.

⁴⁸ Id. at 161-162.

⁴⁹ *Garcia v. Drilon*, 712 Phil. 44, 85 (2013) [Per J. Perlas-Bernabe, En Banc].

⁵⁰ Republic Act No. 9262 (2004), sec. 3(a).

⁵¹ 712 Phil. 44 (2013) [Per J. Perlas-Bernabe, En Banc].



discovered his extramarital affair. All these had driven the wife to attempt suicide. When the husband learned of this, he simply fled the house instead of taking his wife to the hospital. He also never bothered to visit her in the hospital during the one week that she was confined.⁵²

The trial court in *Garcia* issued a temporary protection order, which was subsequently modified and extended multiple times. Eventually, the husband refused to comment on a motion to renew the temporary protection order, and instead filed a petition for prohibition before the Court of Appeals. There, he assailed the constitutionality of Republic Act No. 9262, arguing that it violated the equal protection clause. When the Court of Appeals dismissed his petition, Garcia elevated the case to this Court.⁵³

This Court upheld the law, ruling that it was founded on substantial distinctions, particularly the unequal power relationship between men and women:

The unequal power relationship between women and men; the fact that women are more likely than men to be victims of violence; and the widespread gender bias and prejudice against women all make for real differences justifying the classification under the law. As Justice McIntyre succinctly states, “the accommodation of differences ... is the essence of true equality.”

....

According to the Philippine Commission on Women (the National Machinery for Gender Equality and Women’s Empowerment), violence against women (VAW) is deemed to be closely linked with the unequal power relationship between women and men otherwise known as “gender-based violence.” Societal norms and traditions dictate people to think men are the leaders, pursuers, providers, and take on dominant roles in society while women are nurturers, men’s companions and supporters, and take on subordinate roles in society. This perception leads to men gaining more power over women. With power comes the need to control to retain that power. And VAW is a form of men’s expression of controlling women to retain power.⁵⁴ (Citations omitted)

Hence, Republic Act No. 9262 has been upheld as a valid law meant to address this historical and societal problem.⁵⁵

This unequal power relation is better understood when one considers its deep historical roots:

⁵² Id. at 67–68.

⁵³ Id. at 76–77.

⁵⁴ Id. at 91–92.

⁵⁵ Id. at 112.

The perspective portraying women as victims with a heritage of victimization results in the unintended consequence of permanently perceiving all women as weak. This has not always been accepted by many other strands in the Feminist Movement.

As early as the 70s, the nationalist movement raised questions on the wisdom of a women's movement and its possible divisive effects, as "class problems deserve unified and concentrated attention [while] the women question is vague, abstract, and does not have material base."

In the early 80s, self-identifying feminist groups were formed. The "emancipation theory" posits that female crime has increased and has become more masculine in character as a result of the women's liberation movement.

Feminism also has its variants among Muslims. In 2009, Musawah ("equality" in Arabic) was launched as a global movement for equity and justice in the Muslim family. It brought together activists, scholars, legal practitioners, policy makers, and grassroots women and men from all over the world. Their belief is that there cannot be justice without equality, and its holistic framework integrates Islamic teachings, universal human rights, national constitutional guarantees of equality, and the lived realities of women and men.⁵⁶ (Citations omitted)

Nevertheless, it is improper to think that women are always victims. This will only reinforce their already disadvantaged position. At the same time, we must also acknowledge that men can also be victims of domestic abuse in a patriarchal society:

There is now more space to believe that portraying only women as victims will not always promote gender equality before the law. It sometimes aggravates the gap by conceding that women have always been dominated by men. In doing so, it renders empowered women invisible; or, in some cases, that men as human beings can also become victims.

In this light, it may be said that violence in the context of intimate relationships should not be seen and encrusted as a gender issue; rather, it is a power issue. Thus, when laws are not gender-neutral, male victims of domestic violence may also suffer from double victimization first by their abusers and second by the judicial system. Incidentally, focusing on women as the victims entrenches some level of heteronormativity. It is blind to the possibility that, whatever moral positions are taken by those who are dominant, in reality intimate relationships can also happen between men.⁵⁷ (Citations omitted)

This is one of those cases. Boys and even adult men, like one of the children here, who are part of households where domestic abuse occurs also deserve protection. They, too, deserve insulation from any form of violence enabled by a patriarchal system—not only because of the need to preserve

⁵⁶ J. Leonen, Concurring Opinion in *Garcia v. Drilon*, 712 Phil. 44, 170–171 (2013) [Per J. Perlas-Bernabe, En Banc].

⁵⁷ *Id.* at 171–172.

the harmony within the household, but also because of their inherent dignity and right to be free from such abuse.

Thus, the law gives victims of violence remedies that can address their situation. One innovative creation of this law is the remedy of protection orders, which are issued to protect the woman and her child from further acts of violence committed by the offender. They safeguard “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.”⁵⁸

Of the many reliefs that may be granted under a protection order, the main controversy in this case revolves around the one provided in Section 8(d) of Republic Act No. 9262:

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. The provisions of the protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Act are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO). The protection orders that may be issued under this Act shall include any, some or all of the following reliefs:

....

- (d) Directing the respondent to stay away from petitioner and any designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member.

This provision is reflected in the Rule on Violence Against Women and Their Children⁵⁹ promulgated by this Court. Section 11, paragraphs (d) and (e) of the Rule state:

SECTION 11. Reliefs available to the offended party. — The protection order shall include any, some or all of the following reliefs:

....

⁵⁸ Republic Act No. 9262 (2004), sec. 8.

⁵⁹ A.M. No. 04-10-11-SC (2004).

- (d) Requiring the respondent to stay away from the offended party and any designated family or household member at a distance specified by the court;
- (e) Requiring the respondent to stay away from the residence, school, place of employment or any specified place frequented regularly by the offended party and any designated family or household member.

This Court agrees with the Court of Appeals that neither Republic Act No. 9262 nor the Rule distinguishes children as to their age when they are referred to as being covered by protection orders. Notably, Section 8(d) of Republic Act No. 9262 simply provides “designated family or household member[s]” as the possible beneficiaries of protection orders.

Meanwhile, Section 4(c) of the Rule defines who family members are:

SECTION 4. Definitions. — As used in this Rule:

- (c) “Members of the family” shall include husband and wife, parents and children, the ascendants or descendants, brothers and sisters, whether of the full or half blood, whether living together or not.

Thus, when the law speaks of family members in the context of protection orders, it also covers descendants as a whole class—even those who are no longer considered “children” under Section 3(h) of the law.

Petitioner’s insistence on the conflict between Section 3(h) and Section 8(d) is more imaginary than real. The text of the law is clear. Courts have the discretion to designate family members who will be included in protection orders, as long as it is in line with the remedy’s purpose: to safeguard the victim from further harm, minimize disruptions in her daily life, and let her independently regain control over her life.⁶⁰ Petitioner himself admits that adult children may be included in the protection order, as long as it is in line with these objectives.⁶¹

Republic Act No. 9262 itself mandates a liberal construction of the law to advance its objectives, as applied in *Go-Tan v. Tan*.⁶²

In *Go-Tan*, a woman sought a protection order not just against her husband but also against her parents-in-law. She alleged that her husband, in conspiracy with her parents-in-law, caused verbal, psychological, and economic abuses against her in violation of Republic Act No. 9262. They

⁶⁰ Republic Act No. 9262 (2004), sec. 8.

⁶¹ *Rollo*, p. 161.

⁶² 588 Phil. 532 (2008) [Per J. Austria-Martinez, Third Division].

allegedly gave her insufficient financial support, harassed her to leave the family home, and employed other kinds of abuses.⁶³

Initially, the trial court issued a temporary protection order, but eventually dismissed the case as to the parents-in-law on the ground that, being parents-in-law, they were not covered as respondents under Republic Act No. 9262. The wife questioned the ruling before this Court, arguing that her parents-in-law should be covered by Republic Act No. 9262 as they were allegedly her husband's conspirators in the commission of violence against her.⁶⁴

This Court agreed with the wife and acknowledged that violence may be committed against a woman, directly or indirectly, by an offender through other persons. In keeping with the law's policy to protect the safety of victims of violence, this Court allowed the parents-in-law to remain as respondents in the petition for a protection order.⁶⁵ Since Section 4 of the law expressly mandated its liberal construction, this meant that courts are bound to interpret its provisions in a manner that advances the intent behind the law, thus:

It bears mention that the intent of the statute is the law and that this intent must be effectuated by the courts. In the present case, the express language of R.A. No. 9262 reflects the intent of the legislature for liberal construction as will best ensure the attainment of the object of the law according to its true intent, meaning and spirit — the protection and safety of victims of violence against women and children.⁶⁶

Thus, in *Go-Tan*, where the parents-in-law conspired with their son to inflict violence on the wife, this Court deemed fit to allow them to remain impleaded in the case—breathing life to the spirit of Republic Act No. 9262, which is to protect the victim from further violence.

The same reasoning applies here. In this case, petitioner both directly and indirectly inflicted violence on respondent. When he could not get any response from her, he used their children to contact and harass her, sending them text messages that demeaned their mother. He even copy furnished respondent with these messages to make sure that she knew what he told their children. This adds further insult to the words. At any rate, the messages were targeted, albeit indirectly, at respondent to harass her.

Just as in *Go-Tan*, the trial court here deemed fit to include the children in the Permanent Protection Order, as this would give life to the

⁶³ *Go-Tan v. Tan*, 588 Phil. 532, 534–536 (2008) [Per J. Austria-Martinez, Third Division].

⁶⁴ *Id.* at 536–538.

⁶⁵ *Id.* at 543.

⁶⁶ *Id.* at 542.

law's policy of protecting respondent from the violence committed against her.

II

Petitioner's harassment of respondent through their children is a classic case of coercive control.

Although not expressly mentioned, coercive control is recognized as a form of psychological violence under Republic Act No. 9262.⁶⁷ Psychological violence is defined under Section 3(a)(C) as:

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:

....

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

As a form of psychological violence, coercive control pertains to a "pattern of behavior meant to dominate a partner through different tactics such as physical and sexual violence, threats, emotional insults, and economic deprivation."⁶⁸

⁶⁷ *Tani-De La Fuente v. De La Fuente*, 807 Phil. 31, 49 (2017) [Per J. Leonen, Second Division].

⁶⁸ *Id.*

In relationships where coercive control exists, dominant partners do things that help them exert long-term power and control over their partners,⁶⁹ such as isolating them from society, manipulating their children, using their male privilege, or employing economic abuse.⁷⁰

While domestic abuse has traditionally been seen only through physical abuse, violence can and does occur in other forms, such as psychological abuse. It is helpful to not only look at isolated acts—usually of physical abuse—but to also focus on the effects of these acts on the coercion and control of one partner over the other.⁷¹ To achieve a fuller understanding of domestic violence, its distorting consequences on the dynamics that exist in an intimate relationship should be important considerations. Its damaging effects on the freedom of victims to live their lives in peace are, after all, what the law ultimately seeks to eliminate.

Here, petitioner's intent to intimidate and dominate respondent is readily seen. Back when they still cohabited, petitioner would verbally and physically abuse respondent in front of their children. His threats to kill her were so real that even their children advised her to leave the conjugal home because they feared for her life. When he no longer had contact with her, petitioner resorted to using their children as pawns. He would use this passive-aggressive behavior to assert his perceived dominance over respondent when he could not get what he wanted. All of these can be characterized as psychological violence committed against respondent, which have disrupted respondent's life.

Thus, whether petitioner committed acts of violence directly against his children is beside the point. That the children were exploited so that he could indirectly harass respondent is sufficient basis for their inclusion in the stay-away directive. To begin with, petitioner himself dragged their children in the controversy. With the stay-away directive, petitioner can no longer use their children to inflict violence on respondent.

Citing the rationale behind the Rule on Violence Against Women and Their Children, this Court held in *Garcia*:

The scope of reliefs in protection orders is broadened to ensure that the victim or offended party is afforded all the remedies necessary to curtail access by a perpetrator to the victim. This serves to safeguard the victim from greater risk of violence; to accord the victim and any designated family or household member safety in the family residence,

⁶⁹ Nancy Ver Steegh, *The Uniform Collaborative Law and Intimate Partner Violence: A Roadmap for Collaborative (and Non-Collaborative) Lawyers*, 38 HOFSTRA LAW REVIEW 699, 714 (2009).

⁷⁰ *Id.*

⁷¹ Tamara K. Keunnen, *Analyzing the Impact of Coercion on Domestic Violence Victims: How Much is Too Much*, 22 BERKELEY JOURNAL OF GENDER, LAW & JUSTICE 2, 10 (2007).

and to prevent the perpetrator from committing acts that jeopardize the employment and support of the victim.⁷²

III

Petitioner also argues the lack of their children's consent to being included in the Permanent Protection Order.

While Section 8(k) of Republic Act No. 9262 requires the consent of family and household members, this requirement must only be met in instances when a court grants a relief not mentioned in the law. Section 8(k) provides:

SECTION 8. *Protection Orders.* — . . .

. . . .

(k) Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

This is replicated in the last paragraph of Section 11 of the Rule on Violence Against Women and Their Children:

SECTION 11. *Reliefs available to the offended party.* — The protection order shall include any, some or all of the following reliefs:

. . . .

The court may grant such other forms of relief to protect the offended party and any designated family or household member who consents to such relief.

The law recognizes that it cannot provide an exhaustive list of reliefs that can address all kinds of problems in situations of violence. Section 8(k) is a catch-all provision that gives courts the space to devise reliefs that are truly responsive to the problems of each case. Our courts are allowed the liberty to create solutions that will apply even to peculiar circumstances.

In instances when the law calls for the courts' exercise of discretion, consent from the affected persons is required as a measure to ensure that the reliefs ultimately granted are beneficial and protective of their interests. This consent requirement, however, is not necessary for specific reliefs

⁷² *Garcia v. Drilon*, 712 Phil. 44, 105 (2013) [Per J. Perlas-Bernabe, En Banc].

already designed and granted by the law under paragraphs (a) to (j) of Section 8, including stay-away directives under paragraph (d).

IV

Petitioner also harps on broad principles such as restorative justice and the family as a basic social institution in arguing against the inclusion of his adult children in the Permanent Protection Order.

Restorative justice is a concept usually applied in criminal punishments. As defined in Philippine law, it is the “principle which requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, the offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by activating the offender, the victim and the community in prevention strategies.”⁷³

In penology, restorative justice posits that conflict resolution should be aimed at restoring relations within the community. This process involves the active participation of all persons affected, including victims who are given the opportunity to confront their offenders, to let the offenders know the harm caused to them and their community. In turn, remorseful offenders who accept responsibility for their mistakes are given the opportunity to be rehabilitated and ultimately reintegrated into society.⁷⁴

The Rule on Violence Against Women and Children expressly states in Section 2⁷⁵ that it shall be liberally construed to promote the law’s objectives pursuant to restorative justice. One of these objectives is to ensure that both the offender and the offended party are given the proper treatment. Thus, the Rule contains reliefs aimed at both the protection of the victims and the restoration of the offender.

Protection orders have this dual function. The reliefs enumerated under Republic Act No. 9262 are protective in nature, aiming to prevent continuous harm done to the woman, her children, or other relevant members of the household:

⁷³ Republic Act No. 9344 (2006), sec. 4(q). This definition is replicated in A.M. No. 02-1-18-SC (2002), sec. 4(o).

⁷⁴ United Nations Office on Drugs and Crime, *Handbook on Restorative Justice Programmes*, CRIMINAL JUSTICE HANDBOOK SERIES (2006) 9–11, available at <https://www.unodc.org/pdf/criminal_justice/Handbook_on_Restorative_Justice_Programmes.pdf> (last accessed on September 15, 2020).

⁷⁵ A.M. No. 04-10-11-SC (2004), sec. 2 states:
SECTION 2. Construction. — This Rule shall be liberally construed to promote its objectives pursuant to the principles of restorative justice.

SECTION 8. *Protection Orders.* — . . .

(a) Prohibition of the respondent from threatening to commit or committing, personally or through another, any of the acts mentioned in Section 5 of this Act;

(b) Prohibition of the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, directly or indirectly;

(c) Removal and exclusion of the respondent from the residence of the petitioner, regardless of ownership of the residence, either temporarily for the purpose of protecting the petitioner, or permanently where no property rights are violated, and, if respondent must remove personal effects from the residence, the court shall direct a law enforcement agent to accompany the respondent to the residence, remain there until respondent has gathered his things and escort respondent from the residence;

(d) Directing the respondent to stay away from petitioner and any designated family or household member at a distance specified by the court, and to stay away from the residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;

(e) Directing lawful possession and use by petitioner of an automobile and other essential personal effects, regardless of ownership, and directing the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to the possession of the automobile and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(f) Granting a temporary or permanent custody of a child/children to the petitioner;

(g) Directing the respondent to provide support to the woman and/or her child if entitled to legal support. Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;

(h) Prohibition of the respondent from any use or possession of any firearm or deadly weapon and order him to surrender the same to the court for appropriate disposition by the court, including revocation of license and disqualification to apply for any license to use or possess a firearm. If the offender is a law enforcement agent, the court shall order the offender to surrender his firearm and shall direct the appropriate authority to investigate on the offender and take appropriate action on the matter;



- (i) Restitution for actual damages caused by the violence inflicted, including, but not limited to, property damage, medical expenses, childcare expenses and loss of income;
- (j) Directing the DSWD or any appropriate agency to provide petitioner temporary shelter and other social services that the petitioner may need; and
- (k) Provision of such other forms of relief as the court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member, provided petitioner and any designated family or household member consents to such relief.

These protective and preventive reliefs are replicated in the Rule on Violence Against Women and Their Children,⁷⁶ but with one addition. Section 11(k) expressly provides this included relief:

- (k) Requiring the respondent to receive professional counseling from agencies or persons who have demonstrated expertise and experience in anger control, management of alcohol, substance abuse and other forms of intervention to stop violence. The program of intervention for offenders must be approved by the court. The agency or person is required to provide the court with regular reports of the progress and result of professional counseling, for which the respondent may be ordered to pay.

This addition is in line with the policy of promoting restorative justice. When the Rule speaks of restorative justice, it pertains to the features in the law and the Rule that support the protection of victims and the rehabilitation of offenders. Offenders may be given intervention programs designed to address their problems with aggression and violence. This finds basis in Section 41 of Republic Act No. 9262, which states:

SECTION 41. *Counseling and Treatment of Offenders.* — The DSWD shall provide rehabilitative counseling and treatment to perpetrators towards learning constructive ways of coping with anger and emotional outbursts and reforming their ways. When necessary, the offender shall be ordered by the Court to submit to psychiatric treatment or confinement.

Thus, protection orders do not stop with preventive actions directed against the perpetrator. Courts can require, as we do now, that offenders undergo a workable program of counseling with a certified professional psychological therapist. If required by that therapist, the offenders may also be referred to a psychiatrist, who may prescribe the proper medication while they undergo therapy to stabilize their aggressive and violent tendencies. Should the offenders wish to lift or amend the protection order, they should

⁷⁶ A.M. No. 04-10-11-SC (2004), sec. 11(a) to (j) and sec. 11(l). The reliefs enumerated in these paragraphs are similar to those listed in Republic Act No. 9262.

file the proper motion with the court of origin. No amendment can be allowed without the consent of the spouse or the persons protected by the protection order. Also, the court must be convinced through testimony from a qualified independent professional therapist that the offenders' proclivity for aggression and violence has been properly addressed.

Moreover, in this case, since the children are of age, they may—on their own and without any direct or indirect pressure by petitioner—move to have the Permanent Protection Order lifted as to them. However, the modification of the Order to allow supervised visits or any other form of contact should also depend on the positive conclusions from a testimony of an independent professional therapist chosen by the court. Nonetheless, any amendment of the Order shall only happen with the consent of respondent wife. This is to ensure that her protection and safety remain the prime considerations.

V

Petitioner's reliance on *Republic v. Molina*⁷⁷ is also inapplicable. That case concerns a petition for declaration of absolute nullity of marriage under Article 36 of the Family Code, not a protection order. The guidelines laid down in *Molina* on the severance of marriage and family relations must be read in the context of a marriage nullity proceeding. These guidelines are wholly inapplicable here.

Our marriage laws have envisioned the family in its traditional sense, so much so that marriage is defined as the family's foundation.⁷⁸ This tends to reinforce an idea of the family that is far from the realities of many couples and children.⁷⁹ Nevertheless, relations between husband and wife are not the be-all and end-all of what a family is supposed to be. Many living arrangements may be considered non-traditional—such as some unmarried couples who cohabit without the benefit of marriage, or even households with solo parents—yet they no less deserve to be called a family. A relationship between a husband and a wife does not define a family.

More important, when the husband employs psychological violence, the law will step in to protect the wife and the children. The remaining members will be regarded as the family to be protected by the law. This is because when violence occurs, the perpetrator must be separated to protect the peace necessary for the other family members. The Constitution's and the law's regard for the protection of the family does not amount to a toleration of violence.

⁷⁷ 335 Phil. 664 (1997) [Per J. Panganiban, En Banc].

⁷⁸ FAMILY CODE, art. 1.

⁷⁹ *Republic v. Manalo*, 831 Phil. 33, 66 (2018) [Per J. Peralta, En Banc].



Republic Act No. 9262 is a measure taken by the State to address a societal problem it identified as deserving of social legislation. Violence against women and their children has continued throughout history, and it is a societal illness that needs correction. This is the law's objective. It does not intend to sever familial ties, but to preserve and harmonize the family by protecting its members from violence and threats to their safety and security.

WHEREFORE, the Petition is **DENIED**. The March 19, 2014 Decision of the Court of Appeals in CA-G.R. CV No. 100945 is **AFFIRMED**.

The Decision making the Protection Order permanent is **AMENDED** to include a provision requiring petitioner Roberto Estacio y Salvosa to receive professional counseling from an agency or professional with shown expertise and experience in anger management and other forms of intervention to address his penchant for psychological coercion and other forms of violence.

The Regional Trial Court of Parañaque City, Branch 194 is **ORDERED** to approve an intervention program for petitioner, for which he shall be ordered to pay, as designed by the Department of Social Welfare and Development or a professional psychological therapist. The Regional Trial Court is further ordered to monitor the progress, completion, and results of the counseling by requiring regular reports from such agency or professional. The Regional Trial Court shall determine the frequency of these reports.


The Permanent Protection Order shall not be lifted or amended except upon motion of petitioner, respondent Ma. Victoria Estacio y Santos, or any of their children with respect to themselves. The lifting or amendment of the Order shall only be with the consent of respondent, and upon satisfying the Regional Trial Court through expert testimony that petitioner is no longer a danger to the persons protected after receiving professional counseling.

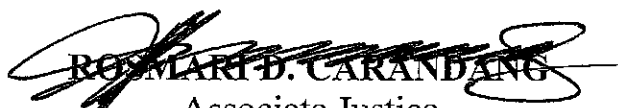
Let a copy of this Decision be furnished to the Regional Trial Court of Parañaque City, Branch 194 for implementation.

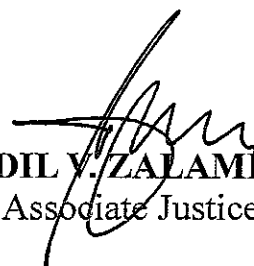
SO ORDERED.

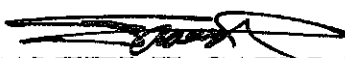

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Associate Justice

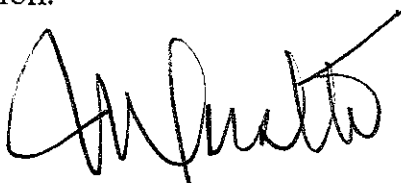

ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

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


DIOSDADO M. PERALTA
Chief Justice