

FIRST DIVISION

[G.R. No. 201043, June 16, 2014]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE ARMED
FORCES OF THE PHILIPPINES FINANCE CENTER (AFPFC),
PETITIONER, VS. DAISY R. YAHON, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Before the Court is a petition for review on certiorari under Rule 45 which seeks to nullify and set aside the Decision^[1] dated November 29, 2011 and Resolution^[2] dated March 9, 2012 of the Court of Appeals (CA) Mindanao Station in CA-G.R. SP No. 02953-MIN. The CA affirmed the orders and decision of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 22 granting temporary and permanent protection orders, and denying the motion to lift the said temporary protection order (TPO).

Daisy R. Yahon (respondent) filed a petition for the issuance of protection order under the provisions of Republic Act (R.A.) No. 9262,^[3] otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," against her husband, S/Sgt. Charles A. Yahon (S/Sgt. Yahon), an enlisted personnel of the Philippine Army who retired in January 2006. Respondent and S/Sgt. Yahon were married on June 8, 2003. The couple did not have any child but respondent has a daughter with her previous live-in partner.

On September 28, 2006, the RTC issued a TPO, as follows:

Finding the herein petition for the Issuance of Protection Order to be sufficient in form and substance and to prevent great and irreparable injury to the petitioner, a TEMPORARY PROTECTION ORDER is forthwith issued to respondent, S/SGT. CHARLES A. YAHON directing him to do the following acts:

1. Respondent is enjoined from threatening to commit or committing further acts of physical abuse and violence against the petitioner;
2. To stay away at a distance of at least 500 meters from petitioner, her residence or her place of work;
3. To refrain from harassing, annoying, intimidating, contacting or communicating with petitioner;
4. Respondent is prohibited from using or possessing any firearm or deadly weapon on occasions not related to his job;
5. To provide reasonable financial spousal support to the petitioner.

The Local Police Officers and the Barangay Officials through the Chairman in the area where the petitioner and respondent live at Poblacion,

Claveria, Misamis Oriental and Bobuntogan, Jasaan, Misamis Oriental are directed to respond to any request for assistance from the petitioner for the implementation of this order. They are also directed to accompany the petitioner to their conjugal abode at Purok 2, Bobuntogan, Jasaan, Misamis Oriental to get her personal belongings in order to insure the safety of the petitioner.

The Deputy Sheriff of this Court is ordered to immediately serve the Temporary Protection Order (TPO) upon the respondent personally and to seek and obtain the assistance of law enforcement agents, if needed, for purposes of effecting the smooth implementation of this order.

In the meantime, let copy of this order and petition be served upon the respondent for him to file an OPPOSITION within a period of five (5) days from receipt hereof and let a Preliminary Conference and hearing on the merits be set on October 17, 2006 at 2:00 o'clock in the afternoon.

To insure that petitioner can receive a fair share of respondent's retirement and other benefits, the following agencies thru their heads are directed to WITHHOLD any retirement, pension and other benefits of respondent, S/SGT. CHARLES A. YAHON, a member of the Armed Forces of the Philippines assigned at 4ID, Camp Evangelista, Patag, Cagayan de Oro City until further orders from the court:

1. Commanding General/Officer of the Finance Center of the Armed Forces of the Philippines, Camp Emilio Aguinaldo, Quezon City;
2. The Management of RSBS, Camp Emilio Aguinaldo, Quezon City;
3. The Regional Manager of PAG-IBIG, Mortola St., Cagayan de Oro City.

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 RESCHEDULE OR POSTPONE THE PRELIMINARY CONFERENCE AND HEARING BUT SHALL APPOINT A LAWYER FOR THE RESPONDENT AND IMMEDIATELY PROCEED WITH THE SAID HEARING.

IF THE RESPONDENT FAILS TO APPEAR ON THE 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 OF THE RECEPTION OF EVIDENCE SHALL BE ALLOWED.

SO ORDERED.^[4] (Emphasis supplied.)

S/Sgt. Yahon, having been personally served with copy of the TPO, appeared during the scheduled pre-trial but informed the court that he did not yet have a counsel

and requested for time to hire his own counsel. However, he did not hire a counsel nor file an opposition or answer to the petition. Because of his failure to appear in the subsequent hearings of the case, the RTC allowed the *ex-parte* presentation of evidence to determine the necessity of issuance of a Permanent Protection Order (PPO).

Meanwhile, as prayed for by respondent who manifested that S/Sgt. Yahon deliberately refused to give her spousal support as directed in the TPO (she claimed that she had no source of livelihood since he had told her to resign from her job and concentrate on keeping their house), the RTC issued another order directing S/Sgt. Yahon to give respondent spousal support in the amount of P4,000.00 per month and fifty percent (50%) of his retirement benefits which shall be automatically deducted and given directly to respondent.^[5]

In her testimony, respondent also said that S/Sgt. Yahon never complied with the TPO as he continued making threats and inflicting physical abuse on her person, and failed to give her spousal support as ordered by the court.

On July 23, 2007, the RTC rendered its Decision,^[6] as follows:

After careful review and scrutiny of the evidence presented in this case, this court finds that there is a need to permanently protect the applicant, Daisy R. Yahon from further acts of violence that might be committed by respondent against her. Evidences showed that respondent who was a member of the Armed Forces of the Philippines assigned at the Headquarters 4ID Camp Evangelista, Cagayan de Oro City had been repeatedly inflicting physical, verbal, emotional and economic abuse and violence upon the petitioner. Respondent in several instances had slapped, mauled and punched petitioner causing her physical harm. Exhibits G and D are medical certificates showing physical injuries suffered by petitioner inflicted by the respondent at instances of their marital altercations. Respondent at the height of his anger often poked a gun on petitioner and threatened to massacre her and her child causing them to flee for their lives and sought refuge from other people. He had demanded sex from petitioner at an unreasonable time when she was sick and chilling and when refused poked a gun at her. Several police blotters were offered as evidence by petitioner documenting the incidents when she was subjected to respondent's ill temper and ill treatment. Verbally, petitioner was not spared from respondent's abuses by shouting at her that he was wishing she would die and he would celebrate if it happens and by calling and sending her threatening text messages. These incidents had caused petitioner great psychological trauma causing her [to] fear for her life and these forced her to seek refuge from the court for protection. Economically, petitioner was also deprived by respondent of her spousal support despite order of the court directing him to give a monthly support of Php4,000.00. In view of the foregoing, this court finds a need to protect the life of the petitioner not only physically but also emotionally and psychologically.

Based on the evidence presented, both oral and documentary, and there being no controverting evidence presented by respondent, this Court finds that the applicant has established her case by preponderance of

evidence.

WHEREFORE, premises considered, judgment is hereby rendered GRANTING the petition, thus, pursuant to Sec. 30 of A.M. No. 04-10-1-SC, let a PERMANENT PROTECTION ORDER be issued immediately and respondent, S/Sgt. CHARLES A. YAHON is ordered to give to petitioner, DAISY R. YAHON the amount of FOUR THOUSAND PESOS (Php4,000.00) per month by way of spousal support.

Pursuant to the order of the court dated February 6, 2007, respondent, **S/Sgt. Charles A. Yahon is directed to give it to petitioner 50% of whatever retirement benefits and other claims that may be due or released to him from the government and the said share of petitioner shall be automatically deducted from respondent's benefits and claims and be given directly to the petitioner, Daisy R. Yahon.**

Let copy of this decision be sent to the Commanding General/Officer of Finance Center of the Armed Forces of the Philippines, Camp Emilio Aguinaldo, Quezon City; the Management of RSBS, Camp Emilio Aguinaldo, Quezon City and the Regional Manager of PAG-IBIG, Mortola St., Cagayan de Oro City for their guidance and strict compliance.

SO ORDERED.^[7] (Emphasis supplied.)

Herein petitioner Armed Forces of the Philippines Finance Center (AFPFC), assisted by the Office of the Judge Advocate General (OTJAG), AFP, filed before the RTC a Manifestation and Motion (To Lift Temporary Protection Order Against the AFP)^[8] dated November 10, 2008. Stating that it was making a limited and special appearance, petitioner manifested that on August 29, 2008, it furnished the AFP Pension and Gratuity Management Center (PGMC) copy of the TPO for appropriate action. The PGMC, on September 2, 2008, requested the Chief, AFPFC the temporary withholding of the thirty-six (36) Months Lump Sum (MLS) due to S/Sgt. Yahon. Thereafter, on October 29, 2008, PGMC forwarded a letter to the Chief of Staff, AFP for the OTJAG for appropriate action on the TPO, and requesting for legal opinion as to the propriety of releasing the 36 MLS of S/Sgt. Yahon. Petitioner informed the RTC that S/Sgt. Yahon's check representing his 36 MLS had been processed and is ready for payment by the AFPFC, but to date said check has not been claimed by respondent.

Petitioner further asserted that while it has initially discharged its obligation under the TPO, the RTC had not acquired jurisdiction over the military institution due to lack of summons, and hence the AFPFC cannot be bound by the said court order. Additionally, petitioner contended that the AFPFC is not a party-in-interest and is a complete stranger to the proceedings before the RTC on the issuance of TPO/PPO. Not being impleaded in the case, petitioner lamented that it was not afforded due process and it was thus improper to issue execution against the AFPFC. Consequently, petitioner emphasized its position that the AFPFC cannot be directed to comply with the TPO without violating its right to procedural due process.

In its Order^[9] dated December 17, 2008, the RTC denied the aforesaid motion for having been filed out of time. It noted that the September 28, 2006 TPO and July 23, 2007 Decision granting Permanent Protection Order (PPO) to respondent had long become final and executory.

Petitioner's motion for reconsideration was likewise denied under the RTC's Order^[10] dated March 6, 2009.

On May 27, 2009, petitioner filed a petition for certiorari before the CA praying for the nullification of the aforesaid orders and decision insofar as it directs the AFPFC to automatically deduct from S/Sgt. Yahon's retirement and pension benefits and directly give the same to respondent as spousal support, allegedly issued with grave abuse of discretion amounting to lack of jurisdiction.

Respondent filed her Comment with Prayer for Issuance of Preliminary Injunction, manifesting that there is no information as to whether S/Sgt. Yahon already received his retirement benefit and that the latter has repeatedly violated the TPO, particularly on the provision of spousal support.

After due hearing, the CA's Twenty-Second Division issued a Resolution^[11] granting respondent's application, viz:

Upon perusal of the respective pleadings filed by the parties, the Court finds meritorious private respondent's application for the issuance of an injunctive relief. While the 36-month lump sum retirement benefits of S/Sgt. Charles A. Yahon has already been given to him, yet as admitted by petitioner itself, the monthly pension after the mentioned retirement benefits has not yet been released to him. It appears that the release of such pension could render ineffectual the eventual ruling of the Court in this Petition.

IN VIEW OF THE FOREGOING, let a WRIT OF PRELIMINARY INJUNCTION issue enjoining the Armed Forces of the Philippines Finance Center, its employees, agents, representatives, and any all persons acting on its behalf, from releasing the remaining pension that may be *due* to S/Sgt. Charles A. Yahon.

SO ORDERED.^[12]

By Decision dated November 29, 2011, the CA denied the petition for certiorari and affirmed the assailed orders and decision of the RTC. The CA likewise denied petitioner's motion for reconsideration.

In this petition, the question of law presented is whether petitioner military institution may be ordered to automatically deduct a percentage from the retirement benefits of its enlisted personnel, and to give the same directly to the latter's lawful wife as spousal support in compliance with a protection order issued by the RTC pursuant to R.A. No. 9262.

A *protection order* is an order issued by the court to prevent further acts of violence