



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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**PENSION AND GRATUITY
 MANAGEMENT CENTER (PGMC),
 GHQ, AFP, CAMP AGUINALDO,
 QUEZON CITY, represented by its
 CURRENT CHIEF,**

Petitioner,

- versus -

AAA (CA-G.R. SP No. 04359-MIN),***
Respondent.

G.R. No. 201292

Present:

LEONARDO-DE CASTRO,
*Acting Chairperson,**
DEL CASTILLO,
JARDELEZA,
TIJAM, and
GESMUNDO, JJ.**

Promulgated:
AUG 01 2018

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[Signature]

DECISION

DEL CASTILLO, J.:

Assailed in this Petition for Review on *Certiorari*¹ are the August 16, 2011 Resolution² and March 9, 2012 Resolution³ of the Court of Appeals (CA) which dismissed the Petition for *Certiorari* in CA-G.R. SP No. 04359-MIN and denied herein petitioner's Motion for Reconsideration,⁴ respectively.

Factual Antecedents

Respondent AAA filed an action for support against her husband, BBB - a retired military person, before the Regional Trial Court (RTC) of Isabela, Basilan. The case was docketed as Civil Case No. 921-259 and assigned to RTC Branch 1.

[Signature]

* Per Special Order No. 2559 dated May 11, 2018.
 ** Per Special Order No. 2560 dated May 11, 2018.
 *** Pursuant to Amended Administrative Circular No. 83-2015; confidentiality of the identities of the parties, records and court proceedings is mandated in cases involving Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004).
¹ *Rollo*, pp. 13-38.
² Id. at 39; per Associate Justices Rodrigo F. Lim, Jr., Pamela Ann A. Maxino and Zenaida T. Galapate-Laguilles.
³ Id. at 41-42; penned by Associate Justice Pamela Ann A. Maxino and concurred in by Associate Justices Edgardo A. Camello and Zenaida T. Galapate-Laguilles.
⁴ Id. at 90-98.

On February 12, 2010, the trial court issued its Judgment,⁵ the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the petitioner and against the respondent by way of the following:

1) Ordering the issuance of a Permanent Protection Order decreeing the respondent to support the petitioner and the minor child CCC consisting of 50% of his monthly pension to be withheld regularly by the Pension Gratuity Management Center of the Armed Forces of the Philippines, General Headquarters, Fort Bonifacio, Taguig City, to be remitted by the latter by check directly to the petitioner;

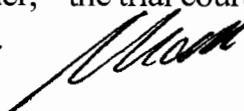
2) Ordering the respondent to pay the petitioner support in arrears in the amount of ₱130,000.00, representing monthly support of ₱5,000.00 commencing from January, 2008.

SO ORDERED.⁶

On February 12, 2010, the trial court issued a Permanent Protection Order⁷ reiterating what was decreed in its Judgment and ordering the automatic withholding of BBB's monthly pension by petitioner Pension Gratuity Management Center of the Armed Forces of the Philippines (PGMC) and its direct remittance to respondent.

Petitioner filed a Manifestation (with Motion)⁸ questioning the trial court's directive for it to withhold half of BBB's pension for direct remittance to respondent, arguing that it may not legally release any portion of BBB's monthly pension to any other individual as it was not impleaded as a party defendant to Civil Case No. 921-259; that it is prohibited by law from releasing and distributing monthly pensions of retired military personnel to individuals other than the retirees themselves; and that pensions are public funds and may not be appropriated for a purpose not intended by law. To this motion, respondent filed her Comment,⁹ to which petitioner filed a Reply.¹⁰

In an April 23, 2011 Order,¹¹ the trial court denied petitioner's Manifestation (with Motion) for lack of merit.



⁵ Id. at 44-47; penned by Presiding Judge Leo Jay T. Principe.

⁶ Id. at 46-47.

⁷ Id. at 48-49.

⁸ Id. at 50-62.

⁹ Id. at 63-64.

¹⁰ Id. at 65-67.

¹¹ Id. at 68-69; penned by Presiding Judge Leo Jay T. Principe.

Ruling of the Court of Appeals

Petitioner filed an original Petition for *Certiorari*¹² with the CA, docketed as CA-G.R. SP No. 04359-MIN. In a August 16, 2011 Resolution, however, the CA dismissed the petition for being tardy and for failing to strictly comply with Rules 43 and 65 of the 1997 Rules of Civil Procedure (1997 Rules), particularly for failure to make a valid tender of payment for the docket and other fees, for having remitted postal money orders that bear an invalid date, and for failure to state the material dates of receipt of the assailed judgment and order of the trial court and the date of filing of its motion for reconsideration.

Petitioner moved to reconsider, but the CA held its ground, insisting on a strict application of the 1997 Rules relative to the filing of petitions for *certiorari*.

Issues

In a February 10, 2016 Resolution,¹³ this Court resolved to give due course to the Petition, which contains the following assignment of errors:

I.

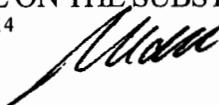
THE HONORABLE COURT OF APPEALS ERRED WHEN IT DISMISSED OUTRIGHT THE PETITION FOR *CERTIORARI* UNDER RULE 65 ON THE GROUND THAT ONLY THE MATERIAL DATE OF RECEIPT OF THE RESOLUTION OF THE RTC DENYING THE MOTION FOR RECONSIDERATION FILED BY THE PETITIONER WITH THE RTC WAS INDICATED.

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT STRICTLY APPLIED THE RULE ON PAYMENT OF DOCKET FEES AND OTHER LAWFUL FEES BY ORDERING THE DISMISSAL OF THE PETITION FOR *CERTIORARI* ON THE GROUND THAT THERE WAS NO VALID TENDER OF PAYMENT OF DOCKET AND OTHER LAWFUL FEES DUE TO THE FACT THAT THE POSTAL MONEY ORDERS REMITTED BORE AN INVALID DATE OF JULY 61, 2011.

III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT REFUSED TO RULE ON THE SUBSTANTIVE MERITS OF THE PETITION FOR *CERTIORARI*.¹⁴



¹² Id. at 71-89.

¹³ Id. at 138-139.

¹⁴ Id. at 20-21.

Petitioner's Arguments

In praying that the assailed CA dispositions be set aside and that, instead, the case be remanded to the CA for resolution thereof on the merits, petitioner pleads in its Petition and Reply¹⁵ substantial compliance with the 1997 Rules; that rules of procedure must give way to substantial justice; that the procedural lapses it committed are not fatal to its cause; and that the substantial issues and merit of its case outweigh the procedural lapses it committed.

Respondent's Arguments

Respondent, on the other hand, simply counters in her Comment¹⁶ that the CA was correct in dismissing the petition for *certiorari* for petitioner's failure to properly observe the procedural requirements.

Our Ruling

The Court denies the Petition.

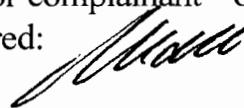
The lone substantive issue for resolution in this suit - which would settle the case once and for all - is whether petitioner may be validly ordered by the court to withhold half of BBB's pension for direct remittance to respondent. The Court declares that it can; the issue has already been settled in a previous case - one involving the very same petitioner in this case.

Thus, in *Republic v. Yahan*,¹⁷ the Court held that PGMC may be ordered to automatically deduct a portion from the retirement benefits of its member-recipients for direct remittance to the latter's legal spouse as and by way of support in compliance with a protection order issued by the trial court, pursuant to the provisions of Republic Act No. 9262 (RA 9262) or the Anti-Violence Against Women and Their Children Act of 2004. The Court declared therein that RA 9262 - which is a special law; a later enactment; a support enforcement legislation; and one that addresses one form of violence, which is economic abuse against women and children - should be construed as laying down an exception to the general rule that retirement benefits are exempt from execution. The Court therein noted that RA 9262 itself explicitly authorizes the courts to order the withholding of a percentage of the income or salary of the defendant or respondent by the employer, which shall be remitted directly to the plaintiff or complainant - other laws to the contrary notwithstanding. Thus, the Court declared:

¹⁵ Id. at 129-135.

¹⁶ Id. at 113-114.

¹⁷ 738 Phil. 397 (2014).



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 against women and their children, their family or household members, and to grant other necessary relief. Its purpose is to safeguard the offended parties from further harm, minimize any disruption in their daily life and facilitate the opportunity and ability to regain control of their life. The protection orders issued by the court may be a Temporary Protection Order (TPO) or a Permanent Protection Order (PPO), while a protection order that may be issued by the barangay shall be known as a Barangay Protection Order (BPO).

Section 8 of R.A. No. 9262 enumerates the reliefs that may be included in the TPO, PPO or BPO, to wit:

X X X X

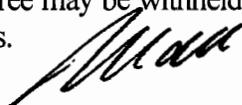
(g) Directing the respondent to provide support to the woman and/or her child if entitled to legal support. **Notwithstanding other laws to the contrary, the court shall order an appropriate percentage of the income or salary of the respondent to be withheld regularly by the respondent's employer for the same to be automatically remitted directly to the woman. Failure to remit and/or withhold or any delay in the remittance of support to the woman and/or her child without justifiable cause shall render the respondent or his employer liable for indirect contempt of court;**

X X X X

Petitioner argues that it cannot comply with the RTC's directive for the automatic deduction of 50% from S/Sgt. Yahon's retirement benefits and pension to be given directly to respondent, as it contravenes an explicit mandate under the law governing the retirement and separation of military personnel.

The assailed provision is found in Presidential Decree (P.D.) No. 1638, which states:

Section 31. The benefits authorized under this Decree, except as provided herein, **shall not be subject to attachment, garnishment, levy, execution or any tax whatsoever; neither shall they be assigned, ceded, or conveyed to any third person:** Provided, That if a retired or separated officer or enlisted man who is entitled to any benefit under this Decree has unsettled money and/or property accountabilities incurred while in the active service, not more than fifty per centum of the pension gratuity or other payment due such officer or enlisted man or his survivors under this Decree may be withheld and be applied to settle such accountabilities.



A similar provision is found in R.A. No. 8291, otherwise known as the "Government Service Insurance System Act of 1997," which reads:

SEC. 39. *Exemption from Tax, Legal Process and Lien --*

x x x

x x x x

The funds and/or the properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other processes issued by the courts, quasi-judicial agencies or administrative bodies including Commission on Audit (COA) disallowances and from all financial obligations of the members, including his pecuniary accountability arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in connection with his position or work except when his monetary liability, contractual or otherwise, is in favor of the GSIS.

In *Sarmiento v. Intermediate Appellate Court*, we held that a court order directing the Philippine National Bank to refrain from releasing to petitioner all his retirement benefits and to deliver one-half of such monetary benefits to plaintiff as the latter's conjugal share is illegal and improper, as it violates Section 26 of CA 186 (old GSIS Law) which exempts retirement benefits from execution.

The foregoing exemptions have been incorporated in the 1997 Rules of Civil Procedure, as amended, which governs execution of judgments and court orders. Section 13 of Rule 39 enumerates those properties which are exempt from execution:

SEC. 13. *Property exempt from execution. Except as otherwise expressly provided by law*, the following property, and no other, shall be exempt from execution:

x x x x

(1) The right to receive legal support, or money or property obtained as such support, or **any pension or gratuity from the Government**;

It is basic in statutory construction that in case of irreconcilable conflict between two laws, the later enactment must prevail, being the more recent expression of legislative will. Statutes must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. However, if several laws cannot be harmonized, the earlier statute must yield to the later enactment. The later law is the latest expression of the legislative will.

We hold that Section 8(g) of R.A. No. 9262, being a later enactment, should be construed as laying down an exception to the general rule above-stated that retirement benefits are exempt from execution. The law itself declares that the court shall order the withholding of a percentage of the income or salary of the respondent by the employer, which shall be automatically remitted directly to the



woman “[n]otwithstanding other laws to the contrary.”

Petitioner further contends that the directive under the TPO to segregate a portion of S/Sgt. Yahon’s retirement benefits was illegal because said [monies] remain as public funds, x x x

x x x x

We disagree.

Section 8(g) of R.A. No. 9262 used the general term “employer,” which includes in its coverage the military institution, S/Sgt. Yahon’s employer. Where the law does not distinguish, courts should not distinguish. Thus, Section 8(g) applies to *all* employers, whether private or government.

It bears stressing that Section 8(g) providing for spousal and child support, is a support enforcement legislation. In the United States, provisions of the Child Support Enforcement Act allow garnishment of certain federal funds where the intended recipient has failed to satisfy a legal obligation of child support. As these provisions were designed ‘to avoid sovereign immunity problems’ and provide that ‘moneys payable by the Government to any individual are subject to child support enforcement proceedings,’ the law is clearly intended to ‘create a limited waiver of sovereign immunity so that state courts could issue valid orders directed against Government agencies attaching funds in their possession.’

This Court has already ruled that R.A. No. 9262 is constitutional and does not violate the equal protection clause. In *Garcia v. Drilon* the issue of constitutionality was raised by a husband after the latter failed to obtain an injunction from the CA to enjoin the implementation of a protection order issued against him by the RTC. We ruled that R.A. No. 9262 rests on real substantial distinctions which justify the classification under the law: the unequal power relationship between women and men; the fact that women are more likely than men to be victims of violence; and the widespread bias and prejudice against women.

We further held in *Garcia* that the classification is germane to the purpose of the law, viz:

The distinction between men and women is germane to the purpose of R.A. 9262, which is to address violence committed against women and children, spelled out in its Declaration of Policy, as follows:

SEC. 2. Declaration of Policy. It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

x x x x



Under R.A. No. 9262, the provision of spousal and child support specifically addresses one form of violence committed against women: *economic abuse*.

D. "Economic abuse" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

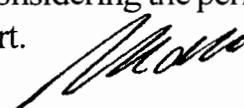
1. Withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
2. Deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
3. Destroying household property;
4. Controlling the victims' own money or properties or solely controlling the conjugal money or properties.

The relief provided in Section 8(g) thus fulfills the objective of restoring the dignity of women who are victims of domestic violence and provide them continued protection against threats to their personal safety and security.¹⁸ (Emphasis and italics in the original; citations omitted)

Having disposed of the case in the foregoing manner, the other issues raised by petitioner are deemed irrelevant and need not be passed upon by the Court. Quite the contrary, the resolution of the Court on the substantive issue involved should be enforced with dispatch, this case being one for support.

WHEREFORE, the Petition is **DENIED**. The August 16, 2011 and March 9, 2012 Resolutions of the Court of Appeals in CA-G.R. SP No. 04359-MIN, as well as the February 12, 2010 Judgment of the Regional Trial Court of Isabela, Basilan, Branch 1, in Civil Case No. 921-259 are **AFFIRMED in toto**.

The case is **REMANDED** to the court of origin for execution, and if necessary, evaluation and determination of what is correctly due to respondent AAA by way of support in arrears and interest, if any, considering the period of time that elapsed since the case was decided by the trial court.



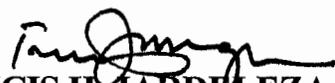
¹⁸ Id. at 407-414.

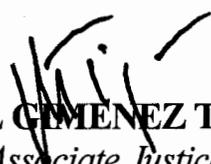
SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



ANTONIO T. CARPIO
Acting Chief Justice

