

SPECIAL SEVENTEENTH DIVISION

[CA-G.R. CR NO. 34236, May 07, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ALDWIN TAMORADA Y GARBO, ACCUSED-APPELLANT.

DECISION

ZALAMEDA, R.V., J.:

Before Us is an Appeal^[3] from the Decision^[4] dated 31 May 2011 rendered by Branch 68, Regional Trial Court of Camiling, Tarlac,^[5] finding accused-appellant Aldwin Tamorada^[6] guilty beyond reasonable doubt for violation of Section 5(i) of Republic Act No. 9262^[7] or otherwise known as "The Anti-Violence against Women and Children Act," the dispositive portion of which reads:

"WHEREFORE, accused Aldwin Tamorada is found guilty beyond reasonable doubt for violation of Section 5(i) of RA 9262 known as the "Anti-Violence Against Women and their Children Act of 2004" and hereby sentences him to an imprisonment of six (6) years of prision correccional, as minimum to ten (10) years and one (1) day of prision mayor, as maximum and to pay a Fine of P100,000.00.

SO ORDERED."^[8]

The facts, as culled from the records, are as follows:

On 25 March 2009, accused-appellant was charged with the crime of violation of Section 5(i) of Republic Act No. 9262 committed against private complainant Celeca Mateo^[9] under the following Information:^[10]

"That sometime on September 16, 2008 and thereabouts, in the Municipality of Camiling, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully and feloniously, had (sic) sexual relation with Celeca Mateo, promising to marry her and subsequently impregnating her and refused to acknowledge his child depriving them of support legally due to her and their child thereby causing her mental and emotional anguish, ridicule and humiliation, which constitutes emotional abuse defined under RA 9262.

CONTRARY TO LAW."

On arraignment,^[11] accused-appellant pleaded not guilty^[12] to the crime as charged. Thereafter, trial on the merits ensued.

The prosecution presented private complainant, the latter's aunt Maria Mateo,^[13] Servillana Villena^[14] and Recto Gatmin.^[15] The prosecution also presented the

following documentary exhibits: private complainant's Sinumpaang Salaysay;^[16] Medico Legal Report^[17] and Ultrasound Report.^[18]

The evidence of the prosecution reveals the following:

Private complainant met accused-appellant in Camiling Tarlac sometime in 2006. He courted her and they became sweethearts in April 2006. Buoyed by accused-appellant's profession of love and his promise to marry her, private complainant gave herself to him and they had sexual intercourse many times. In September 2008, private complainant found she was pregnant and immediately informed accused-appellant thereof but he bluntly told her to have the baby aborted. He even gave her an abortive pill called "Cytotec" but she refused to take the same.^[19] Distraught, private complainant remained holed up in her aunt's house, was often in tears and even thought of committing suicide,^[20] fearing the possible consequences if her parents find out about her pregnancy. When her pregnancy was becoming apparent, she finally mustered the courage to tell her parents about it.

On 28 October 2008, she lodged a complaint before Brgy. Palimbo, demanding the accused-appellant to marry her as promised and take responsibility for her pregnancy. During the meetings, accused-appellant said he could not marry her since he was committed to another woman, whom he married later while the barangay conciliation proceeding was pending; further, he denied authoring her pregnancy, saying he would acknowledge the child only after Deoxyribonucleic Acid (DNA) examination.^[21]

No settlement having been reached, the barangay chairman issued a Certificate^[22] to file action and after the requisite preliminary investigation, accused-appellant was indicted for violation of Section 5(i) of R.A. No. 9262.

On the other hand, accused-appellant presented himself, Brgy. Chairman Romualdo Sugaste,^[23] and accused-appellant's uncle Corsino Domingo.^[24] He also submitted the following documentary exhibits: his Affidavit,^[25] and the Minutes^[26] of the Hearing of the Complaint at the Brgy. Hall of Palimbo. Their version are as follows:

Accused-appellant admitted that he first met private complainant in 2006. They became lovers and had consensual sex many times. Accused-appellant, however, denied promising private complainant marriage.^[27] In December 2007, accused-appellant sent her a text message ending their relationship. However, even after the breakup, he still went out with private complainant and had intercourse with her every time she visited.^[28]

Accused-appellant did not say anything when private complainant told him that she was pregnant. A confrontation subsequently ensued between him and private complainant before the barangay conciliation where she demanded sixty thousand (P60,000.00) pesos for her impending childbirth but accused-appellant told her that he would have to ask this from his mother since he was unemployed. Accused-appellant likewise said he would acknowledge her child and give full support if it can be shown that the child was really his. Meanwhile, he married one Vanessa Adviento on 15 November 2008 while the complaint was pending before the barangay.^[29]

After trial, the RTC rendered its assailed decision, finding accused-appellant guilty as charged.

Hence, accused-appellant is before this Court ascribing the following assignment of errors:

- 1.) THE COURT A QUO COMMITTED REVERSIBLE ERROR WHEN IT DECLARED THAT APPELLANT IS GUILTY OF VIOLATING SECTION 5[i] OF REPUBLIC ACT NO. 9262 CONTRARY TO THE FACTS AND THE LAW;
- 2.) THE COURT A QUO COMMITTED REVERSIBLE ERROR WHEN IT DISREGARDED THE EVIDENCE SUBMITTED BY BOTH PARTIES;
- 3.) THE COURT A QUO COMMITTED REVERSIBLE ERROR WHEN IT MISAPPREHENDED THE FACTS AND MISAPPLIED THE LAW.^[30]

The issue is simply whether or not the trial court correctly found accused-appellant to have committed a violation of Section 5(i) of R.A. No. 9262.

We sustain the RTC.

In his seeking his acquittal, accused-appellant raises in his brief the following arguments: (1) he did not commit any act of violence that was qualified by a "purposeful, willful and knowing infliction of such abuse" against private complainant or her child; (2) the acts or series of acts that cause or is likely to result in physical, sexual or psychological harm or suffering or even abuse including acts of battery, assault, coercion, harassment or arbitrary deprivation of liberty must constitute felonies in themselves or at least akin to felonies, hence, the element of intent or criminal negligence must be alleged in the Information and proven during trial, neither of which according to him the prosecution had done in his case.^[31]

Accused-appellant misread the law.

An examination of Section 5 and its various sub-provisions shows that none of the acts cited in the two (2) foregoing arguments involve causing a woman mental or emotional anguish under Section 5(i) of R.A. No. 9262, the specific charge against accused-appellant. The acts enumerated under the first argument are punishable under Section 5(h)^[32] of the same law, a separate and distinct offense from Section 5(i). Meanwhile, the acts enumerated in the second argument fall under Section 3(a) which provides the law's general definition of "violence against women and children."^[33] It is an established principle of statutory construction, however, that in case of a conflict, a special provision shall prevail over a general provision of the same law.^[34] Hence, in this case, Section 3(a), being a general provision of R.A. No. 9262 must yield to Section 5(i) which should properly govern the charge against accused-appellant, that is, the offense of violence against women committed by causing the offended woman mental or emotional anguish.

Accused-appellant also contends that the RTC erred in finding that he refused to support and acknowledge their love child. On the contrary, he argues, that he offered support during the barangay conciliation proceeding but just could not actually give the same since he was unemployed at that time. He also asserted that he could not be faulted for first wanting to confirm that private complainant's child was indeed his before acknowledging the baby since support must be based on filiation.^[35]

The argument deserves scant consideration.

Assuming arguendo, accused-appellant indeed offered to support their love child during the barangay conciliation proceeding, this fact will not at all exonerate accused-appellant of the offense, the commission of which had already been consummated when private complainant had a bout of depression and even contemplated suicide after accused-appellant refused to take responsibility for her pregnancy. If accused-appellant indeed entertained doubt regarding the paternity of the child, he should have, at least put forward the reasons for his doubt, say that private complainant had some other sexual partner other than him. Unfortunately, he did not.

The RTC aptly observed that no such support was really forthcoming. Thus:

"x x x

(4) **Accused failed and continues to fail to give moral and financial support to their lovechild.** True, he promised to support their lovechild. His promise, however, remains an empty one. This is **clearly revolting to the conscience** of man in his right mind. Hence, even if the complainant was then adult (sic) who voluntarily and actively pursued their amorous relationship, **it is understandable if the private complainant is unforgiving to the end.** [Emphasis supplied]

x x x"^[36]

Section 3 (a) and (c) of R.A. No. 9262 define the concepts of "violence against women and children" and "psychological violence," viz:

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

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

Section 5, meanwhile, enumerates the specific acts constituting violence against women, including that of causing a woman mental or emotional suffering under

paragraph (i), viz:

SEC. 5. *Acts of Violence Against Women and Their Children.* – The crime of violence against women and their children is committed through any of the following acts:

x x x

(i) **Causing mental or emotional anguish**, public ridicule or humiliation to the woman or her child, **including, but not limited to**, repeated verbal and **emotional abuse**, and **denial of financial support** or custody of minor children or access to the woman's child/children.

Taken together, an offender commits the crime of violence against women under Section 5(i) when the following elements concur: (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 that cause the offended woman emotional anguish or suffering, public ridicule or humiliation which acts may include repeated verbal and emotional abuse or denial of support or custody over the offended woman's child or children.

After a careful review of the records, We find that both elements exist in this case.

First, accused-appellant had a sexual or dating relationship with private complainant, the two having been former sweethearts. No less than accused-appellant himself admitted having consensual sex with private complainant countless times from 2007 until August 2008.^[37] In fact, he further admitted maintaining sexual relations with private complainant even after supposedly breaking up with her in December 2007.^[38]

Second, accused-appellant's collective acts caused her emotional anguish or suffering. After winning private complainant over and succeeding in having sexual congress with her by declaring his love and promising her marriage, accused-appellant suddenly turned his back on private complainant after learning of her pregnancy, thus abandoning her and their unborn child at a time of great need. Unabashedly refusing to take responsibility for her and their child, he even persuaded private complainant to abort their baby, thus:

"x x x

Q: Ms. Witness, in your Sinumpaang Salaysay, you claimed that you and the accused are sweethearts in the year 2007?

A: Yes, sir.

Q: And, this intercourse happened, according to you, **the accused promised to marry you?**

A: **Yes, sir.**

Q: But instead, the accused married another woman?

A: Yes, sir.^[39] [Emphasis supplied]