



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

XXX270257,*

Petitioner,

-versus-

PEOPLE OF THE PHILIPPINES
AND AAA,

Respondents.

G.R. No. 270257

Present:

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,* *JJ*.

Promulgated:

August 12, 2024

Mis & DC Bott

X-----X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed by petitioner XXX270257 assailing the Decision² dated February 8, 2023, and

* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;" RA 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

* On official leave.

¹ *Rollo*, pp. 9–28.

² *Id.* at 29–39. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Perpetua Susana T. Atal Pafio and Maximo M. De Leon of the Seventh Division, Court of Appeals, Manila.

the Resolution³ dated September 6, 2023, of the Court of Appeals (CA) in CA-G.R. CR No. 45361. The CA affirmed the Judgment⁴ dated July 3, 2020, of [REDACTED], Regional Trial Court (RTC), [REDACTED], Benguet in Criminal Case No. 18-CR-12464 that found XXX270257 guilty beyond reasonable doubt of Psychological Violence defined and penalized under Section 5(i)⁵ of Republic Act No. 9262, otherwise known as the Anti-Violence against Women and their Children Act.

The Antecedents

The instant case stemmed from an Information⁶ for violation of Section 5(i) of Republic Act No. 9262 filed against XXX270257. The accusatory portion of the Information reads:

That on the 1st day of January 2017, and on the days prior and subsequent thereto, at [REDACTED], Municipality of [REDACTED], Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause or reason whatsoever, did then and there willfully, unlawfully and knowingly subject his wife [AAA] and their children to mental and emotional anguish, public ridicule or humiliation by abandoning them and living with another woman thereby denying them marital love and affection, and financial support to their children despite being financially capable, to the damage and prejudice of said [AAA] and their children.

CONTRARY TO LAW.⁷

Upon arraignment, XXX270257 entered a plea of “Not Guilty” to the charge.

Trial on the merits ensued.

Version of the Prosecution

XXX270257 was married to private complainant AAA on November 27, 1998; they have three children.⁸ On December 23, 2016, AAA discovered several calls from a single unknown number on the call log of XXX270257’s phone. AAA tried calling the number and a woman answered. This prompted AAA to drop the call.⁹ On January 1, 2017, XXX270257 left their home. It was at this point that AAA discovered that he was living with another woman,

³ *Id.* at 47–48. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Perpetua Susana T. Atal Paño and Maximo M. De Leon of the Former Seventh Division, Court of Appeals, Manila.

⁴ *Id.* at 52–55. Penned by Judge Marietta S. Brawner-Cualing.

⁵ 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:

....
(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 of access to the woman’s child/children.

⁶ *Rollo*, p. 30.

⁷ *Id.*

⁸ *Id.* at 52.

⁹ *Id.*

CCC. Days later, CCC, in the presence of AAA and her children, informed AAA that she would leave XXX270257 for the benefit of the children. This promise went unfulfilled, however, as XXX270257 never returned to their home.¹⁰

AAA decided to file a case against XXX270257. However, she was prevailed upon by XXX270257's relatives to desist as the latter had already promised to sever his relationship with CCC. Such promise was written in an agreement signed by both AAA and XXX270257. Nevertheless, the promise was left unfulfilled as XXX270257 cohabited with CCC in his mother's house adjacent to their residence. Later, XXX270257 and CCC had a child, whom XXX270257 acknowledged as his own. XXX270257 failed to give any financial support to his children with AAA. This prompted AAA to file a complaint for violation of Section 5(i) of Republic Act No. 9262.¹¹

Version of the Defense

XXX270257 denied cohabiting with CCC. He asserted that she was only an acquaintance of his family who used to visit their ancestral house. He stated that he had already filed a case for annulment of marriage against AAA. Anent his alleged child with CCC, he said that he merely stood as the child's father because he wanted to have a male child. Finally, he maintained that he opened separate accounts in the name of his minor children, where he deposited his financial support for them.¹²

The Ruling of the RTC

In the Judgment¹³ dated July 3, 2020, the RTC convicted XXX270257 of violation of Republic Act No. 9262. The dispositive portion of which states:

WHEREFORE, from the foregoing, there being proof beyond reasonable doubt that accused committed the crime charged, [XXX270257] is hereby found GUILTY of Violation of Section 5(i) of Republic Act No. 9262.

He is hereby sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *Prision Correccional* in its medium period as minimum to ten (10) years of *Prision Mayor* in its medium period as maximum.

He is also directed to pay a fine in the amount of Php200,000.00 and to undergo mandatory psychological counselling or psychiatric treatment.

SO ORDERED.¹⁴

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 53.

¹³ *Id.* at 52–55.

¹⁴ *Id.* at 55.

The RTC held that the prosecution established all the elements of Psychological Violence under Section 5(i) of Republic Act No. 9262. The offended party, AAA, is a woman who is married to XXX270257. The element of emotional anguish was proven through the testimonies of AAA and BBB, their daughter. In contrast, XXX270257's only defense to the charge was denial, which is inherently weak and negative evidence; it cannot overcome the positive testimonies of the witnesses.¹⁵

Aggrieved, XXX270257 appealed to the CA.¹⁶

The Ruling of the CA

In the Decision¹⁷ dated February 8, 2023,¹⁸ the CA affirmed *in toto* the RTC Judgment. The *fallo* of the CA Decision reads:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Judgment of the Regional Trial Court (RTC), First Judicial Region, [REDACTED], Benguet in Criminal Case No. 18-CR-12464, dated 3 July 2020 is UPHELD and AFFIRMED in toto.

SO ORDERED.¹⁹

The CA held that XXX270257's acts of: (1) engaging in an extramarital relationship; (2) abandoning his wife; (3) siring an illegitimate child; and (4) failing to financially support his children, brought emotional anguish to AAA and her children as proven by their respective testimonies.²⁰

XXX270257 moved for reconsideration,²¹ but the CA denied it in the assailed Resolution.²² The dispositive portion thereof reads:

WHEREFORE, finding no new, valid and compelling reasons to reconsider and/or set aside the Decision rendered, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.²³

Hence, the present petition.

Petitioner's Arguments

In his Petition,²⁴ XXX270257 submits that independent evidence in the form of a psychological evaluation or assessment is needed to support a

¹⁵ *Id.* at 54.

¹⁶ *Id.*

¹⁷ *Id.* at 29–39.

¹⁸ *Id.*

¹⁹ *Id.* at 38.

²⁰ *Id.* at 36–37.

²¹ *Id.* at 40–46.

²² *Id.* at 47–48. Dated September 6, 2023.

²³ *Id.* at 48.

²⁴ *Id.* at 9–28.

finding of psychological violence suffered by the victim.²⁵ XXX270257 maintains that the prosecution listed only AAA and her children as its witnesses and did not mention the psychologist. Thus, XXX270257 vehemently opposed the presentation of the psychologist as a witness.²⁶ Finally, he points out that the psychological evaluation was conducted on April 21 and 25, 2017, or approximately 22 months before the pre-trial conference on February 8, 2019. Thus, the presentation of the psychologist and the psychological report she executed, not having been listed as a witness or reserved as evidence, violates his right to due process.²⁷

Issue

The issue to be resolved is whether the CA erred in finding XXX270257 guilty of violation of Republic Act No. 9262.

The Ruling of the Court

The Court resolves to deny the petition for failure to sufficiently show that the CA committed reversible error in rendering its assailed dispositions as to warrant the exercise of the Court's discretionary appellate jurisdiction.

The Court adopts the finding of the CA that all the elements of Psychological Violence under Section 5(i) or Republic Act No. 9262 are present. In *Dinamling v. People*,²⁸ the Court held:

From the aforequoted Section 5(i), in relation to other sections of RA No. 9262, the elements of the crime are derived as follows:

- (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 such acts or omissions.*²⁹ (Emphasis supplied, citations omitted)

²⁵ *Id.* at 15.

²⁶ *Id.* at 22.

²⁷ *Id.* at 23.

²⁸ 761 Phil. 356 (2015).

²⁹ *Id.* at 373.

It is undisputed that AAA is a woman married to XXX270257. Thus, what the Court must resolve now is the presence of the third and fourth elements, i.e., the offender causing on the woman and/or child mental or emotional anguish 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 such acts or omissions.

Regarding the third element, XXX270257 argues that the element of psychological violence was not proven. He contends that the prosecution failed to effectively adduce a psychological report when it did not stipulate, during the trial, on its presentation as evidence and the psychologist as a witness; the RTC nonetheless favorably considered both.³⁰

The argument utterly lacks merit.

In *Labrador v. People*,³¹ the Court categorically held that a psychological evaluation is *not* indispensable in proving the infliction of psychological violence under Republic Act No. 9262. Thus:

Moreover, petitioner harps on the absence of a psychological evaluation from an expert witness which would show that CCC had indeed suffered mentally and emotionally as a result of his actions. Ineluctably, the absence of such evaluation is inconsequential since it is not an element of the crime of Violation of Section 5 (h) of R.A. No. 9262. Nowhere in the law can such a requirement be inferred. In any event, the law does not actually require proof that the victim became psychologically ill due to the psychological violence done by her abuser.³² (Citation omitted)

Further, the Court has also categorically held that the victim's testimony in court suffices to prove the element of emotional anguish. In *Araza v. People*,³³ the Court declared that therein petitioner committed psychological violence upon his wife by committing marital infidelity, which caused the latter emotional anguish and mental suffering. The Court elucidated in this wise:

Psychological violence is an indispensable element of violation of Section 5(i) of R.A. No. 9262. Equally essential is the element of emotional anguish and mental suffering, which are personal to the complainant. Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party. *The law does not require proof that the victim became psychologically ill due to the psychological violence done by her abuser.* Rather, the law only requires emotional anguish and mental

³⁰ *Rollo*, p. 34.

³¹ G.R. No. 260275, April 17, 2023.

³² *Id.*

³³ 882 Phil. 905 (2020).

suffering to be proven. *To establish emotional anguish or mental suffering, jurisprudence only requires that the testimony of the victim to be presented in court, as such experiences are personal to this party.*³⁴ (Emphasis supplied, citations omitted)

Here, the testimony of AAA detailing her emotional ordeal suffices to prove the element of emotional anguish. XXX270257's insistence that a psychological report is indispensable to the prosecution of the violation of Section 5(i) of Republic Act No. 9262 has *no* basis in law and jurisprudence. As such, it cannot serve to acquit him.

Anent the fourth element of psychological violence, it must be noted that XXX270257 merely denied committing the acts charged. Specifically, he denied cohabiting and having an affair with CCC, who, according to him was a mere acquaintance. He also alleged that he did not have a child with CCC and that he only stood as the father of her child because he wanted a son.³⁵

The Court is not persuaded.

It is settled that the positive and categorical testimony of the victim prevails over the bare denial of the accused.³⁶ Thus, XXX270257's flimsy and incredible defenses do not merit consideration from the Court. Denial, being a self-serving negative defense, cannot be given greater weight than the declaration of credible witnesses who testify on affirmative matters.³⁷

Moreover, the prosecution sufficiently adduced proof, through the testimony of AAA, that she suffered mental and emotional anguish due to the actions of XXX270257. To reiterate, as the CA aptly summarized,³⁸ XXX270257 had an extramarital relationship, left AAA and their children for CCC, cohabited with CCC in full view of their children, sired an illegitimate child, and flaunted such affair on social media.

All told, XXX270257 is guilty of psychological violence under Section 5(i) of Republic Act No. 9262. In fine, the RTC and the CA did not err in finding petitioner guilty of violating Sec. 5(i) of Republic Act No. 9262.

Anent the penalty to be imposed, Section 6 of Republic Act No. 9262 reads:

SECTION 6. Penalties. — The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

....

³⁴ *Id.* at 919.

³⁵ *Rollo*, p. 53.

³⁶ *XXX v. People*, 893 Phil. 840 (2021).

³⁷ *People v. Peteluna, et al.*, 702 Phil. 128, 142 (2013).

³⁸ *Rollo*, p. 37.

(f) *Acts falling under Section 5(h) and Section 5(i) shall be punished by prision mayor.*

....

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos ([PHP] 100,000.00) but not more than three hundred thousand pesos ([PHP] 300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court. (Emphasis supplied)

Pursuant to Section 6 of Republic Act No. 9262, the penalty for Psychological Violence under Section 5(i) of the same law is *prision mayor*, or six years and one day to 12 years. Applying the Indeterminate Sentence Law, the maximum term of the penalty shall be taken from *prision mayor* in its medium period, or eight years and one day to 10 years, there being no aggravating or mitigating circumstances attending the commission of the crime. The minimum term of the penalty is that next lower in degree, which is *prision correccional*, or six months and one day to six years.

Considering the circumstances of the case, the Court deems it proper to impose on XXX270257, the indeterminate penalty of six months and one day of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum.³⁹

Section 36 of Republic Act No. 9262 provides that any victim of violence shall be entitled to moral damages.

The actions of XXX270257 in abandoning AAA and their children, maintaining an extramarital relationship with CCC and siring illegitimate children with her, and flaunting such illicit relationship, caused AAA undeniable mental suffering and emotional anguish, as sufficiently proven by her testimony. Thus, the severity of the actions of the petitioner clearly warrants the award of moral damages.

In recent cases involving violation of Republic Act No. 9262, moral damages have not been consistently imposed by the Court. For instance, in the recent cases of *XXX v. People*,⁴⁰ *Labrador v. People*,⁴¹ and *XXX v. People*,⁴² the Court did not award moral damages, despite Section 36 of Republic Act No. 9262, and notwithstanding the private complainants' testimony relating emotional anguish. In the few cases where moral damages were awarded,⁴³ the Court has merely affirmed the award of PHP 50,000.00 as imposed by the lower courts. In the case of *People v. Araza*,⁴⁴ the amount

³⁹ *Araza v. People*, 882 Phil. 905 (2020).

⁴⁰ G.R. No. 250219, March 1, 2023.

⁴¹ G.R. No. 260275, April 17, 2023.

⁴² G.R. No. 263449, November 13, 2023.

⁴³ *Villalon v. People*, G.R. No. 234520, February 28, 2018 [Notice].

⁴⁴ 882 Phil. 905 (2020).

of moral damages imposed by the Court was further decreased to PHP 25,000.00.

Thus, in light of the deep and repeated emotional anguish and stress suffered by the victim, and a need to firm up the Court's approach in imposing moral damages in cases involving Republic Act No. 9262, the Court deems it prudent to impose moral damages in the amount of PHP 75,000.00.

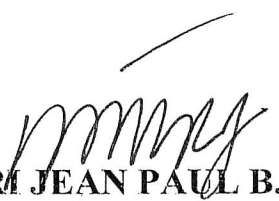
Further, XXX270257 is directed to pay a fine of PHP 200,000.00.

He shall also undergo a mandatory psychological counselling or psychiatric treatment and report compliance therewith to the RTC.

ACCORDINGLY, the Petition for Review on *Certiorari* is hereby **DENIED**. The Decision dated February 8, 2023, and Resolution dated September 6, 2023, of the Court of Appeals in CA-G.R. CR No. 45361 are **AFFIRMED** with **MODIFICATION**:

1. Petitioner XXX270257 is found **GUILTY** beyond reasonable doubt of violation of Section 5(i) of Republic Act No. 9262 and is sentenced to suffer the indeterminate penalty of six months and one day of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum, and to **PAY** a fine equivalent to PHP 200,000.00;
2. He is also **ORDERED** to **PAY** the victim, AAA, moral damages in the amount of PHP 75,000.00; and
3. Further, he is **DIRECTED** to **UNDERGO** a mandatory psychological, counselling or psychiatric treatment, and to **REPORT** his compliance therewith to the court of origin within 15 days after the completion of such counselling or treatment.

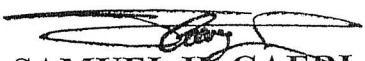
SO ORDERED.

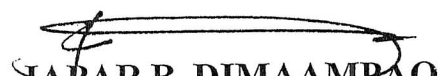

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

*See Concurring
Opinion*

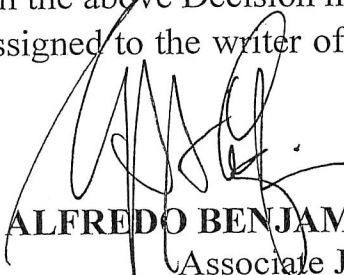

SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

(On official leave)
MARIA FILOMENA D. SINGH
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.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice



THIRD DIVISION

G.R. No. 270257 – XXX270257,¹ Petitioner, v. PEOPLE OF THE PHILIPPINES and AAA, Respondents.

Promulgated:

August 12, 2024

X- ----- ~~Mistakenly~~ ----- X

CONCURRING OPINION

CAGUIOA, J.:

I concur in affirming the conviction of petitioner XXX270257 for violation of Section 5(i) of Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004. Particularly, the *ponencia* correctly appreciated the factual circumstances in this case as acts falling under Section 5(i) of Republic Act No. 9262.

Factual background

XXX270257 and private respondent AAA were married in 1998. During the course of their marriage, they had three children together. On December 23, 2016, however, AAA discovered several calls on XXX270257’s phone from an unknown number. She called the unknown number back and a woman answered, prompting AAA to drop the call.²

On January 1, 2017, XXX270257 left their conjugal home. AAA eventually discovered that XXX270257 began living with another woman, CCC.³

On January 8, 2017, CCC went to AAA’s house to tell her and her children that she was leaving XXX270257. Despite such declaration, XXX270257 did not return to the conjugal home. Not long after, XXX270257 and his relatives visited AAA to suggest that they sever the marriage since

¹ The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of Administrative Matter No. 04-10-11-SC, otherwise known as the “RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN” (November 15, 2004). See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 (2014), citing *People v. Lomaque*, 710 Phil. 338, 342 (2013). See also Amended Administrative Circular No. 83-2015, titled “PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES,” dated September 5, 2017.

² *Rollo*, p. 13, Petition for Review on *Certiorari*.

³ *Id.*



XXX270257 was already living with CCC. However, XXX270257 promised to still be financially responsible for their children.⁴

On March 1, 2017, XXX270257 and AAA entered into a written agreement where he stated that he will no longer have any connection with CCC. He, however, failed to comply with the agreement. XXX270257 then moved CCC into his mother's house where they cohabited. To add insult to the injury, the said house is adjacent to AAA's, and as such, their live-in situation was in full view of AAA and her three children.⁵

XXX270257 and CCC had a child of their own which he acknowledged as his biological child. They even posted photos of their new family on social media.

For his defense, XXX270257 claimed that CCC was a mere acquaintance of his family. He nevertheless admitted that he presented himself as the father of CCC's child because he wanted a son, even though he already had male children with AAA. XXX270257 then filed for the annulment of his marriage with AAA but for some reason, withdrew the same.⁶ Nevertheless, he promised to support their three children and opened separate accounts where he deposited a monthly support of PHP 5,000.00.⁷

AAA began attending therapy sessions and underwent a psychological evaluation. She was diagnosed with depression as characterized by her difficulty in sleeping, loss of appetite, weight loss, anxiety, and reclusiveness. The psychological expert presented by the prosecution opined that AAA's distress was brought about by XXX270257's actions of leaving their conjugal home, staying with another woman, and filing for the annulment of their marriage.⁸

After XXX270257 and CCC's child was born, AAA filed a case for concubinage against the pair with the Municipal Trial Court of La Trinidad, Benguet which found XXX270257 and CCC both guilty of the crime as charged.⁹ AAA also filed the present case for violation of Section 5(i) of Republic Act No. 9262 with the Regional Trial Court of La Trinidad, Benguet (RTC).

The RTC ruled that XXX270257 was guilty of inflicting mental and emotional anguish on AAA. His acts of having an extramarital affair, leaving his family to cohabit with CCC, siring an illegitimate child, making his relationship with CCC public in social media, and failing to financially support his three children with AAA established his guilt beyond reasonable doubt. The RTC held that while XXX270257 provided financial support to

⁴ *Id.*

⁵ *Id.* at 52-A, Judgment dated July 3, 2020.

⁶ *Id.* at 31, Court of Appeals' Decision dated February 6, 2023.

⁷ *Id.*

⁸ *Id.* at 52-A-53, Judgment dated July 3, 2020.

⁹ *Id.* at 53.



his children, the same was not enough to provide for their daily needs. The RTC's Judgment¹⁰ was affirmed *in toto* by the Court of Appeals, Seventh Division, Manila in its Decision¹¹ dated February 8, 2023, and subsequently, its Resolution¹² dated September 6, 2023.

The acts of XXX270257 fall squarely within Section 5(i) of Republic Act No. 9262.

The Court in *Acharon v. People*¹³ (*Acharon*) clarified that the crimes penalized under Section 5(i) of Republic Act No. 9262 are *mala in se*. Being a crime *mala in se*, there must be a concurrence of both *actus reus* and *mens rea* to constitute the crime. Under Section 5(i) of Republic Act No. 9262, the *actus reus* are the acts or omissions covered therein, which include but are not limited to repeated verbal and emotional abuse and denial of financial support. The *mens rea*, on the other hand, is the specific criminal intent to cause mental or emotional anguish, public ridicule or humiliation. As such, to be convicted for violation of Section 5(i), it is not enough for the woman to experience mental or emotional anguish—it must be proven that the accused willfully or consciously committed the acts complained of for the purpose of inflicting mental or emotional anguish upon her.

In this case, the evidence presented by the prosecution established beyond reasonable doubt that XXX270257 intended to cause mental or emotional anguish and public ridicule or humiliation upon AAA. He did so, not by engaging in marital infidelity *per se*, but by flaunting the very same extramarital relationship in full view of AAA, his legitimate children, and the public.

At this juncture, I wish to emphasize as I did in my Dissenting Opinion in the *En Banc* case of *XXX v. People of the Philippines*¹⁴ (*XXX*) that marital infidelity *per se* is not punished by Republic Act No. 9262. XXX270257 is guilty in this case because his acts of abandoning his conjugal home with AAA, moving CCC into his mother's house in full view of AAA and their three children, siring a son with CCC, and publicizing on social media his new family were clearly indicative of his reckless disregard of AAA's welfare, amounting to intent to inflict emotional violence upon her. The foregoing acts clearly demonstrate XXX270257's intent to cause mental or emotional anguish (*mens rea*) specifically by willfully, unlawfully, and feloniously committing marital infidelity and shamelessly showing off the same (*actus reus*). Hence, with the presence of the *mens rea* and *actus reus* concurrently

¹⁰ *Id.* at 52–55, Judgment dated July 3, 2020. Penned by Judge Marietta S. Brawner-Cualing of Branch 9, First Judicial Region, Regional Trial Court, La Trinidad, Benguet.

¹¹ *Id.* at 29–39. Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Perpetua Susana T. Atal-Paño and Maximo M. De Leon concurring.

¹² *Id.* at 47–48.

¹³ G.R. No. 224946, November 9, 2021 [Per J. Caguioa, *En Banc*].


¹⁴ G.R. No. 252739, April 16, 2024 [Per J. Hernando, *En Banc*].

established in this case, the *ponencia* was correct in convicting XXX270257 of violating Section 5(i) of Republic Act No. 9262.

I cannot stress enough that it is the foregoing factual circumstances that properly fall in the coverage of Section 5(i), Republic Act No. 9262, not the one in XXX. While XXX's (petitioner therein) unfaithfulness was proven, this did not give rise to criminal liability under Section 5(i) of the law, *without proof of intent*, i.e., that the accused *intended* to cause the woman mental or emotional anguish, public ridicule, or humiliation by engaging in marital infidelity.¹⁵ Compared to the petitioner in this case, XXX did not abandon his conjugal home and flaunt his infidelity to his wife and children, for which reason it could reasonably be said that XXX did not have the requisite criminal intent to cause psychological damage. This is the reason why I opined in the said case that the prosecution failed to establish XXX's intention to use his marital infidelity as the means or "weapon of choice" to cause emotional or mental anguish on his wife.¹⁶

In complete contrast, the marital infidelity of XXX270257 here was accompanied by the acts of publicly displaying his mistress and illegitimate child which wreaked havoc on AAA's mental and emotional well-being. From the prism of the crime's elements, therefore, all the elements of a violation of Section 5(i) of Republic Act No. 9262 are all present: (a and b) AAA is the legal wife of XXX270257; (c) XXX270257 caused AAA mental and emotional anguish; and (d) such anguish was caused through his ***deliberate and intentional*** acts of flaunting his relationship with CCC and their son in full view of his legitimate family and in social media. The prosecution, therefore, proved beyond reasonable doubt that XXX270257 ***purposefully and willfully*** committed the aforementioned acts with the ***specific intent*** to cause AAA mental or emotional anguish, public ridicule or humiliation.

In light of the foregoing, I concur with the affirmance of XXX270257's conviction for violation of Section 5(i), Republic Act No. 9262 and vote to **DENY** the Petition for Review on *Certiorari*.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

¹⁵ J. Caguioa, Dissenting Opinion in *XXX v. People*, *id.*

¹⁶ *Id.*