

# ELEVENTH DIVISION

[ CA-G.R. CR NO. 36181, October 23, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BBB,  
ACCUSED-APPELLANT.**

## DECISION

**CORALES, J.:**

This is an appeal<sup>[1]</sup> from the May 16, 2013 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 169, Malabon City in Crim. Case No. 37701-MN finding accused-appellant *BBB*<sup>[3]</sup> guilty of violating Republic Act (R.A.) No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004.

### The Antecedents

*AAA* and *BBB* were legally married<sup>[4]</sup> on April 22, 1997 but they have been living separately since August 2006 because of the latter's purported extra-marital affairs. For the physical violence allegedly committed against *AAA*, *BBB* was charged under an Information<sup>[5]</sup> which reads:

That on or about the 12<sup>th</sup> day of March 2007, in the City of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a legal husband of **[AAA]**, did then and there willfully, unlawfully and feloniously employ physical violence upon **[AAA]**, unmindful and without regard to the victim as a woman, thereby inflicting physical injuries which required medical attendance for less than nine (9) days and incapacitated her from performing her usual customary labor for the same period of time.

CONTRARY TO LAW.

When arraigned, *BBB* pleaded not guilty to the offense charged. Upon motion of his counsel, the pre-trial was accordingly terminated.<sup>[6]</sup>

In the ensuing trial, the prosecution presented the testimony of *AAA* while *BBB* testified in his defense.

### The Version of the Prosecution

On several occasions, *BBB* inflicted physical injuries upon *AAA* by pushing her against the wall, pinning her down with his body (*dinaganan*), and choking her in front of their two (2) children. In another incident, subject of this case *a quo*, which happened at around 7:30 in the evening of March 12, 2007, *AAA* was passing by the house of her mother-in-law when she saw *BBB*. She tried to talk to *BBB* about the latter's failure to give support to their children until an altercation ensued between them. Despite *AAA*'s attempts to fend him off, *BBB* shoved her, banged her head

against the hood of a vehicle, and strangled her while saying "*Tumigil ka*". She grabbed *BBB*'s arm pleading that they should instead talk but the latter forcibly held her with both hands before leaving. Thereafter, *AAA* sought medical care at the *Pagamutang Bayan ng Malabon*, where she was diagnosed with abrasion, contusion, and hematoma on her right wrist.<sup>[7]</sup> *AAA* claimed that the incident brought her trauma and depression as she could not even believe that *BBB* could harm her.<sup>[8]</sup>

### **The Version of Accused-Appellant**

*BBB* admitted that he and *AAA* were "pushing each other and hurting each other" in the evening of March 12, 2007 while they were at his mother's house. At that time, he was about to get the car from their garage but he suddenly saw *AAA*. They argued about their children's support and *AAA* began to scratch him. In defense, *BBB* held *AAA*'s wrist. He then called his mother who, together with his sister, talked to *AAA*. They all went inside his mother's house, discussed about children's support, and parted ways.<sup>[9]</sup>

### **The Ruling of the RTC**

In its May 16, 2013 Decision,<sup>[10]</sup> the RTC rejected *BBB*'s theory of self-defense for dearth of sufficient, satisfactory, and convincing evidence. It reasoned that the abrasion, contusion, and hematoma sustained by *AAA* on her wrist show the force applied upon her by *BBB*, which is clearly excessive of the intention to defend himself from the puny efforts of his wife. The RTC disposed the case in this wise:

WHEREFORE, premises considered, the Court finds accused **[BBB]** **GUILTY** beyond reasonable doubt of the crime of Violation of R.A. 9262. He is hereby sentenced to suffer the penalty of imprisonment of **THREE (3) MONTHS** of *arresto mayor*, and to pay the costs. Accused is ordered to pay a fine of Two Hundred Thousand Pesos (Php. 200,000.00), with subsidiary imprisonment in case of insolvency. Further, accused shall undergo mandatory psychological counseling or psychiatric treatment in accordance with Section 6 of said law, and to report compliance of the same to the Court.

SO ORDERED.(Emphasis and italics appear in the original text of the Decision)

Insisting on his innocence, *BBB* is now before Us *via* the instant appeal raising the following issues:<sup>[11]</sup>

Whether or not the lower court erred in convicting the accused based merely on abrasion and (*sic*) contusion [, and] hematoma sustained by the private complainant on her right wrist and the same was (*sic*) appreciated by the Court as excessive which constitute violation of Republic Act 9262?

Whether or not the private complainant is considered as the unlawful aggressor considering [that] the Court failed to appreciate that the situs of aggression happened on the house of the mother-in-law of the private complainant or the ancestral house of the accused and not the house of the private complainant?

Whether or not the lower Court erred that private complainant is already prepared for quarrel for she purposely waited for the accused at his mother[']s] house on the date of the incident?

*BBB* invites this Court to revisit his theory of self-defense which is a justifying circumstance under paragraph 1, Article 11 of the Revised Penal Code. He insists that it was *AAA* who purposely waited for him at his mother's house and instigated the violence on that faithful day of March 12, 2007. Thus, he "held her wrist" only to protect himself from *AAA*'s aggression. Claiming that he is a quiet person without any record of physical violence, *BBB* stresses that *AAA* only wanted to get even with him and concocted a story of physical abuse to his damage.<sup>[12]</sup>

The Office of the Solicitor General (OSG), representing the People of the Philippines, counters that the elements of the crime of violence against women were proven beyond reasonable doubt by the prosecution. It defends the RTC in giving credence to *AAA*'s clear, positive, and straightforward testimony on her relationship with accused-appellant and the latter's violent acts committed against her. The OSG further argues that accused-appellant's invocation of self-defense patently lacks merit for being uncorroborated and extremely doubtful. It stresses that by invoking self-defense, the burden of evidence now shifted to accused-appellant who, nonetheless, failed to discharge the same.<sup>[13]</sup>

### **This Court's Ruling**

The appeal is devoid of merit.

#### ***BBB's Guilt: Proven Beyond Reasonable Doubt by AAA's Credible Testimony***

Section 3 of R.A. No. 9262 defines violence against women 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, within or without the family abode, which results 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.

In relation thereto, Section 5 of R.A. No. 9262 enumerates the act or series acts that constitutes violence against women and these include any form of threat to cause the woman physical harm, *viz.*:

**SECTION 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:

- (a) Causing physical harm to the woman or her child;**
- (b) Threatening to cause the woman or her child physical harm;
- (c) Attempting to cause the woman or her child physical harm;
- (d) Placing the woman or her child in fear of imminent physical harm; (Emphasis supplied)