

THIRD DIVISION

[G.R. No. 232678, July 03, 2019]

**ESTEBAN DONATO REYES, PETITIONER, V. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* filed by petitioner Esteban Donato Reyes (*Reyes*) seeking to reverse and set aside the June 23, 2017 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 38609 which affirmed the March 3, 2016 Decision^[2] of the Regional Trial Court, Branch 89, Quezon City (RTC), in Criminal Case No. Q-06-143139, finding him guilty beyond reasonable doubt of the crime of Violation of Section 5(i) of Republic Act No. 9262 (R.A. No. 9262), otherwise known as the *Anti-Violence Against Women and Their Children Act of 2004* (VAWC), committed against AAA.^[3]

The antecedent facts are as follows:

An Information, dated June 5, 2006, was filed on September 26, 2006 before the RTC against Reyes designating the crime as one for violation of Section 5(e), paragraph 2 of R.A. No. 9262. On March 12, 2007, a Temporary Protection Order (TPO) was issued by the RTC directing Reyes to resume the delivery of monthly financial support to private complainant, AAA, in the amount of P20,000.00 to be deducted from his net monthly salary of Two Thousand Five Hundred Dollars (US\$2,500.00), reckoned from the time it was withheld in July 2005. Upon motion of AAA, with the conformity of the public prosecutor, the RTC issued on August 30, 2007 a Hold Departure Order^[4] (HDO) against Reyes. In the October 28, 2008 Order^[5] of the RTC, the TPO issued on March 12, 2007 was made permanent.

On June 11, 2009, Reyes filed a Motion to Quash^[6] the Information anchored on the ground that the allegations set forth therein do not constitute the crime of violation of Section 5(e), par. 2 of R.A. No. 9262. He contended that "*abandoning without financial support*," which is different from deprivation or denial of financial support, is not criminalized under R.A. No. 9262. Reyes posited that the June 5, 2006 Information should be quashed as it does not charge any offense, otherwise, his constitutional right to due process and right to be informed of the nature and the cause of accusation against him, would be infringed. By way of Comment/Opposition,^[7] the prosecution maintained that the totality of facts as alleged in the Information constitutes the crime of violation of Section 5(e), par. 2 of R.A. No. 9262.

In its Order^[8] dated November 24, 2009, the RTC ruled that on the basis of the allegations in the Information, Reyes is being charged with violation of Section 5(i) of R.A. No. 9262 and not with violation of Section 5(e), par. 2. Consequently, the

RTC directed the Office of the City Prosecutor to amend the Information by designating the proper crime to which Reyes should be charged. The RTC held that the amendment of the Information was proper, since Reyes has not been arraigned at that time, and inclusion sought would not prejudice his rights being merely formal in nature. Reyes' Motion to Quash was denied by the trial court.

Upon arraignment, Reyes pleaded not guilty to the crime of violation of Section 5(i) of R.A. No. 9262. After pre-trial was terminated, trial on merits ensued.

Evidence for the prosecution tends to show that AAA and Reyes were married on May 15, 1969. Four children were born out of this union, of whom only three are living, and who are all now of legal ages. Reyes was seldom at home since he used to render military service as a Philippine Air Force pilot, and later he worked as a commercial pilot for the Philippine Airlines. At the time the complaint for violation of the VAWC was filed against him, Reyes was employed as a pilot based in Angola, Africa tasked to deliver relief goods by air. Sometime in 2005, AAA learned that Reyes got married to a certain Marilou Osias Ramboanga who had borne him four children and with whom he is living with up to the present.

AAA claimed that Reyes used to give her and their children monthly financial support, ranging from Ten Thousand Pesos (P10,000.00) to Twenty Thousand Pesos (P20,000.00), but he suddenly ceased giving the same in July 2005. On top of this unpleasant situation, AAA got sick of various illness such as hypertension, cardiovascular disease, diabetes and osteoarthritis. Due to her advancing age, AAA's health condition further deteriorated requiring her to take maintenance medicines and to undergo regular consultation, monitoring and treatment to prevent organ damage, stroke, renal failure and heart attack. According to AAA, what impelled her to file the complaint for violation of R.A. No. 9262 against Reyes was due to the latter's failure to provide her with monthly financial support.^[9]

The defense presented petitioner as its lone witness. Primarily, Reyes assailed the validity of his marriage with AAA alleging that he never attended the marriage ceremony and that his supposed signature appearing in the marriage certificate was forged. He also pointed out that his supposed age of twenty-five years old as reflected in the marriage certificate was erroneous considering that he was born on August 3, 1948. Petitioner alleged that he lived with AAA in a common-law relationship, which produced three daughters and a son. He narrated that he met AAA when he went for a vacation at her aunt's house in Bicol where AAA was a housemaid. He averred that he gave AAA monthly financial support of P20,000.00. In addition, he also gave her Christmas bonuses, shouldered the expenses for her cataract operation, her denture and vacation in Tagaytay, as well as paid for the matriculation of her grandchildren and the materials of their second daughter. He admitted that he no longer provides AAA with financial support since July 2006 because he was disappointed with her for instituting a criminal case for Bigamy against him which he considered as an act of ingratitude. In 2007, he stopped flying as a pilot after he was prevented from leaving the Philippines by virtue of a Hold Departure Order issued against him at the instance of AAA.

The RTC Ruling

After trial, the RTC rendered its Decision dated March 3, 2016 finding accused-petitioner guilty as charged. The RTC disposed the case as follows:

WHEREFORE, in view of the foregoing, the Court finds accused Esteban Donato Reyes GUILTY beyond reasonable doubt [of] violating Section 5(i) of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and their Children Act, and is hereby sentenced to suffer an indeterminate penalty of THREE (3) YEARS of *prision correccional*, as minimum, to EIGHT (8) YEARS and ONE (1) DAY of *prision mayor*, as maximum.

SO ORDERED.^[10]

The RTC found the testimonies of the prosecution witnesses: AAA, her attending physician, Dr. Rey Caesar R. Anunciacion and the victim's daughter, to be credible and sufficient. It ruled that the evidence proffered by the prosecution has adequately established all the elements of violation of Section 5(i) of R.A. No. 9262.

Not in conformity, Reyes appealed his conviction before the CA.

The CA Ruling

On June 23, 2017, the CA rendered its assailed Decision upholding the conviction of Reyes for Violation of Section 5(i) of R.A. No. 9262, the *fallo* of which states:

WHEREFORE, in view of the foregoing, the appeal is DISMISSED FOR LACK OF MERIT. The Decision dated March 3, 2016 issued by the Regional Trial Court of Quezon City, Branch 89 in Criminal Case No. Q-06-143139 is AFFIRMED.

SO ORDERED.^[11]

The CA echoed the conclusion reached by the RTC that Reyes committed psychological violence against his wife AAA when he suddenly stopped giving her financial support and by reason of which, she suffered emotional and mental anguish. According to the CA, Reyes has an obligation to financially support his wife AAA and their marriage is valid until annulled by the court. It held that Reyes could not escape liability by the mere expedient of claiming that his marriage with AAA is void because violation of Section 5(i) of R.A. No. 9262 can be committed even against a woman with whom the accused had a sexual or dating relationship, or with whom he has a common child. The CA opined that Reyes can also be convicted for violation of Section 5(e), assuming that he is indicted for the said crime, because said provision criminalizes the mere act of depriving a woman of financial support legally due her.

Maintaining his innocence of the crime charged, Reyes filed the present petition and posited the following issues, to wit:

- I. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE RULING OF THE HONORABLE REGIONAL TRIAL COURT DIRECTING HEREIN PETITIONER TO RESUME GIVING REGULAR MONTHLY FINANCIAL SUPPORT TO AAA IN THE AMOUNT OF P20,000.00 TO BE DEDUCTED DIRECTLY FROM HIS NET MONTHLY SALARY RECKONED FROM THE TIME IT WAS WITHHELD IN JULY 2005.
- II. THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE DECISION OF THE HONORABLE REGIONAL TRIAL

COURT, FINDING THE PETITIONER GUILTY BEYOND REASONABLE DOUBT OF VIOLATING SECTION 5(i) OF REPUBLIC ACT NO. 9262 OTHERWISE KNOWN AS THE ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT AND SENTENCING HIM TO SUFFER AN INDETERMINATE PENALTY OF THREE (3) YEARS OF *PRISION CORRECCIONAL*, AS MINIMUM, TO EIGHT (8) YEARS AND ONE (1) DAY OF *PRISION MAYOR*, AS MAXIMUM.^[12]

Petitioner insists that the Information, dated June 5, 2006, failed to allege any of the acts punishable under either Section 5(e), par. 2 or Section 5(i) of R.A. No. 9262. He contends that the defective criminal Information should have been quashed at the first instance by the RTC because it effectively deprived him of his right to due process.

The OSG counters that it is apparent from a perusal of the Information that Reyes is charged under Section 5(e), par. 2 for having committed economic abuse against AAA when he abandoned her and failed to give her financial support. The OSG submits that the CA is correct in not only affirming the conviction of Reyes under Section 5(i), but in finding that he can be also held criminally liable under Section 5(e), par. 2 because his purpose in depriving AAA with support is to cow her from further filing cases against him or to withdraw those already filed. The OSG asserts that petitioner's guilt for violation of the provisions of Sections 5(e), par. 2 and 5(i) of R.A. No. 9262 has been established by the prosecution beyond cavil of a doubt.

The petition is devoid of merit.

Reyes stands charged with violation of Section 5(i) of R.A. No. 9262. By alleging that the Information should have been quashed by the RTC for lack of the essential elements of the crime of violation of Section 5(i) of R.A. No. 9262, Reyes is essentially averring that the recital of facts therein do not constitute the offense charged.

Under Section 6, Rule 110 of the Rules of Court, the complaint or information is sufficient if it states the names of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed. It is imperative that an indictment fully states the elements of the specific offense alleged to have been committed.^[13]

The sufficiency of the allegations of facts and circumstances constituting the elements of the crime charged is crucial in every criminal prosecution because of the ever-present obligation of the State to duly inform the accused of the nature and cause of the accusation.^[14] Every element constituting the offense must be alleged in the Information^[15] since the prosecution has the duty to prove each and every element of the crime charged in the information to warrant a finding of guilt for the crime charged. Thus, the Information must correctly reflect the charge against the accused before any conviction may be made.

The fundamental test in determining the sufficiency of the averments in a complaint or information is whether the facts alleged therein, if hypothetically admitted, constitute the elements of the offense.^[16] To meet the test of sufficiency, therefore, it is necessary to refer to the law defining the offense charged which, in this case, is Section 3(c) of R.A. No. 9262, in relation to Section 5(i), which provides as follows:

Section 3. *Definition of Terms.* - As used in this Act:

x 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 mental 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.

x x x x

Section 5(i) of R.A No. 9262 penalizes some forms of psychological violence that are inflicted on victims who are women and children through the following acts:

x 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.^[17]

In *Dinamling v. People*,^[18] the Court had the occasion to enumerate the elements of violation of Section 5(i) of R.A. No. 9262, to wit:

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) The offender causes on the woman and/or child mental or emotional anguish; and
- (4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, *denial of financial support* or custody of minor children or access to the children or similar acts or omissions.^[19]

Were the elements of violation of Section 5(i) sufficiently alleged in the June 5, 2006 Information? To answer this query and for easy reference, the accusatory portion of the Information is hereto reproduced, as follows:

That on or about the month of July, 2005 and continuously up to the present, in Quezon City, Philippines, the said accused, did then and there, willfully, unlawfully and feloniously commit economic abuse upon his wife, AAA, by then and there abandoning her without any financial support thereby depriving her of her basic needs and inflicting upon her psychological and emotional suffering and/or injuries, to the damage and prejudice of the said offended party.