



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 January 2021** which reads as follows:*

“G.R. No. 253800 [Formerly UDK - 16700] (XXX v. People of the Philippines). — This is a Petition for Review on *Certiorari*¹ assailing the Court of Appeals’ (CA) Decision² dated October 14, 2019 in CA-G.R. CR No. 39451 which affirmed the Regional Trial Court’s (RTC) Decision³ dated November 11, 2016, convicting XXX⁴ (petitioner) of the crime of psychological violence committed against his common-law wife and children in violation of Section 5(i) of Republic Act No. 9262 or the “Anti-Violence Against Women and Their Children Act of 2004.”

At the outset, the Court resolves to **GRANT** the motion of petitioner for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari; and **NOTE** the manifestation dated September 22, 2020 of counsel for petitioner, stating that counsel filed and served via registered mail on September 22, 2020, the aforesaid motion for extension to file petition to ensure compliance with the fifteen (15)-day reglementary period, and considering that the mailed copy might take some time to reach the Court, he is filing the attached motion for extension as an advance copy.

Considering the allegations, issues, and arguments adduced in the petition, the Court finds no cogent reason to deviate from the CA and the

¹ *Rollo*, pp. 17-34.

² *Id.* at 36-47; penned by Associated Justice Maria Elisa Sempio Diy, with the concurrence of Associate Justices Priscilla J. Baltazar-Padilla and Ronaldo Roberto B. Martin.

³ *Id.* at 215-220; penned by Presiding Judge Roslyn M. Rabara-Tria.

⁴ Any information to establish or compromise the identity of the victim, as well as those of her immediate family or household members, shall be withheld, and fictitious initials are used, pursuant to Republic Act (RA) No. 7610, “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”; RA No. 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 A.M. No. 04-10-11-SC, “Rule on Violence Against Women and Their Children”; and *People v. Cabaquinto*, 533 Phil. 703 (2006).

RTC's findings that petitioner is guilty of psychological violence. However, the imposed indeterminate sentence of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum, must be modified.

The crime of psychological violence is punishable by *prision mayor*⁵ which has a range of 6 years and 1 day, to 12 years. Applying the Indeterminate Sentence Law,⁶ and considering that there are neither mitigating nor aggravating circumstances, the maximum term of the indeterminate sentence should be taken from the medium period of the prescribed penalty, or between 8 years and 1 day, to 10 years. Thus, we deem it proper to adjust the maximum term of the indeterminate sentence to 8 years and 1 day of *prision mayor*. On the other hand, the CA and the RTC correctly imposed the minimum term of the indeterminate sentence which is within the range of the penalty next lower in degree than that prescribed, or *prision correccional* which has a range of 6 months and 1 day, to 6 years. The fine of ₱100,000.00 and the order requiring petitioner to submit himself to a mandatory psychological counseling, or psychiatric treatment, and to report his compliance therewith to the court of origin, are likewise proper.

Lastly, petitioner's act of psychological violence arose from his failure to support his children. In *Lam v. Chua*,⁷ it was explained that the amount of support to be awarded should be in proportion to the resources or means of the giver and the necessities of the recipient. Accordingly, the Court remanded the case to the RTC for further proceedings as to the issue regarding support.

FOR THESE REASONS, the petition is **DENIED**. Petitioner **XXX** is found guilty of acts of psychological violence under Section 5(i) of Republic Act No. 9262. The petitioner is sentenced to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum. The petitioner is also ordered to pay a fine of One Hundred Thousand Pesos (₱100,000.00), and to undergo a mandatory psychological counselling or psychiatric treatment, and to report his compliance therewith to the court of origin within fifteen (15) days after the completion of such counseling or treatment.

⁵ Republic Act No. 9262, Section 6 reads:

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

x x x x

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

x x x x

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos ([P]300,000.00); (b) undergo mandatory psychological counselling or psychiatric treatment and shall report compliance to the court.

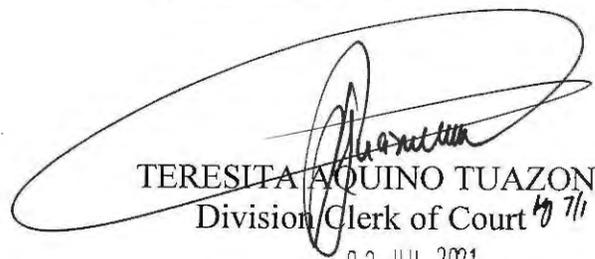
⁶ ACT NO. 4103, approved on December 5, 1933.

⁷ 469 Phil. 852 (2004).

Let the records of this case be remanded to the Regional Trial Court of Quezon City, Branch 94 for further reception of evidence to determine the proper amount of support to be awarded to petitioner's children.

SO ORDERED." (Rosario, *J.*, designated additional member *per* Special Order No. 2797 dated November 5, 2020.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 7/1*
02 JUL 2021

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 94
1100 Quezon City
(Crim. Case No. R-QZN-14-00311-CR)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Please notify the Court of any change in your address.
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