



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

XXX,

Petitioner,

G.R. No. 187175

Present:

-versus-

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

AAA, BBB, AND MINOR CCC,
Respondents.

Promulgated:
JUL 06 2022

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DECISION

LEONEN, J.:

Pursuant to the State policy of protecting women and children from violence and threats to their security and safety, this Court will not interpret a provision of Republic Act No. 9262 as to make it powerless and futile.¹

This Court resolves a Petition for Review on Certiorari² filed by XXX assailing the constitutionality of Republic Act No. 9262, or the Anti-Violence Against Women and their Children Act of 2004, in relation to the Regional Trial Court's grant of a Permanent Protection Order³ in favor of AAA; BBB; and minor CCC.

¹ *Dabalos v. RTC, Branch 59, Angeles City*, 701 Phil. 56 (2013) [Per J. Perlas-Bernabe, Second Division].

² *Rollo*, p. 20-90.

³ *Id.* at 91-101, March 6, 2009 Permanent Protection Order.

AAA and XXX were longtime live-in partners⁴ whose relationship begot three children, namely: (1) BBB, born on February 13, 1986; (2) DDD, born on January 23, 1989; and (3) CCC, born on October 31, 1990.⁵ DDD died of brain cancer⁶ when she was only eight years old.⁷

AAA narrated that she was 20 years old and XXX was 47 when they first met sometime in 1979. At that time, she was employed in the personnel department of [REDACTED] while he was a contractor providing workforce to the company. Their romantic relationship started in 1982.⁸

When they began dating, XXX admitted that he was already married to EEE,⁹ but was not in good terms with her. He allegedly made AAA believe that they would eventually get married.¹⁰

AAA got pregnant with their first child in 1985. XXX then made her resign from work and live in a rented apartment near his office. Due to the pregnancy, they decided to inform her parents about their relationship. They also moved together in [REDACTED] and later transferred to [REDACTED].¹¹

The controversy commenced on October 10, 2007 when AAA filed charges against XXX for physical violence, psychological violence, economic violence, and sexual abuse, in violation of Republic Act No. 9262, before the Office of the City Prosecutor in [REDACTED]. The case was docketed as I.S. No. 07J-03232.¹²

AAA alleged that after she got pregnant, XXX forbade her from working and from having friends. Moreover, he constricted her actions and type of clothing as well. Whenever she would protest, he would raise his hand and pose a threat.¹³

XXX also verbally abused her by saying belittling words such as: (1) “malandi ka talaga”; (2) “pinapakita mo utong at puki mo sa lalaki”; (3) “nag-uutugan ka nanaman”; (4) “magpapahindot ka nanaman sa lalake mo ano?”; (5) “papatayin kita kapag nahuli kita”; and (6) “tarantado ka[.]”¹⁴

⁴ Id. at 30.

⁵ Id. at 127, 21, and 34.

⁶ Id. at 130.

⁷ Id. at 94.

⁸ Id. at 186.

⁹ See Id. at 230.

¹⁰ Id. at 186.

¹¹ Id. at 186–187.

¹² Id. at 195. See also id. at 252–255. The attached Complaint-Affidavit of AAA in I.S. No. 07J-03232 lacks pp. 2–9.

¹³ Id. at 187.

¹⁴ Id. at 128.

AAA added that there were times when XXX would start a fight, abandon them, and stay in his house at [REDACTED]. During those moments, she would beg him for financial support. Although he would send them PHP 1,000.00 to PHP 2,000.00 weekly through his longtime employee, Simplicio Boy Hassan Sapid (Sapid), or sometimes a can of milk for the children, the financial support was not enough to sustain their needs.¹⁵

XXX also had an “insatiable sexual appetite and unusual sexual preference,”¹⁶ especially for anal sex. On the following occasions, he forced himself upon her:

- 7.1 While [AAA] was pregnant with their daughter [DDD], [he] would have sex with [her] at least 3 to 4 times a week even if it was difficult for her to do so, even up to her 7th month of pregnancy up to the full term, [he] would have rough sex with [her]. Despite [her] protest, [he] would still force himself on her;
- 7.2 Further, while their daughter [DDD] was dying, [he] forced [her] to have sex with him. [AAA] wanted to devote her full attention to their dying daughter who was hospitalized at the Lucille Packard Children’s Hospital but [he] forced [her] to have sex with him every day for about a month. When [DDD] was confined in the Makati Medical Center for about seven months, [he] would repeatedly touch [her] private part in front of the nurse. He would look at the nurse and would force [her] to touch him and make him ejaculate;
- 7.3 Sometime in June 2007, on the second week after [his] open-heart surgery, [he] called her inside the bathroom and forced her to do oral sex on him. It was repulsive because he had amoebiasis and moved his bowels about ten times a day.¹⁷

XXX would also allegedly accuse AAA of having sexual relations with DDD’s doctor, and even with his cardiologist.¹⁸

Sometime in January 2007, XXX and AAA got into a heated argument. XXX then left their home to stay at [REDACTED]. One night, AAA went to [REDACTED] where she and XXX got into a fight again. In the heat of their argument, he hit her twice in the face with his forearm.¹⁹

On June 24, 2007, XXX abandoned them again after another argument and, since then, refused to give financial support. Through Sapid, AAA discovered that XXX was maintaining multiple sexual relationships with other

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 129.

¹⁸ Id. at 128.

¹⁹ Id. at 129.

women while they were still together.²⁰

XXX, for his part, denied most of AAA's allegations.

As proof of his affection to AAA and their children, XXX allegedly bought them two parcels of land in [REDACTED] in 1987, one of which he built a house on.²¹

When EEE learned about the assets which were under XXX's and AAA's names, a civil case ensued on the notion that the money used for the purchases were part of EEE's and XXX's conjugal properties. Despite EEE's triumph in the case, XXX allegedly managed to forge an amicable settlement with her and their children, which prompted them to denounce any interest in the properties stated. Nonetheless, he claimed to have recently discovered that AAA filed a petition to have the properties be solely under her name, which the Regional Trial Court granted on June 28, 2007.

XXX also purchased two other properties for AAA and their children, which includes one condominium unit in EGI Tower at Taft Avenue, Manila worth PHP 3,000,000.00, and a property at The Fort, Taguig City which he pays for PHP 61,200.00 monthly. Further, he was allegedly giving them PHP 230,000.00 monthly since June 2007. From then on until October 2007, he had already given an aggregate amount of PHP 1,086,823.35.²²

Allegedly, AAA had been forcing him to acquire a PHP 5,000,000.00 loan using their property as collateral so she could pay her debt, and so she could buy a building for [REDACTED]. Without consideration, she also wanted him to execute deeds of sale in her favor involving some of their properties. However, he refused to give in because "he cannot afford to borrow money of that sum and to sell properties in [AAA's] favor in that way or condition."²³

When his health deteriorated due to the pressure that AAA caused him, he decided to stay momentarily in his house at [REDACTED]. Sometime in September 2007, he allegedly received a Demand Letter from AAA's counsel,²⁴ the pertinent portions of which reads:

Further, to be able to live in peaceful existence, all ties with [AAA] must be severed and you must appreciate that the same can only be achieved by already providing for the presumptive legitimes of [BBB] and [CCC] and

²⁰ Id. See also Id. at 333-337, Sapid's Sinumpaang Salaysay. Sapid narrated specific instances showing that XXX was maintaining multiple sexual relationships with some employees in his factory. He also stated that XXX was also paying sex workers to satisfy his urges.

²¹ Id. at 130.

²² Id. at 130-131.

²³ Id. at 130.

²⁴ Id. at 131.

compensating [AAA] for the years of hardship that she endured.

In consideration of the foregoing, formal demand is hereby made upon you to (a) reimburse [AAA] for the loss of time and opportunity to engage in financially worthwhile endeavors, (b) recompense [AAA] for the years of abuse that she has been constrained to endure, (c) provide financial support to [BBB] and [CCC], and (d) provide for [BBB] and [CCC]'s presumptive legitimes, in the lump sum amount of Fifty Million Pesos ([PHP] 50,000,000.00). Please note that such amount includes the waiver of your children with [AAA] to any and all other claims for financial support and inheritance that they shall be entitled to under the law. In addition, such amount shall enable [AAA] and your children with her to have a new and peaceful existence.

We trust that the foregoing sufficiently clarifies our position on herein matters. Should you fail to heed herein demand within a period of ten (10) days from receipt hereof, we shall be constrained to commence the appropriate legal action/s against you, civil or criminal, in protection of our client's interests.²⁵ (Emphasis on the original)

XXX posited that AAA was just using the case so that he would assent to her demands. He further claims that if the allegations against him were true, then AAA's belated filing of the case is questionable. He stressed that apart from her only witness, there are matters which were unsubstantiated, in that, neither any of their children nor any of house helpers attested to the acts complained of.²⁶

Furthermore, AAA allegedly failed to ascertain the exact dates of the relevant incidents. Republic Act No. 9262, being substantive in nature, cannot be given retroactive effect. Besides, even if the alleged violations happened after the law's effectivity in 2004, AAA failed to seek for Protective Orders and other reliefs warranted under the law.²⁷

For her part,²⁸ AAA asserted exclusive ownership of the house in [REDACTED]. Allegedly, she could mortgage the property to build the preschool center she was managing with her siblings, because she paid PHP 1,517,000.00 for it. However, despite her payment and exclusive ownership, XXX continued to harass her by filing a petition to annul the court's long final decision which awarded it in her favor. She then countered that the EGI condominium was owned by [REDACTED] and admitted that the down payment to the Taguig property came from her children's savings.

AAA also belied that XXX was regularly giving them monthly financial support since June 2007 and insisted that he only gave provisions in September of that same year. Allegedly, she was urged to spend a large

²⁵ Id. at 181-182. Re: Demand for Damages, Support and Other Entitlements of Your Children dated September 24, 2007.

²⁶ Id. at 131-132.

²⁷ Id.

²⁸ See Id. at 169-178.

portion of her children's savings to meet their increasing needs.²⁹ Finally, citing the following instances, she argued that XXX should be adjudged answerable for perpetrating "the same kind of physical, verbal, emotional[,] and sexual abuse"³⁰ since 2004:

3.1. [AAA] averred that when [he] was confined in the Intensive Care Unit [ICU] of Asian Hospital from May 23 to June 3, 2007, he verbally abused her. The said incident was mentioned in the Sworn Statement of their son [BBB], a copy of his sworn statement is attached to the records;

3.2. [AAA] suffered emotional and psychological abuse after learning from Boy Sapid sometime in July 2007 of [his] infidelity. Though the said incident relates back before the effectivity of R.A. 9262, she only learned about it in the year 2007, which continually made her suffer emotionally and psychologically;

3.3. Moreover, there are narrations in her affidavit that happened from 2004 to 2007. Hence, [he] cannot escape liability.³¹

XXX then called for the Complaint's dismissal. He argued that AAA had been overusing the expression "sometime in 2007" without stating relevant details. He also denied verbally abusing her when he was confined at the intensive care unit, explaining that it would be highly improbable for a man at the point of death to do harm to people. He also cannot be charged with psychological violence since Republic Act No. 9262 speaks of marital infidelity, which presupposes a standing relationship protected and recognized by law.³²

AAA and her children filed an Urgent Petition for Issuance of *Ex Parte* Temporary Protection Order and Permanent Protection Order with Petition for Support and Support *Pendente Lite* on October 23, 2007 before Branch 207 of the Regional Trial Court of [REDACTED]. The case was docketed as Civil Case No. 07-104.³³

Raising the same factual allegations to support the reliefs prayed for,³⁴ AAA recalled how XXX would often tell her how worthless she was and that, with his money, he could hire someone to take her life. Based on his character, she found it not unlikely that XXX would make true his words, especially with the pending cases she filed against him. She feared that with their children as her co-petitioners, he might be angered "and there is no telling what kind of traumatizing acts he will inflict upon them."³⁵ Citing relevant provisions of Republic Act No. 9262 and its Implementing Rules, she then asked the

²⁹ Id. at 132.

³⁰ Id.

³¹ Id. at 133.

³² Id.

³³ Id. at 183-206.

³⁴ See id. at 183-194.

³⁵ Id. at 195.

Regional Trial Court to issue protection orders in their favor.³⁶

AAA also prayed that XXX be compelled to give their children a monthly support *pendente lite* of PHP 279,650.00. Particularly enumerating XXX's properties and businesses,³⁷ she argued that the support should be at par with their children's financial needs and his financial capacity, "taking into consideration the lifestyle [he] has accustomed [them]."³⁸ She also asked XXX to return the PHP 1,000,000.00 he borrowed from his children's fund³⁹ and to reimburse her with attorney's fees and costs of litigation.⁴⁰

Pertinent to IS No. 07J-03232, the Assistant City Prosecutor of [REDACTED] made the following recommendations which were approved by the City Prosecutor on February 26, 2008.⁴¹

RECOMMENDATIONS:

WHEREFORE, premises considered, it is respectfully recommended that:

1. The complaint for Physical Violence allegedly committed by respondent against complainant [AAA] sometime in January, 2007, be dismissed for lack of jurisdiction;
2. The complaint for Psychological Violence based on repeated verbal abuse and marital infidelity be dismissed for insufficiency of evidence and lack of merit, respectively;
3. The complaint for Economic Abuse against respondent by complainant and their children be dismissed for lack of merit.
4. The Complaint for Sexual Violence be dismissed for lack of merit.⁴² (Emphasis supplied)

As to Civil Case No. 07-104, the trial court issued a Temporary Protection Order⁴³ in favor of AAA and her children on November 16, 2007, the dispositive portion of which reads:

WHEREFORE, after an evaluation of the allegations in the petition,

³⁶ See *id.* at 195–198. Republic Act No. 9262 (2004), sec. 9 in relation to sec. 12 of the Implementing Rules; Republic Act No. 9262 (2004), secs. 15 and 16 in relation to secs. 17 and 18 of the Implementing Rules; Republic Act No. 9262 (2004), sec. 5 in relation to sec. 7 of the Implementing Rules; Republic Act No. 9262 (2004), sec. 8 in relation to sec. 19 of the Implementing Rules.

³⁷ *Id.* at 200–201.

³⁸ *Id.* at 199.

³⁹ *Id.*

⁴⁰ *Id.* at 202.

⁴¹ *Id.* at 127–137, Resolution in I.S. No. 07J-03232. The Recommendations in the February 26, 2008 Resolution in I.S. No. 07J-03232 was submitted by 4th Assistant City Prosecutor Elisa R. Sarmiento-Flores and approved by City Prosecutor Edward M. Togonon of the Office of the City Prosecutor, [REDACTED].

⁴² *Id.* at 137.

⁴³ *Id.* at 211–216. The Temporary Protection Order in Civil Case No. 07-104 was issued by Presiding Judge Philip A. Aguinaldo of Branch 207, Regional Trial Court, [REDACTED].

the court believes that the respondent may inflict further violence against petitioner and their children, and that to prevent the occurrence and recurrence of such violence, it *grants the prayer for the issuance of a temporary protection order to the petitioner, which is effective for a period of thirty (30) days from service hereof to the respondent.*

The preliminary conference and hearing [are] scheduled on December 4, 2007 at 1:00 o'clock in the afternoon. Respondent is hereby directed to file his opposition within five (5) days from service thereof. A copy of the petition shall be served by the Sheriff of this court who may obtain the assistance of law enforcement officers to implement it.

Respondent is further ordered to strictly obey the following warning:

“VIOLATION OF THIS ORDER IS PUNISHABLE BY LAW.

IF THE RESPONDENT APPEARS WITHOUT COUNSEL ON THE DATE OF THE PRELIMINARY CONFERENCE AND HEARING ON THE MERITS OF THE ISSUANCE OF A PERMANENT PROTECTION ORDER, THE COURT SHALL NOT RE-SCHEDULE OR POSTPONE THE PRELIMINARY CONFERENCE AND HEARING BUT SHALL APPOINT A LAWYER FOR THE RESPONDENT AND IMMEDIATELY PROCEED WITH SAID HEARING.

IF THE RESPONDENT FAILS TO APPEAR ON THE SAID DATE OF THE PRELIMINARY CONFERENCE AND HEARING ON THE MERITS DESPITE PROPER NOTICE, THE COURT SHALL ALLOW EX-PARTE PRESENTATION OF EVIDENCE BY THE PETITIONER AND RENDER JUDGMENT ON THE BASIS OF THE PLEADINGS AND EVIDENCE ON RECORD, NO DELEGATION ON THE RECEPTION OF EVIDENCE SHALL BE ALLOWED.

As prayed for, the respondent is prohibited from committing or threatening to commit, personally or through another any one of the following acts against the petitioners and the petitioner's witness Simplicio Boy Hassan Sapid: (a) inflicting physical harm; and (b) placing them in fear of imminent physical harm. He is further ordered (1) to stay away at a distance of 200 meters from the petitioner, her designated family and household members, the witness, Simplicio Boy Hassan Sapid, the residence of the petitioner and her children, the residence of the witness, Simplicio Boy Hassan Sapid, and the school of their children; (2) to absolutely desist and refrain from imposing any restraint on the personal liberty of the petitioner, the petitioner's children, the witness Simplicio Boy Hassan Sapid and from taking from petitioner's custody or charge of any of their children; (3) to refrain from harassing, annoying, further communicating, in any form; e.g. landline telephone, mobile telephone, fax machine, e-mail and other means with the petitioner and her children in their residence, also with the witness, Simplicio Boy Hassan Sapid and in his residence; (4) to refrain from destroying the property and personal belongings of the petitioners and their witness or inflicting harm to their animals and pets; and (5) to give support *pendente lite* to the petitioner and their children in the amount of TWO HUNDRED SEVENTY NINE THOUSAND SIX HUNDRED FIFTY PESOS ([PHP] 279.650.00), (Annex “D”).

As prayed for, petitioner is entitled to the custody of their children,

until further orders from this court. Moreover, she is granted the exclusive possession of the residence located at [REDACTED]. She is also entitled the use of an automobile, regardless of ownership.

Respondent is prohibited from possessing any firearm and is ordered to surrender his firearm, if any, to the court and/or its representative for its proper disposition.

A law enforcement or barangay/village official is ordered to accompany respondent to the residence to supervise the removal of his personal belongings in order to ensure the personal safety of the petitioner.

SO ORDERED.⁴⁴

On December 27, 2007, the Regional Trial Court heard and granted AAA's Urgent *Ex Parte* Motion to Extend the Effectivity of the Temporary Protection Order from December 22, 2007 to January 21, 2008.⁴⁵

On February 8, 2008, after an exchange of pleadings and a series of hearings on the support *pendente lite*,⁴⁶ the trial court directed XXX to provide each of his two children PHP 50,000.00, "exclusive of the expenses for their education, medical treatment[,] and other emergency needs."⁴⁷

Eventually, the trial court explained that the continuance of the hearings on AAA's petition for issuance of protection orders and support is rendered moot by the following incidents that happened after its filing in October 2007:

First, petitioners [BBB] who was born on February 13, 1986 (Annex "A" of the Petition) and [CCC] who was born on January 23, 1989 (Annex "A-1" of the Petition) have reached the age of majority. In the absence of evidence to the contrary, the [c]ourt presumes them to be normal children. They are now excluded from the term "children" in Section 4 (b), Rule on Violence Against Women and Their Children (A.M. No. 04-10-11-SC) which states:

"(b) 'Children' – refers to persons below eighteen years of age or older but are unable to fully take care of themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition. It includes the biological children of the offended party and other children under her care."

Second, petitioner [AAA] who is not married to the respondent is not entitled to support in the absence of any legal provision granting her the right to be supported. Section 11 (h) of the Rule states:

⁴⁴ Id. at 214–216.

⁴⁵ Id. at 92.

⁴⁶ Id. at 92–93.

⁴⁷ Id. at 94. *See also* id. at 241–246. On June 18, 2008, AAA filed a Motion which sought, among others, increase in the amount of *support pendente lite* awarded by the Court. *See also* id. at 248–250. On July 8, 2008, AAA filed a Motion which sought the reimbursement of their children's educational, medical and emergency expenses amounting to PHP 591,926.83 pursuant to the commitments made by the XXX.

“(h) Directing the respondent to provide support to the woman and/or her child, if entitled to legal support. x x x.”

Third, in the absence of evidence to the contrary, respondent has delivered the support to petitioner [BBB] and [CCC] per Order of the Court dated February 8, 2008.

Fourth, there is no evidence presented to prove that the accused is guilty of the act/s which resulted or is likely to result in physical, psychological harm or suffering or economic abuse including threats of such act/s, battery, assault, coercion, harassment or arbitrary deprivation of liberty, after respondent has abandoned them in January 2007, and after he underwent a heart bypass operation.

Fifth, the scheduling of a hearing for the reception of evidence for support has, as above discussed, already become moot and academic. The issue must be litigated in a separate petition for support and not within the context of R.A. 9262. The matter of support in the instant petition is merely an incident in the implementation of R.A. 9262.

Sixth, the scheduling of a hearing for the reception of evidence for the award of damages and attorney’s fees is not necessary in the absence of a clear, convincing and categorical evidence to prove any basis for such award. The Rule on Summary Procedure which is applicable in the instant case considers the affidavits of the parties.⁴⁸ (Emphasis supplied)

Nevertheless, taking into consideration the formal offer of evidence and the pleadings filed by the parties, the trial court made permanent the temporary protection order issued in favor of AAA and her children on March 6, 2009, the dispositive portion of which reads:

The Court, however, takes into consideration the Formal Offers of Evidence filed by both parties, their comments and Oppositions, Motions, Affidavits of the parties and witnesses admitted as their direct testimonies, and other pleadings, the Temporary Protection Order (TPO) issued by the Court on November 16, 2007, *is now made permanent and effective until further orders, to prevent the occurrence of any act of violence in the future and to minimize any disruption in the daily lives of the petitioners and their witnesses, and for petitioner [AAA] to regain control of her life.*

WHEREFORE, respondent or his agents and anyone acting in his behalf are ordered to refrain from committing or threatening to commit any of the following acts against the petitioners and petitioner’s witness Simplicio Boy Hassan Sapid: (a) inflicting physical harm; and (b) placing them in fear of imminent physical harm. He is further ordered (1) to stay away at a distance of 500 meters from the petitioner, her designated family and household members, the witness Simplicio Boy Hassan Sapid, the residence of the petitioner and her children, the residence of the witness Simplicio Boy Hassan Sapid, and the school of their children; (2) to absolutely desist and refrain from imposing any restraint on the personal liberty of the petitioner, the petitioner’s children, the witness Simplicio Boy Hassan Sapid and from taking from petitioner’s custody or charge of any of

⁴⁸ Id. at 99–100.

their children; (3) to refrain from harassing, annoying, further communicating in any form; e.g. landline telephone, mobile telephone, fax machine, e-mail and other means, with the petitioner and her children in their residence, also with the witness, Simplicio Boy Hassan Sapid in his residence; (4) to refrain from destroying the property and personal belongings of the petitioners and their witness or inflicting harm to their animals and pets.

Petitioner is entitled to the custody of their children and is granted the exclusive possession of the residence located [REDACTED].

Respondent is prohibited from possessing any firearm and is ordered to surrender his firearm, if any, to the court and/or its representative for its appropriate disposition.

Violation of this Permanent Protection Order (PPO) is punishable by fine and/or imprisonment.

The Court reiterates its order directing the petitioner to turn over the BMW car, 2001 Model with plate no. BHC 325 to the respondent and orders the Sheriff of this Court to witness and ensure the same as petitioner has continuously defied this Order of the court. The respondent will leave the 1998 Mercedes Benz model to the petitioners for their use, particularly the schooling of their children.

Let copies of this Permanent Protection Order be furnished the Office of the Village Manager, [REDACTED], the Village Security Office, [REDACTED] and the [REDACTED] City Police.⁴⁹ (Emphasis supplied)

Meanwhile, on May 7, 2008, the Office of the City Prosecutor partially reconsidered⁵⁰ the earlier resolution in I.S. No. 07J-03232 and found probable cause to indict XXX of the charge for economic abuse:

As aptly pointed out by complainant in her motion, failure to provide financial support does not require a positive act, but involves instead an omission or inaction on the part of the offender, such that the elements of force, physical harm or intimidation under Section 5 (e) of R.A. 9262 may not apply herein.

Record reveals that respondent [XXX], who then resided with complainant in [REDACTED], this city, has left complainant (and their children) since June 24, 2007 forcing her to practically beg for the financial requirement of their children (*more particularly the remaining minor child, [CCC]*) and despite numerous pleas, refused to afford and thus deprived his said minor child with financial security and support.

These *inaction or omission* on the part of the respondent certainly had the effect of controlling or restricting the movement or conduct of complainant and/or her said minor child in violation of Section 5 (e) (2) of

⁴⁹ Id. at 100–101. The Permanent Protection Order in Civil Case No. 07-104 was rendered by Presiding Judge Philip A. Aguinaldo of Branch 207, Regional Trial Court, [REDACTED].

⁵⁰ Id. at 152–153. See also id. at 138–151.

R.A. 9262, better known as the “*Anti-Violence Against Women and Their Children Act of 2004*.”

Hence, the assailed *Resolution* is hereby partially reconsidered and thus modified accordingly, and FINDING PROBABLE CAUSE against respondent for violation of Section 5 (e) (2) of R.A. 9262. It is hereby directed that appropriate information be filed against him in court.⁵¹ (Emphasis supplied)

The case for economic abuse before Branch 207 of the Regional Trial Court of ██████████ was docketed as Criminal Case No. 08-347.

On June 12, 2008, XXX filed a Motion:⁵² (1) for Judicial Determination of Probable Cause; (2) to Quash Information; and (3) to Defer Arraignment and Continuing Objection raising the City Prosecutor’s alleged partiality⁵³ in finding probable cause against him for economic abuse.

On August 4, 2008, the Regional Trial Court issued an Order⁵⁴ stating that it did not find any ground to engender the belief that XXX is possibly guilty of the crime charged. Hence, it ordered the Office of the City Prosecutor of ██████████ to present additional evidence and resultantly, the Regional Trial Court also cancelled XXX’s forthcoming arraignment.

Nonetheless, on November 26, 2008, the trial court issued an Order which found probable cause that the crime charged has been committed and that XXX is probably guilty:

After a personal evaluation and examination of the complaint-affidavit of [AAA] together with supporting documents, the Resolution of the investigating prosecutor, and the information he filed, the Court finds probable cause that the crime charged has been committed and that the accused Benjamin Hernandez XXX is probably guilty thereof.

As previously scheduled, the arraignment of the said accused is hereby set on January 29, 2009 at 1:00 in the afternoon.

SO ORDERED.⁵⁵

⁵¹ Id. at 153. *See id.* at 269–286. AAA filed a May 26, 2008 Petition for Review assailing the Resolution of the City Prosecutor before the Department of Justice, Office of the Secretary.

⁵² Id. at 110–124.

⁵³ *See id.* at 154–157. XXX filed a Complaint-Affidavit on May 28, 2008 before the Office of the Ombudsman against City Prosecutor Edward Togonon, 3rd Assistant City Prosecutor Agripino C. Baybay III, and AAA for Violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act. XXX raised, among other things, that the prosecutors involved exhibited “manifest partiality, obvious bias and evident bad faith” in AAA’s favor in partially reconsidering the earlier Resolution despite AAA’s belated motion for reconsideration and lack of comment or opposition to the motion.

⁵⁴ Id. at 391. The August 4, 2008 Order in Criminal Case 08-347 for Violation of Republic Act No. 9262 was rendered by Presiding Judge Philip Aguinaldo of Branch 207, Regional Trial Court, ██████████

⁵⁵ Id. at 392. The November 26, 2008 Order in Criminal Case 08-347 for Violation of Section 5(e)(2) was rendered by Presiding Judge Philip Aguinaldo of Branch 207, Regional Trial Court, ██████████

XXX now comes before this Court questioning the Regional Trial Court's grant of a Permanent Protection Order in favor of AAA and their children.⁵⁶ Through a Manifestation,⁵⁷ he prays that his Petition be elevated to this Court *En Banc* due to the constitutional issues involved.⁵⁸

Petitioner justifies his direct recourse with this Court via Rule 45 on purely questions of law. Citing *Gonzales v. Marcos, et al.*,⁵⁹ he insists on his petition and stresses that under Rule 41, Section 2(c) of the Rules of Court, "all cases where only questions of law are raised, the appeal from a decision or final order of the Regional Trial Court shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45."⁶⁰ Nonetheless, he hinges on alleged transcendental importance warranting this Court's resolution of his Petition.⁶¹

In his Petition for Review,⁶² he primarily challenges the constitutionality of Republic Act No. 9262 in light of the following issues to determine the propriety of the protective orders issued against him:

- I. WHETHER OR NOT [Republic Act No. 9262] IS A VALID LEGISLATION.
- II. WHETHER OR NOT [Republic Act No. 9262] VIOLATES [his] RIGHT TO EQUAL PROTECTION OF THE LAW[.]
- III. WHETHER OR NOT [Republic Act No. 9262] INFRINGES THE CONSTITUTIONALLY GUARANTEED RIGHT TO DUE PROCESS[.]
- IV. WHETHER OR NOT THE PASSAGE OF [Republic Act No. 9262] IS AN IMPROPER EXERCISE OF POLICE POWER OF THE STATE.⁶³

First, petitioner claims that Republic Act No. 9262 violates men's right to equal protection of the law. He points out that it provides for four violations of an offender: (1) physical violence; (2) sexual violence; (3) psychological violence; and (4) economic abuse. He claims that while physical and sexual abuses can easily be perpetrated by men due to their physical advantage over women, a similar conclusion cannot be made to psychological and economic

See id. at 291–314, XXX allegedly filed his Motion for Reconsideration of the preceding Order but was denied thus, attached in the records is his April 3, 2009 Petition for Certiorari (With Prayer for Issuance of TRO and other Injunctive reliefs) before the Court of Appeals.

⁵⁶ *Id.* at 3–4.

⁵⁷ *Id.* at 11–16.

⁵⁸ *Id.*

⁵⁹ 160 Phil. 637 (1975) [Per J. Fernando, *En Banc*].

⁶⁰ *Rollo*, p. 24.

⁶¹ *Id.* at 25.

⁶² *Id.* at 20–90.

⁶³ *Id.* at 45.

abuses.⁶⁴

Petitioner avers that respondent AAA subjected him to psychological abuses, which include the following:

First, just after the bypass operation, RESPONDENT AAA by threat and intimidation forced PETITIONER to execute a simulated deed of sale that led the latter to stay for a moment at his old and dusty warehouse; *Second*, forcing PETITIONER to pay RESPONDENT AAA [PHP] 50,000,000.00; *Third*, by not allowing PETITIONER to enter the house at [REDACTED]; *Fourth*, by filing unfounded criminal case; *Fifth*, by filing civil cases for support, damages and attorney's fees; *Sixth*, by withholding the possession of the BMW and Mercedes Benz from PETITIONER; *Seventh*, preventing PETITIONER from visiting and talking to his son and daughter; [*Eighth*], the filing of highly irregular and anomalous Information for Economic Abuse; *Ninth*, for filing another second criminal case/s at the Office of the City Prosecutor, [REDACTED]. To mention but few.⁶⁵

He adds that his psychological suffering heightened when the trial court issued a Temporary Protection Order and a subsequent Permanent Protection Order against him without any basis.⁶⁶

He also claims that respondent AAA was mistaken⁶⁷ in invoking violations of Republic Act No. 9262, as it is “applicable only to legally married parties or sans the benefit of marriage living together as husband and wife without any legal impediment or obstacle to soon marry each other.”⁶⁸ Thus, being a paramour or mistress, respondent AAA “cannot take refuge of the law basically intended to keep the family morally upright.”⁶⁹ To interpret that the law covers all kinds of relationships, without qualification, “is to tolerate immoral, illicit[,] and thereby legalizing adulterous relationship[s].”⁷⁰

He also assails the immediate grant of protection orders under Republic Act No. 9262; even in the absence of opportunity for the other party to be heard as violative of men's right to due process.⁷¹ Since Republic Act No. 9262 undermines constitutional provisions concerning family relations, due process, and equal protection, it is allegedly an improper exercise of the State's police power.⁷²

In alternative, petitioner adds that even if Republic Act No. 9262 were

⁶⁴ Id. at 51–53.

⁶⁵ Id. at 54.

⁶⁶ Id.

⁶⁷ Id. at 59–60 and 63.

⁶⁸ Id. at 61.

⁶⁹ Id. at 63–64.

⁷⁰ Id. at 74–75.

⁷¹ Id. at 64–65. *Citing* Republic Act No. 9262 (2004), secs. 8, 15, and 16.

⁷² Id. at 68.

declared constitutional, still, the trial court erred in issuing the assailed Permanent Protection Order not only in favor of respondent AAA, who is a paramour, but also in favor of respondents BBB and CCC⁷³ who are no longer minors.⁷⁴ Besides, Republic Act No. 9262 is allegedly contrary to the rules promulgated by this Court.

Petitioner primarily argues that the mere filing of an application for a Temporary Protection Order or Permanent Protection Order deprives men of the remedy outlined under A.M. No. 03-04-04-SC, as far as the determination of parental custody and grant of visitational rights to the noncustodial parent is concerned. Furthermore, in prohibiting mediation and imposing a corresponding penalty for doing so, Republic Act No. 9262 purportedly deviates from A.M. No. 01-10-5-SC-PHILJA which includes the guidelines in the implementation of mediation proceedings.⁷⁵

On May 22, 2009, petitioner filed a Motion for Leave to Admit Attached Supplemental Petition for Review on Certiorari (with Reiterative Prayer for the Issuance of Judicial Courtesy Order)⁷⁶ which, among other things, asks for the suspension of the proceedings in Criminal Case No. 08-347 “for allege[d] economic abuse” until the case at hand be finally resolved.⁷⁷

In his Supplemental Petition,⁷⁸ petitioner seeks for the interpretation of economic abuse as an offense under Section 5(e)(2) of Republic Act No. 9262, in that, whether or not “intermittent or mere failure to give support” constitutes a pertinent violation.⁷⁹ Petitioner adds that Republic Act No. 9262 rendered Rule 61 useless, since an applicant for support would no longer avail of the remedy under the Rules because support *pendente lite* is automatically given upon filing an application for protection orders.⁸⁰

In its June 17, 2009 Resolution,⁸¹ this Court noted petitioner’s manifestation and supplemental petition. It also granted petitioner’s motion for leave to admit the petition for review on certiorari with the reiterative prayer for the issuance of judicial courtesy order. This Court then required respondents to comment on the Petition.⁸²

In their August 17, 2009 Comment,⁸³ respondents move for the Petition’s outright dismissal on the ground that Rule 45 is not the proper

⁷³ Id. at 72–76.

⁷⁴ Id. at 72–75.

⁷⁵ Id. at 76–81.

⁷⁶ Id. at 353–365.

⁷⁷ Id. at 362–363.

⁷⁸ Id. at 366–376.

⁷⁹ Id. at 366–367.

⁸⁰ Id. at 371–372.

⁸¹ Id. at 493–494. Note: Paging corrected. From page 494 onwards, the paging was edited accordingly.

⁸² Id.

⁸³ Id. at 500–513.

remedy for belatedly assailing the constitutionality of Republic Act No. 9262.

Citing *Allied Broadcasting Center, Inc. v. Republic*,⁸⁴ respondents argue that petitioner should have allegedly filed a petition for declaratory relief before the Regional Trial Court.⁸⁵ Besides, they posit that the issue of constitutionality was never raised at the earliest opportunity during the pendency of Civil Case No. 07-104 before the trial court and, hence, should not be considered on appeal.⁸⁶

Even disregarding the issue on constitutionality and focusing on the remaining issues which include the propriety of the Permanent Protection Order and whether Republic Act No. 9262 runs counter to the rules promulgated by this Court, it allegedly remains that the Petition was filed in utter disregard of the hierarchy of courts⁸⁷ for failing to appeal before the Court of Appeals.

Moreover, petitioner failed to show that compelling reasons exist to warrant this Court's attention. Nevertheless, in any case, respondents argue that even if petitioner availed of the proper remedy, the Petition should still be denied outright since the Permanent Protection Order was immediately executory and has already become final.⁸⁸

In his Reply,⁸⁹ petitioner counters that pursuant to Article VIII, Section 5 of the 1987 Constitution, this Court can review, modify, or affirm final judgments of lower courts in cases involving the constitutionality of a law through Rule 45. He adds that a Petition for Declaratory Relief will not be plausible, as his constitutional rights were already undermined by the implementation of Republic Act No. 9262. He likewise counters that the issue of constitutionality was raised in his Motion to Dismiss⁹⁰ and consequent Motion for Reconsideration before the trial court.⁹¹

Finally, granting without conceding that issues on constitutionality cannot be passed upon by this Court in a Rule 45 Petition, there are allegedly other important and urgent questions of law raised in the alternative, such as the determination of the controlling elements of economic abuse under Republic Act No. 9262.⁹²

In its January 25, 2010 Resolution,⁹³ this Court required both parties to

⁸⁴ 268 Phil. 852 (1990) [Per J. Gancayco, En Banc].

⁸⁵ *Rollo*, pp. 501-503.

⁸⁶ *Id.* at 501-506.

⁸⁷ *Id.* at 507.

⁸⁸ *Id.* at 508-510.

⁸⁹ *Id.* at 527-544.

⁹⁰ *Id.* at 217-229.

⁹¹ *Id.* at 529-532.

⁹² *Id.* at 537-538.

⁹³ *Id.* at 545-547.

file their respective Memoranda.

In his Memorandum,⁹⁴ petitioner echoes the arguments raised in his pleadings before this Court. He points out the indispensability of resolving the constitutional issues in order to determine not only the validity of Republic Act No. 9262 but also the propriety of the issuance of the relevant protection orders.⁹⁵

Respondents,⁹⁶ on the other hand, restate the arguments in their Comment and add that even if this Court were to consider the issue of constitutionality as a question of law, petitioner's alternate prayer seeking for the reversal of the Permanent Protection Order is not.⁹⁷ Moreover, petitioner was allegedly unsuccessful in overturning the presumption of Republic Act No. 9262's constitutionality.⁹⁸

Respondents reiterate that the petition fell short of the legal requisites for judicial review for failing to raise the issue of constitutionality at the earliest opportunity.⁹⁹ Notably, to rebut petitioner's stance that he raised the issue in his Motion to Dismiss¹⁰⁰ before the trial court, respondents argue:

28. In his *Reply* [to Petitioner's Comment/Opposition] dated 13 November 2009, the Petitioner claims to have raised the issue of the constitutionality of R.A. 9262 at the early stages of the proceedings in the trial court, when he filed a *Motion to Dismiss* on 28 January 2008 purportedly on constitutional grounds.

29. The Petitioner has not been candid with this Honorable Court with respect to the pleadings that he filed before the court *a quo*.

30. It is axiomatic that a motion to dismiss may be made *within the time but before filing the answer to the complaint* or pleading asserting a claim.

⁹⁴ Id. at 600–690. Petitioner noted that the Office of the Solicitor General, as the counsel for the Republic, was given a copy of his Petition and Memorandum in light of the constitutional issues he raised. In his Memorandum, Petitioner posed the following prayers:

PRAYER:

WHEREFORE, premises considered, PETITIONER most respectfully prays that JUDGMENT BE RENDERED declaring VAWC UNCONSTITUTIONAL.

OR IN THE ALTERNATIVE:

1. PARTIALLY REVERSING THE DECISION/FINAL ORDER DATED MARCH 06, 2009 IN SO FAR AS THE GRANTING OF PPO IS CONCERNED; and

2. DECLARING VAWC CONTRARY TO THE RULES PROMULGATED BY THE HONORABLE SUPREME COURT IN A.M. NO. 01-10-5-SC-PhilJA AND A.M. NO. 03-04-04-SC AND RULE 61 OF THE 1997 REVISED RULES OF CIVIL PROCEDURE.

3. THAT INTERMITTENT OR MERE FAILURE TO GIVE SUPPORT IS NOT AN OFFENSE UNDER THE VAWC LAW.

PETITIONER HUMBLY PRAYS THAT AFTER DELIBERATION REFER THIS PETITION TO THE COURT EN BANC CONSIDERING THE SERIOUSNESS OF THE ISSUES INVOLVED.

Other reliefs as may be just and equitable from the foregoing are likewise prayed for.

⁹⁵ Id. at 408.

⁹⁶ Id. at 573–590, Respondents' Memorandum.

⁹⁷ Id. at 578.

⁹⁸ Id. at 588.

⁹⁹ Id. at 580–582.

¹⁰⁰ Id. at 217–229.

31. The attention of this Honorable Court is invited to the fact that prior to the filing of the said *Motion to Dismiss*, the Petitioner had already filed his Answer where he invoked the jurisdiction of the trial court to obtain relief. Therefore, the filing of the Answer renders the *Motion to Dismiss* a mere scrap of paper for being filed out of time and reveals the failure to comply with all the requisites for this Honorable Court to exercise its power of judicial review.¹⁰¹ (Emphasis in the original)

On July 3, 2019, petitioner's heirs, as represented by his son, FFF, filed a Motion for Early Resolution (with Entry of Appearance).¹⁰² Attaching petitioner's Death Certificate,¹⁰³ the heirs prayed for the case to be resolved as soon as possible since "it involved the dignity and honor of their deceased father."¹⁰⁴

The issues for this Court's resolution are as follows:

first, whether or not petitioner raises purely questions of law;

second, whether or not petitioner raised the issue of constitutionality at the earliest opportunity;

third, whether or not Republic Act No. 9262 is unconstitutional for being violative of the constitutionally mandated rights to equal protection of laws and due process;

fourth, whether or not the trial court erred in issuing a Permanent Protection Order in favor of respondents, notwithstanding respondent AAA being petitioner's alleged paramour, as well as respondents BBB and CCC having reached the age of majority;¹⁰⁵

fifth, whether or not Republic Act No. 9262 runs counter the following issuances and rules promulgated by this Court: (1) A.M. No. 01-10-5-SC-PHILJA; (2) A.M. No. 03-04-04-SC; and (3) Rule 61 of the Revised Rules of Civil Procedure; and

finally, whether or not the "intermittent or mere failure" to give support constitutes as economic abuse under Republic Act No. 9262.

We deny the Petition.

¹⁰¹ Id. at 581-582.

¹⁰² Temporary *rollo*, p. 1.

¹⁰³ Id. at 6, Death Certificate marked as Annex "B." XXX died on August 5, 2015.

¹⁰⁴ Id. at 1.

¹⁰⁵ *Rollo*, p. 661.

I

Section 31 of A.M. No. 04-10-11-SC¹⁰⁶ provides that a party aggrieved of a protection order “may appeal by filing a notice of appeal with the court that rendered the final order or judgment within fifteen days from notice[.]”¹⁰⁷ Even so, the Rules of Court do not forbid any of the parties to a case from filing a Rule 45 Petition with this Court when only questions of law are included or raised as arguments.¹⁰⁸

Only questions of law can be raised in a petition for review on certiorari. To stress, “[t]his Court is *not* a trier of facts.”¹⁰⁹ It is not for this Court to recalibrate the parties’ evidence which have already been considered by the lower courts.¹¹⁰

Specifically contested by respondents as *not* merely covering questions of law, hence, cannot be a subject in a Rule 45 petition¹¹¹ is petitioner’s alternative prayer seeking for the partial reversal of the trial court’s issuance of the Permanent Protection Order¹¹² on the ground that the recipients are not within the scope of Republic Act No. 9262.¹¹³

There is a question of fact when controversy emanates as to the veracity of facts asserted. When facts are undisputed, the determination of whether a conclusion taken therefrom is correct is a question of law.¹¹⁴

Here, it is uncontested that respondent AAA is petitioner’s longtime live-in partner.¹¹⁵ Furthermore, the birthdates of their children in the records were similarly accepted by both parties.¹¹⁶ The relevant facts thus settled, the determination of whether the trial court erred in issuing the assailed Permanent Protection Order¹¹⁷ on account of the points advanced by petitioner is therefore a question of law which is well within this Court’s province, as it neither entails the assessment of the parties’ allegations nor recalibration of

¹⁰⁶ Rule on Violence Against Women and their Children (2004).

¹⁰⁷ A.M. No. 04-10-11-SC (2004), sec. 31 provides:

SECTION 31. *Appeal.* — Any aggrieved party may appeal by filing a notice of appeal with the court that rendered the final order or judgment within fifteen days from notice and serving a copy thereof upon the adverse party. The appeal shall not stay the enforcement of the final order or judgment.

¹⁰⁸ *Del Socorro v. Van Wilsem*, 749 Phil. 823 (2014) [Per J. Peralta, Third Division], citing *Republic v. Sunvar Realty Development Corp.*, 688 Phil. 616 (2012) [Per J. Sereno, Second Division].

¹⁰⁹ *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

¹¹⁰ *Spouses Miano v. Manila Electric Co.*, 800 Phil. 118 (2016) [Per J. Leonen, Second Division].

¹¹¹ *Rollo*, p. 578.

¹¹² *Id.* at 689.

¹¹³ *Id.* at 658 and 661.

¹¹⁴ *Coca-Cola Bottler’s Philippines, Inc. v. City of Manila*, 526 Phil. 249 (2006) [Per J. Chico-Nazario, First Division].

¹¹⁵ *Rollo*, p. 610, Petitioner’s Memorandum; and p. 574, Respondents’ Memorandum.

¹¹⁶ *Id.* at 94 and 99.

¹¹⁷ *See rollo*, p. 657.

the evidentiary value of the proof they presented.¹¹⁸

Considering that petitioner is also raising constitutional issues, it is but proper to resolve the constitutional issues first as respondents' entitlement to protection orders, to begin with, emanates from Republic Act No. 9262, the constitutionality of which is now being assailed by petitioner.

II

Included in a court's power of judicial review is the power to "*declare executive and legislative acts void if violative of the Constitution*["¹¹⁹ as embodied under Article VIII, Section 1 of the 1987 Constitution:

ARTICLE VIII *Judicial Department*

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.¹²⁰

Similar to other powers granted by the Constitution, the power of judicial review is subject to limitations. For this Court to take cognizance of the case, the concurrence of the following requisites is called for:

- 1) there must be an actual case or controversy calling for the exercise of judicial power;
- 2) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
- 3) *the question of constitutionality must be raised at the earliest opportunity; and*
- 4) the issue of constitutionality must be the very *lis mota* of the case.¹²¹
(Emphasis supplied)

¹¹⁸ See *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

¹¹⁹ *Palencia v. People*, G.R. No. 219560, July 1, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66582>> [Per J. Leonen, Third Division].

¹²⁰ CONST., art VIII, sec. 1.

¹²¹ *In Re Supreme Court Judicial Independence v. Judiciary Development Fund*, 751 Phil. 30, 36 (2015) [Per J. Leonen, En Banc].

Prescinding from the third requisite, respondents argue that the issue of constitutionality was never raised by petitioner at the earliest opportunity.¹²² Contrarily, petitioner allegedly posed *constitutional* grounds in his January 28, 2008 Motion to Dismiss¹²³ in Civil Case No. 07-104, as well as in his consequent May 9, 2008 Motion for Partial Reconsideration¹²⁴ of the April 9, 2008 Omnibus Order denying his motion to dismiss.¹²⁵

Petitioner's argument fails to persuade.

We decline to rule on the constitutionality of Republic Act No. 9262. A law is considered valid unless pronounced void by a competent court, especially so, as in this case, "when the issue has *not* been duly pleaded in the trial court."¹²⁶

Here, while petitioner may have pointed out relevant constitutional provisions in his Motion to Dismiss¹²⁷ as his basis for the trial court's alleged lack of jurisdiction on the subject matter,¹²⁸ a perusal of his pleading shows that he did not explicitly assail the constitutionality of Republic Act No. 9262, let alone raised it as an issue.¹²⁹ The same goes with his Motion for Reconsideration¹³⁰ which is but a rehash of the arguments posed in his Motion to Dismiss.

Generally, a question of constitutionality must be brought up at the earliest opportunity. If the same is not raised in the pleadings, it usually follows that it may not be raised during the proceedings, and if not raised in the proceedings will therefore not be deliberated upon on appeal. "Courts will not anticipate a question of constitutional law in advance of the necessity of deciding it."¹³¹

II(A)

In any case, even if this Court takes cognizance of the constitutional issues raised by petitioner, still, his arguments lack merit in view of this

¹²² *Rollo*, p. 580.

¹²³ *Id.* at 217–229.

¹²⁴ *Id.* at 231–240.

¹²⁵ *Id.* at 476–477.

¹²⁶ *Philippine National Bank v. Palma*, 503 Phil. 917, 932 (2005) [Per J. Panganiban, Third Division].

¹²⁷ *Id.* at 217–229.

¹²⁸ *Rollo*, pp. 217–225.

¹²⁹ *See id.* at 217–224. It is worth noting that XXX merely pointed out the Constitution and Family Code provisions relating to family in his Motion to Dismiss in order to substantiate his point that Republic Act No. 9262 does not afford protection to AAA, whom he alluded to as his "paramour or mistress." In consonance with relevant laws and statutes, XXX insisted that the Republic Act No. 9262 only applies to "legally married parties or *sans* the benefit of marriage living together as husband and wife without any legal impediment or obstacle to soon marry each other."

¹³⁰ *Id.* at 231–239.

¹³¹ *Garcia v. Drilon*, 712 Phil. 44, 78 (2013) [Per J. Perlas-Bernabe, En Banc].

Court's pronouncement in *Garcia v. Drilon*.¹³²

Claiming to have suffered from physical violence, sexual violence, psychological violence, and economic abuse in the hands of her husband, the private respondent in *Garcia* filed for herself and for her minor children a petition for the issuance of a temporary protection order¹³³ which the Regional Trial Court eventually granted.¹³⁴

The Temporary Protection Order was modified and extended several times during the proceedings. Later on, the private respondent's husband filed a Petition for Prohibition before the Court of Appeals which, among other things, assailed the constitutionality of Republic Act No. 9262 on the ground that it violates due process and equal protection of laws.

The Court of Appeals in *Garcia* dismissed the husband's petition and consequent motion for reconsideration, prompting him to elevate the matter before this Court.¹³⁵ Fairly similar to petitioner's argument here, the petitioner in *Garcia* argued that Republic Act No. 9262 was "discriminatory, unjust[,] and violative of the equal protection clause."¹³⁶

This Court in *Garcia* explained that in view of the principle of separation of powers and for lack of any constitutional violation, this Court would refrain from tackling the true motivation of Congress in limiting the protection afforded under Republic Act No. 9262 to women and children only:

Intent of Congress in enacting R.A. 9262.

Petitioner claims that since R.A. 9262 is intended to prevent and criminalize spousal and child abuse, which could very well be committed by either the husband or the wife, gender alone is not enough basis to deprive the husband/father of the remedies under the law.

A perusal of the deliberations of Congress on Senate Bill No. 2723, which became R.A. 9262, reveals that while the sponsor, Senator Luisa Pimentel-Ejercito (better known as Senator Loi Estrada), had originally proposed what she called a "synthesized measure" — an amalgamation of two measures, namely, the "Anti-Domestic Violence Act" and the "Anti-Abuse of Women in Intimate Relationships Act" — providing protection to "all family members, leaving no one in isolation" but at the same time giving special attention to women as the "usual victims" of violence and abuse, nonetheless, it was eventually agreed that men be denied protection under the same measure . . .

¹³² Id.

¹³³ Id. at 66.

¹³⁴ Id. at 69.

¹³⁵ Id. at 71–77. The Petition for Prohibition filed with the Court of Appeals in *Garcia* had a prayer for injunction and temporary restraining order.

¹³⁶ Id. at 77.

....

*It is settled that courts are not concerned with the wisdom, justice, policy, or expediency of a statute. Hence, we dare not venture into the real motivations and wisdom of the members of Congress in limiting the protection against violence and abuse under R.A. 9262 to women and children only. No proper challenge on said grounds may be entertained in this proceeding. Congress has made its choice and it is not our prerogative to supplant this judgment. The choice may be perceived as erroneous but even then, the remedy against it is to seek its amendment or repeal by the legislative. By the principle of separation of powers, it is the legislative that determines the necessity, adequacy, wisdom and expediency of any law. We only step in when there is a violation of the Constitution. However, none was sufficiently shown in this case.*¹³⁷ (Emphasis supplied)

Nevertheless, this Court in *Garcia* elucidated that Republic Act No. 9262 rests on a valid classification, hence, not violative of the equal protection clause for backing women over men as victims of abuse and violence to whom the State gives protection.¹³⁸ On the basis of the following jurisprudential gauges, the constitutionality of Republic Act No. 9262 was upheld:

I. *R.A. 9262 rests on substantial distinctions.*

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."

....

II. *The classification is germane to the purpose of the law.*

The distinction between men and women is germane to the purpose of R.A. 9262, which is to address violence committed against women and children, spelled out in its *Declaration of Policy*, as follows:

SEC. 2. *Declaration of Policy.* — It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the provisions of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.

¹³⁷ Id. at 84-90.

¹³⁸ Id. at 91.

In 1979, the U.N. General Assembly adopted the CEDAW, which the Philippines ratified on August 5, 1981. Subsequently, the Optional Protocol to the CEDAW was also ratified by the Philippines on October 6, 2003. This Convention mandates that State parties shall accord to women equality with men before the law and shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations on the basis of equality of men and women. The Philippines likewise ratified the Convention on the Rights of the Child and its two protocols. It is, thus, bound by said Conventions and their respective protocols.

III. The classification is not limited to existing conditions only, and apply equally to all members

Moreover, the application of R.A. 9262 is not limited to the existing conditions when it was promulgated, but to future conditions as well, for as long as the safety and security of women and their children are threatened by violence and abuse.

R.A. 9262 applies equally to all women and children who suffer violence and abuse. Section 3 thereof defines VAWC as:

...any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether [marital] or [nonmarital], 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:

- A. "Physical Violence" . . .*
- B. "Sexual violence" . . .*
- C. "Psychological violence" . . .*
- D. "Economic abuse" . . .*

It should be stressed that the acts enumerated in the aforequoted provision are attributable to research that has exposed the dimensions and dynamics of battery. The acts described here are also found in the U.N. Declaration on the Elimination of Violence Against Women. Hence, the argument advanced by petitioner that the definition of what constitutes abuse removes the difference between violent action and simple marital tiffs is tenuous.

. . . .

There is likewise no merit to the contention that R.A. 9262 singles out the husband or father as the culprit. As defined above, VAWC may likewise be committed "against a woman with whom the person has or had a sexual or dating relationship." Clearly, the use of the gender-neutral word "person" who has or had a sexual or dating relationship with the

*There is likewise no merit to the contention that R.A. 9262 singles out the husband or father as the culprit. As defined above, VAWC may likewise be committed "against a woman with whom the person has or had a sexual or dating relationship." Clearly, the use of the gender-neutral word "person" who has or had a sexual or dating relationship with the woman encompasses even lesbian relationships[.]*¹³⁹ (Emphasis supplied, Citations omitted)

Here, petitioner is also mistaken in assailing¹⁴⁰ the following provisions on protection orders under Republic Act No. 9262 as violative of the right of men to due process of law:

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:

- 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 effect, 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

¹³⁹ *Id.* at 91-103.

¹⁴⁰ *See rollo*, pp. 649-650.

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.

Any of the reliefs provided under this section shall be granted even in the absence of a decree of legal separation or annulment or declaration of absolute nullity of marriage.

The issuance of a BPO or the pendency of an application for BPO shall not preclude a petitioner from applying for, or the court from granting a TPO or PPO.

.....

Section 15. *Temporary Protection Orders.* — *Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after ex parte determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may*



Section 16. *Permanent Protection Orders.* — Permanent Protection Order (PPO) refers to protection order issued by the court after notice and hearing.

Respondents' non-appearance despite proper notice, or his lack of a lawyer, or the non-availability of his lawyer shall not be a ground for rescheduling or postponing the hearing on the merits of the issuance of a PPO. If the respondents appear without counsel on the date of the hearing on the PPO, the court shall appoint a lawyer for the respondent and immediately proceed with the hearing. In case the respondent fails to appear despite proper notice, the court shall allow *ex parte* presentation of the evidence by the applicant and render judgment on the basis of the evidence presented. The court shall allow the introduction of any history of abusive conduct of a respondent even if the same was not directed against the applicant or the person for whom the applicant is made.

The court shall, to the extent possible, conduct the hearing on the merits of the issuance of a PPO in one (1) day. Where the court is unable to conduct the hearing within one (1) day and the TPO issued is due to expire, the court shall continuously extend or renew the TPO for a period of thirty (30) days at each particular time until final judgment is issued. The extended or renewed TPO may be modified by the court as may be necessary or applicable to address the needs of the applicant.

The court may grant any, some or all of the reliefs specified in Section 8 hereof in a PPO. A PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued. The court shall ensure immediate personal service of the PPO on respondent.

The court shall not deny the issuance of protection order on the basis of the lapse of time between the act of violence and the filing of the application.

Regardless of the conviction or acquittal of the respondent, the Court must determine whether or not the PPO shall become final. Even in a dismissal, a PPO shall be granted as long as there is no clear showing that the act from which the order might arise did not exist.¹⁴¹ (Emphasis supplied)

The urgency of issuing a protection order is central to its purpose of protecting the aggrieved party from heightened acts of violence and harm which, in some cases, may even cause death. Contrary to petitioner's insistence here, this Court stressed in *Garcia* that a respondent in a protection order is not denied due process, as they are still apprised of the accusations against them and are also given the chance to explain:

R.A. 9262 is not violative of the due process clause of the Constitution.

Petitioner bewails the disregard of R.A. 9262, specifically in the issuance of POs, of all protections afforded by the due process clause of the Constitution. Says he: "On the basis of unsubstantiated allegations, and

¹⁴¹ Republic Act No. 9262 (2004), secs. 8, 15, and 16.

practically no opportunity to respond, the husband is stripped of family, property, guns, money, children, job, future employment and reputation, all in a matter of seconds, without an inkling of what happened."

A *protection order* is an order issued to prevent further acts of violence against women and their children, their family or household members, and to grant other necessary reliefs. Its purpose is to safeguard the offended parties from further harm, minimize any disruption in their daily life and facilitate the opportunity and ability to regain control of their life.


"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, and to prevent the perpetrator from committing acts that jeopardize the employment and support of the victim. It also enables the court to award temporary custody of minor children to protect the children from violence, to prevent their abduction by the perpetrator and to ensure their financial support."

The rules require that petitions for protection order be in writing, signed and verified by the petitioner thereby undertaking full responsibility, criminal or civil, for every allegation therein. Since "time is of the essence in cases of VAWC if further violence is to be prevented," the court is authorized to issue *ex parte* a TPO after raffle but before notice and hearing when the life, limb or property of the victim is in jeopardy and there is reasonable ground to believe that the order is necessary to protect the victim from the immediate and imminent danger of VAWC or to prevent such violence, which is about to recur.

There need not be any fear that the judge may have no rational basis to issue an *ex parte* order. The victim is required not only to verify the allegations in the petition, but also to attach her witnesses' affidavits to the petition.

The grant of a TPO ex parte cannot, therefore, be challenged as violative of the right to due process. Just like a writ of preliminary attachment which is issued without notice and hearing because the time in which the hearing will take could be enough to enable the defendant to abscond or dispose of his property, in the same way, the victim of VAWC may already have suffered harrowing experiences in the hands of her tormentor, and possibly even death, if notice and hearing were required before such acts could be prevented. It is a constitutional commonplace that the ordinary requirements of procedural due process must yield to the necessities of protecting vital public interests, among which is protection of women and children from violence and threats to their personal safety and security.

It should be pointed out that when the TPO is issued *ex parte*, the court shall likewise order that notice be immediately given to the respondent directing him to file an opposition within five (5) days from service. Moreover, the court shall order that notice, copies of the petition and TPO be served immediately on the respondent by the court sheriffs. The TPOs are initially effective for thirty (30) days from service on the respondent.



Where no TPO is issued *ex parte*, the court will nonetheless order the immediate issuance and service of the notice upon the respondent requiring him to file an opposition to the petition within five (5) days from service. The date of the preliminary conference and hearing on the merits shall likewise be indicated on the notice.

The opposition to the petition which the respondent himself shall verify, must be accompanied by the affidavits of witnesses and shall show cause why a temporary or permanent protection order should not be issued.

*It is clear from the foregoing rules that the respondent of a petition for protection order should be apprised of the charges imputed to him and afforded an opportunity to present his side. Thus, the fear of petitioner of being "stripped of family, property, guns, money, children, job, future employment and reputation, all in a matter of seconds, without an inkling of what happened" is a mere product of an overactive imagination. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. "To be heard" does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.*¹⁴² (Emphasis supplied, Citations omitted)

With the nature and purpose of a protection order established, this Court sees no merit in petitioner's argument¹⁴³ that the immediate award of custody of minors to the aggrieved party upon the filing of a protection order deprives the alleged perpetrator of the remedies provided under A.M. No. 03-04-04-SC or under the Rule on Custody of Minors and Writ of *Habeas Corpus* in Relation to Custody of Minors. The concomitant reliefs provided by a protection order, as elucidated in *Garcia*, were *expanded* to restrict the alleged perpetrator's access to the aggrieved party, making it possible for courts to award temporary custody of minors to promote their best welfare.¹⁴⁴

Neither did the concomitant relief of support upon application of a Protection Order under Republic Act No. 9262 rendered Rule 61 (Support *Pendente Lite*) useless.¹⁴⁵ Section 8(g) of Republic Act No. 9262, which directs the perpetrator to provide the support due to the offended party, accomplishes the law's intent to bring back the dignity of women who suffered from domestic violence and to afford them continued defense from threats to their security and safety.¹⁴⁶

Finally, the prohibition of courts and barangay officers from unduly persuading an applicant for protection order to compromise¹⁴⁷ likewise does

¹⁴² *Garcia v. Drilon*, 712 Phil. 44, 104–107 (2013) [Per J. Perlas-Bernabe, En Banc].

¹⁴³ *Rollo*, pp. 663–665.

¹⁴⁴ *Garcia v. Drilon*, 712 Phil. 44, 105 (2013) [Per J. Perlas-Bernabe, En Banc].

¹⁴⁵ *See rollo*, pp. 669–670.

¹⁴⁶ *Republic v. Yahon*, 736 Phil. 397 (2014) [Per J. Villarama, Jr., First Division].

¹⁴⁷ SECTION 33. *Prohibited Acts.* — *A Punong Barangay, Barangay Kagawad* or the court hearing an application for a protection order shall not order, direct, force or in any way unduly influence the applicant for a protection order to compromise or abandon any of the reliefs sought in the application

not defy A.M. No. 01-10-5-SC,¹⁴⁸ which encourages courts to promote mediation as one of the means of alternative dispute resolution.¹⁴⁹

It bears stressing that under the second revised Guidelines for the Implementation of Mediation Proceedings, one of the categories referable to mediation includes “all civil cases, settlements of estates, and cases covered by the Rule on Summary Procedure *except those which by law may not be compromised.*”¹⁵⁰ Furthermore, as held in *Garcia*, non-referral of Republic Act No. 9262 cases to mediation is justified on account of the following:

The non-referral of a VAWC case to a mediator is justified.

Petitioner argues that “by criminalizing run-of-the-mill arguments, instead of encouraging mediation and counseling, the law has done violence to the avowed policy of the State to “protect and strengthen the family as a basic autonomous social institution.”

Under Section 23 (c) of A.M. No. 04-10-11-SC,¹⁵¹ the court shall not refer the case or any issue thereof to a mediator. The reason behind this provision is well-explained by the Commentary on Section 311 of the Model Code on Domestic and Family Violence as follows:

This section prohibits a court from ordering or referring parties to mediation in a proceeding for an order for protection. Mediation is a process by which parties in equivalent bargaining positions voluntarily reach consensual agreement about the issue at hand. Violence, however, is not a subject for compromise. A process which involves parties mediating the issue of violence implies that the victim is somehow at fault. In addition, mediation of issues in a proceeding for an order of protection is problematic because the petitioner is frequently unable to

for protection under this Act. Section 7 of the Family Courts Act of 1997 and Sections 410, 411, 412 and 413 of the Local Government Code of 1991 shall not apply in proceedings where relief is sought under this Act.

Failure to comply with this Section shall render the official or judge administratively liable.

¹⁴⁸ Re: Various Resolutions of PHILJA Board of Trustees Approved during its September 18 and October 1, 2001 Meetings (2001). Provision 13 of the Second Revised Guidelines for the Implementation of Mediation Proceedings provides:

13. Duty of the Court

Courts and their personnel are enjoined to assist in the successful implementation of mediation as one of the key modes of Alternative Dispute Resolution and thereby reduce docket congestion.

¹⁴⁹ *Rollo*, pp. 666–667.

¹⁵⁰ See Provision 1.

¹⁵¹ Section 23(c) of the Rule on Violence Against Women and their Children provides:

Section 23. *Preliminary Conference* –

(c) *Nature and purpose.* — The court shall consider:

(1) The propriety of issuing a protection order. The court shall not deny the issuance of a protection order due to the lapse of time between the act of violence and the filing of the petition, subject to Section 24, R.A. No. 9262. The issuance of a *barangay* protection order or the pendency of an application for a *barangay* protection order shall not preclude a petitioner from applying for, or the court from granting, a protection order;

(2) The simplification of the issues; and AIDTSE

(3) Such other matters as may aid in the prompt disposition of the petition.

The court shall not refer the case or any issue thereof to a mediator.

*participate equally with the person against whom the protection order has been sought.*¹⁵² (Emphasis supplied)

All told, it is unnecessary to belabor petitioner's erroneous conclusion that Republic Act No. 9262 is an improper exercise of police power because it violates the constitutional guarantees of equal protection and due process.¹⁵³ To emphasize, before a duly assailed law or any of its provisions are to be declared void, "the grounds for nullity must be beyond reasonable doubt."¹⁵⁴ Conversely, in the case at hand, petitioner miserably failed to raise convincing points of arguments that would merit a declaration of unconstitutionality.

III

We now determine whether the trial court erred in issuing the Permanent Protection Order *vis-à-vis* petitioner's claim that AAA and their children are not within the scope of Republic Act No. 9262.

Petitioner argues that although Republic Act No. 9262 applies to a woman whom one has or had a sexual or dating relationship, this should be interpreted to mean a relationship "without any legal impediment to marry each other"¹⁵⁵ which, therefore, excludes AAA whom he alluded to as his "mistress or paramour."¹⁵⁶ Allegedly, AAA cannot take protection from a law that is intended to safeguard the legitimate family.¹⁵⁷

Petitioner's argument is misplaced. Section 3 of Republic Act No. 9262 provides:

SECTION 3. *Definition of Terms.* — As used in this Act, (a) "*Violence against women and their children*" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty[.] (Emphasis supplied)

Republic Act No. 9262 is a landmark legislation that delineates and penalizes acts of violence against women and their children committed by intimate partners which includes a "husband, former husband, or any person who has or had a sexual or dating relationship, or with whom the woman has

¹⁵² *Garcia v. Drilon*, 712 Phil. 44, 108–109 (2013) [Per J. Perlas-Bernabe, En Banc].

¹⁵³ *Rollo*, p. 653.

¹⁵⁴ *Garcia v. Drilon*, 712 Phil. 44, 111 (2013) [Per J. Perlas-Bernabe, En Banc].

¹⁵⁵ *Rollo*, p. 658.

¹⁵⁶ *Id.* at 660.

¹⁵⁷ *Id.* at 658.

a common child, or against her child whether [marital] or [nonmarital], within or without the family abode [.]”¹⁵⁸ It defines “*dating relationship*” and “*sexual relations*” as:

(e) “*Dating relationship*” refers to a situation wherein the parties live as husband and wife without the benefit of marriage or are romantically involved over time and on a continuing basis during the course of the relationship. A casual acquaintance or ordinary socialization between two individuals in a business or social context is not a dating relationship.

(f) “*Sexual relations*” refers to a single sexual act which may or may not result in the bearing of a common child.¹⁵⁹ (Emphasis supplied)

Unmistakably, as petitioner’s live-in partner to whom petitioner has children, AAA falls under the coverage of Republic Act No. 9262. The law protects women and their children from various forms of violence and abuse committed within a setting of an *intimate relationship*.¹⁶⁰ There is nothing in the law pointing to the limitation advanced by petitioner. Thus, when the law does not make any distinction, then it follows that neither should the courts.¹⁶¹

IV

Petitioner also makes much of the definition of “children” under Republic Act No. 9262 to constrict the law’s application to respondents BBB and CCC¹⁶² who, based on the undisputed facts, had already attained the age of majority by the time the Permanent Protection Order was issued on March 6, 2006:¹⁶³

Section 3: *Definition of Terms* . . .

(h) “*Children*” refer 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.

Petitioner’s argument is untenable. *Estacio v. Estacio*¹⁶⁴ is instructive.

¹⁵⁸ *Melgar v. People*, G.R. No. 223477, February 14, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63887>> [Per J. Perlas-Bernabe, Second Division].

¹⁵⁹ Republic Act No. 9262 (2004).

¹⁶⁰ *Estacio v. Estacio*, G.R. No. 211851, September 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66987>> [Per J. Leonen, Third Division].

¹⁶¹ See *Dabalos v. RTC, Branch 59, Angeles City*, 701 Phil. 56 (2013) [Per J. Perlas-Bernabe, Second Division].

¹⁶² *Rollo*, p. 661.

¹⁶³ *Id.* at 94.

¹⁶⁴ *Estacio v. Estacio*, G.R. No. 211851, September 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66987>> [Per J. Leonen, Third Division].

In *Estacio*, the respondent sought for a Permanent Protection Order against her husband with an urgent prayer for a temporary protection order. The trial court granted an *ex parte* temporary protection order in her favor which was eventually modified to alter, among other things, the stay-away order intended to protect her and her adult children. The protection order was repeatedly extended and was eventually made permanent by the trial court.

While the husband did not question the Permanent Protection Order, one of the arguments he pursued before the Court of Appeals centered on the alleged improper inclusion of his adult children, citing the definition provided under Section 3(h) of Republic Act No. 9262 as his basis.¹⁶⁵

The Court of Appeals denied the husband's petition. Pertinently, this Court in *Estacio* upheld the Court of Appeals' finding that neither Republic Act No. 9262 nor A.M. 04-10-11-SC distinguishes the age at which children are to be included in protection orders:

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."*

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:

xxx xxx xxx

(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

¹⁶⁵ Id.

frequented by the petitioner and any designated family or household member.

This provision is reflected in the Rule on Violence Against Women and Their Children 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:

XXX XXX XXX

(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. Petitioner himself admits that adult children may be included in the protection order, as long as it is in line with these objectives.*

Republic Act No. 9262 itself mandates a liberal construction of the law to advance its objectives, as applied in *Go-Tan v. Tan*.¹⁶⁶ (Emphasis supplied)


¹⁶⁶ Id.

The inclusion of respondents within the ambit of protection afforded under Republic Act No. 9262 cannot be denied. “[T]he intent of the statute is the law and that this intent must be effectuated by the courts.”¹⁶⁷ This Court, pursuant to the State policy of protecting women and children from violence and threats to their security and safety, will not interpret a provision of Republic Act No. 9262 as to make it powerless and futile.¹⁶⁸

Finally, it has not escaped the Court’s attention that in a vain attempt to exculpate himself from liability in a separate criminal case, petitioner asks this Court to interpret “economic abuse” under Section 5(e)(2) of Republic Act No. 9262.¹⁶⁹ We decline to pass upon this matter. The issue, being a subject of a separate case before the trial court, is improperly raised in this Petition. Besides, any adjudication thereto is unnecessary in the determination of the propriety of the protection order that was issued in favor of respondents and now primarily assailed by petitioner.

WHEREFORE, the Petition is **DENIED** for lack of merit.

SO ORDERED.




MARVIC M.V.F. LEONEN
Senior Associate Justice

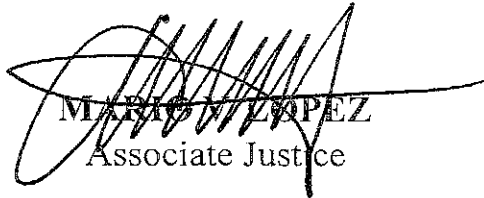
¹⁶⁷ *Go Tan v. Spouses Tan*, 588 Phil. 532 (2008) [Per J. Austria-Martinez, Third Division].

¹⁶⁸ *Dabalos v. RTC, Branch 59, Angeles City*, 701 Phil. 56 (2013) [Per J. Perlas-Bernabe, Second Division].

¹⁶⁹ *Rollo*, p. 369.

WE CONCUR:


AMY C. LAZARO-JAVIER
Associate Justice


MARIA N. LOPEZ
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

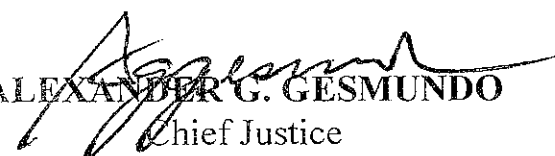
ATTESTATION

I attest 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.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

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.


ALEXANDER G. GESMUNDO
Chief Justice