

Republic of the Philippines  
**SUPREME COURT**  
Manila

SECOND DIVISION

**G.R. No. 193960**

**January 7, 2013**

**KARLO ANGELO DABALOS y SAN DIEGO**, Petitioner,

vs.

**REGIONAL TRIAL COURT, BRANCH 59, ANGELES CITY (PAMPANGA), REPRESENTED BY ITS PRESIDING JUDGE MA. ANGELICA T. PARAS-QUIAMBAO; THE OFFICE OF THE CITY PROSECUTOR, ANGELES CITY (PAMPANGA); AND ABC,<sup>1</sup> Respondents.**

**D E C I S I O N**

**PERLAS-BERNABE, J.:**

The Court will not read into Republic Act (RA) No. 9262 a provision that would render it toothless in the pursuit of the declared policy of the State to protect women and children from violence and threats to their personal safety and security.

Before the Court is a petition for certiorari and prohibition assailing the Orders dated September 13, 2010<sup>2</sup> and October 5, 2010<sup>3</sup> of the Regional Trial Court (RTC) of Angeles City, Branch 59 in Criminal Case No. 09-5210 which denied petitioner's Motion for Judicial Determination of Probable Cause with Motion to Quash the Information.

**The Facts**

Petitioner was charged with violation of Section 5(a) of RA 9262 before the RTC of Angeles City, Branch 59, in an Information which states:

That on or about the 13th day of July, 2009, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the boyfriend of the complainant, x x x did then and there willfully, unlawfully and feloniously use personal violence on the complainant, by pulling her hair, punching complainant's back, shoulder and left eye, thereby demeaning and degrading the complainant's intrinsic worth and dignity as a human being, in violation of Section 5(a) of the Republic Act 9262.<sup>4</sup>

After examining the supporting evidence, the RTC found probable cause and consequently, issued a warrant of arrest against petitioner on November 19, 2009. The latter posted a cash bond for his provisional liberty and on August 12, 2010, filed a Motion for Judicial Determination of Probable Cause with Motion to Quash the Information. Petitioner averred that at the time of the alleged incident on July 13, 2009, he was no longer in a dating relationship with private respondent; hence, RA 9262 was inapplicable.

In her affidavit, private respondent admitted that her relationship with petitioner had ended prior to the subject incident. She narrated that on July 13, 2009, she sought payment of the money she had lent to petitioner but the latter could not pay. She then inquired from petitioner if he was responsible for spreading rumors about her which he admitted. Thereupon, private respondent slapped petitioner causing the latter to inflict on her the physical injuries alleged in the Information.

## The RTC Ruling

The RTC denied petitioner's motion. It did not consider material the fact that the parties' dating relationship had ceased prior to the incident, ratiocinating that since the parties had admitted a prior dating relationship, the infliction of slight physical injuries constituted an act of violence against women and their children as defined in Sec. 3(a) of RA 9262.

### Issues

Hence, the instant petition raising the following issues: 1) whether the RTC has jurisdiction over the offense; 2) whether RA 9262 should be construed in a manner that will favor the accused; and 3) whether the Information alleging a fact contrary to what has been admitted should be quashed.

## The Court's Ruling

The petition has no merit.

Petitioner insists that the act which resulted in physical injuries to private respondent is not covered by RA 9262 because its proximate cause was not their dating relationship. Instead, he claims that the offense committed was only slight physical injuries under the Revised Penal Code which falls under the jurisdiction of the Municipal Trial Court.

The Court is not persuaded.

Sec. 3(a) of RA 9262 reads:

SEC. 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. x x x.

The law is broad in scope but specifies two limiting qualifications for any act or series of acts to be considered as a crime of violence against women through physical harm, namely: 1) it is committed against a woman or her child and the woman is the offender's wife, former wife, or with whom he has or had sexual or dating relationship or with whom he has a common child; and 2) it results in or is likely to result in physical harm or suffering.

In *Ang v. Court of Appeals*,<sup>5</sup> the Court enumerated the elements of the crime of violence against women through harassment, to wit:

1. The offender has or had a sexual or dating relationship with the offended woman;
2. The offender, by himself or through another, commits an act or series of acts of harassment against the woman; and
3. The harassment alarms or causes substantial emotional or psychological distress to her.<sup>6</sup>

Notably, while it is required that the offender has or had a sexual or dating relationship with the offended woman, for RA 9262 to be applicable, it is not indispensable that the act of violence be a consequence of such relationship. Nowhere in the law can such limitation be inferred. Hence, applying the rule on statutory construction that when the law does not distinguish, neither should the courts, then, clearly, the punishable acts refer to all acts of violence against women with whom the offender has or had a sexual or dating relationship. As correctly ruled by the RTC, it is immaterial whether the relationship had ceased for as long as there is sufficient evidence showing the past or present existence of such relationship between the offender and the victim when the physical harm was committed. Consequently, the Court cannot depart from the parallelism in Ang and give credence to petitioner's assertion that the act of violence should be due to the sexual or dating relationship.

Neither can the Court construe the statute in favor of petitioner using the rule of lenity<sup>2</sup> because there is no ambiguity in RA 9262 that would necessitate any construction. While the degree of physical harm under RA 9262 and Article 266<sup>3</sup> of the Revised Penal Code are the same, there is sufficient justification for prescribing a higher penalty for the former. Clearly, the legislative intent is to purposely impose a more severe sanction on the offenders whose violent act/s physically harm women with whom they have or had a sexual or dating relationship, and/or their children with the end in view of promoting the protection of women and children.

Accordingly, the Information having sufficiently alleged the necessary elements of the crime, such as: a dating relationship between the petitioner and the private respondent; the act of violence committed by the petitioner; and the resulting physical harm to private respondent, the offense is covered by RA 9262 which falls under the jurisdiction of the RTC in accordance with Sec. 7 of the said law which reads:

SEC. 7. Venue – The Regional Trial Court designated as a Family Court shall have original and exclusive jurisdiction over cases of violence against women and their children under this law. In the absence of such court in the place where the offense was committed, the case shall be filed in the Regional Trial Court where the crime or any of its elements was committed at the option of the complainant.

Finally, the Court finds the Order<sup>2</sup> of the RTC, giving the prosecutor a period of two (2) days to amend the Information to reflect the cessation of the dating relationship between the petitioner and the offended party, to be in accord with Sec. 4 of Rule 117 of the Rules of Court, to wit:

SEC. 4. Amendment of complaint or information.- If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made...

Furthermore, Sec. 14 of Rule 110 of the Rules of Court provides that an information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. In the present case, the accused petitioner has not yet been arraigned, hence, the RTC was correct in directing the amendment of the Information and in denying the motion to quash the same.

WHEREFORE, the petition is DISMISSED. The Orders dated September 13, 2010 and October 5, 2010 of the Regional Trial Court ( RTC) of Angeles City, Branch 59 in Criminal Case No. 09-5210 are AFFIRMED. The Temporary Restraining Order issued by the Court is LIFTED and the RTC is directed to continue with the proceedings in Criminal Case No. 09-5210.

SO ORDERED.

**ESTELA M. PERLAS-BERNABE**

Associate Justice

WE CONCUR:

**ANTONIO T. CARPIO**

Associate Justice

Chairperson

**ARTURO D. BRION**

Associate Justice

**MARIANO C. DELCASTILLO**

Associate Justice

**JOSE PORTUGAL PEREZ**

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.

**ANTONIO T. CARPIO**

Associate Justice

Chairperson, Second Division

#### 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.

**MARIA LOURDES P. A. SERENO**

Chief Justice

#### Footnotes

<sup>1</sup> Pursuant to RA 9262, otherwise known as the "Anti- Violence Against Women and Their Children Act of 2004," and its implementing rules, the real name of the victim, together with the names of her immediate family members, is withheld, and fictitious initials instead are used to represent her, to protect her privacy.

<sup>2</sup> Rollo, pp. 33-36. Penned by Presiding Judge Ma. Angelica T. Paras-Quiambao.

<sup>3</sup> Id. at 29-32.

<sup>4</sup> Id. at 37.

<sup>5</sup> G.R. No. 182835, April 20, 2010, 618 SCRA 592.

§ Id. at 600.

z "Intimately intertwined with the in dubio pro reo principle is the rule of lenity. It is the doctrine that 'a court, in construing an ambiguous criminal statute that sets out multiple or inconsistent punishments, should resolve the ambiguity in favor of the more lenient punishment.'" Separate Opinion of CJ Corona in People v. Temporada, G.R. No. 173473, December 17, 2008, citing Black's Law Dictionary, Eighth Edition, p. 1359 (2004).

§ ART. 266. Slight physical injuries and maltreatment.- The crime of slight physical injuries shall be punished:

1. By arresto menor when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period;
2. By arresto menor or a fine not exceeding 200 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical attendance;
3. By arresto menor in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury.

§ Rollo, p. 32.