



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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EN BANC

CHRISTIAN
ACHARON,

PANTONIAL

G.R. No. 224946

Petitioner,

Present:

- versus -

PEOPLE
PHILIPPINES,

OF THE

Respondent.

GESMUNDO, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J., and
DIMAAMPAO, JJ.

Promulgated:

November 9, 2021

[Signature]

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 assailing the Decision² dated February 17, 2016 and Resolution³ dated May 31, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 36913 affirming the Decision⁴ dated August 26, 2014 of Branch 270, Regional Trial Court of Valenzuela City (RTC) in Crim. Case No. 34-V-13, which convicted

¹ *Rollo*, pp. 11-28.

² *Id.* at 33-42. Penned by Associate Justice Romeo F. Barza, with Presiding Justice Andres B. Reyes, Jr. (retired Member of the Court) and Associate Justice Agnes Reyes-Carpio concurring.

³ *Id.* at 44-45.

⁴ *Id.* at 62-69. Penned by Presiding Judge Evangeline M. Francisco.

[Signature]

petitioner Christian Pantonial Acharon (Christian) for violation of Section 5(i) of Republic Act No. (R.A.) 9262 or the Anti-Violence Against Women and their Children Act (VAWC Law).

Facts

An Information was filed against Christian, the accusatory portion of which states:

That sometime in (*sic*) January 25, 2012, up to the present, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously cause mental or emotional anguish, public ridicule or humiliation to his wife AAA, by denying financial support to the said complainant.⁵

Christian pleaded not guilty to the charge. Pre-trial and trial then ensued. The version of the prosecution, as summarized by the RTC, is as follows:

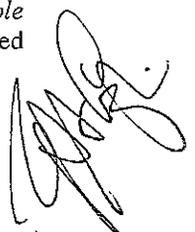
[AAA]⁶ testified that she and [Christian] have been sweethearts for six (6) years before they got married on September 30, 2011, in a civil wedding officiated by Mayor Gatchalian. On October 6, 2011 or only six (6) days after their wedding, [Christian] left to work at Pizza Hut, Brunei as delivery rider. As placement fee, they borrowed the amount of P85,000.00 with 3% monthly interest from their godmother, Emelina So. She and [Christian] agreed that the latter would send money in the amount of Php9,633.00 per month in payment of their loan. However, [Christian] did not send money on a regular basis. All in all, he was able to send money in the total amount of Php71,500.00 only, leaving the balance in the amount of Php13,500.00. For which reason, she felt so embarrassed with Emelina So because she could not pay the balance. She even pleaded to So not to lodge a complaint to the barangay. Emelina So communicated to the employer of [Christian] in Brunei about their debt to her.

Moreover, while in Brunei, [Christian] maintained a paramour in the person of Melete Domalaon. The manager of [Christian] and his board mate, Jovelyn Pastrano disclosed to her the indiscretions of [Christian]. [AAA] identified the photographs marked as Exhibits "C" to "C-5" depicting [Christian] and his alleged paramour. This brought her so much anguish. The womanizing activity of [Christian] extremely hurt her feelings and caused her depression. The message of [Christian] that he no longer cares for her since they are childless destroyed her whole being. [AAA] identified [Christian] in open court and her sworn statement (Exhibit "A") she executed in connection with this case.

On cross, she stated that when [Christian] left in December 2011, she [was] jobless. Presently, she is gainfully employed. She lost communication with [Christian] since January 2012. According to the

⁵ Id. at 34.

⁶ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.



employer and friends of [Christian], the latter is living with his paramour in Brunei. She filed this case because she was extremely hurt and she experienced emotional agony by the neglect and utter insensitivity that [Christian] made her endure and suffer.⁷

On the other hand, the version of the defense, as likewise summarized by the RTC, is as follows:

Christian Acharon vehemently denied the accusations against him. According to him, his original stay in Brunei was two (2) years and three (3) months. However, when he left on October 6, 2011, he was able to come back to the Philippines only in February 2014. He had to extend his stay in Brunei to bring some money to his family. While he was in Brunei, his rented place was razed by fire and he met a vehicular accident which required him to spend [a significant] sum of money. He and [AAA] had an on and off communication from October 2011 until April 2013. [AAA] demanded for him to pay their debt in the entire amount.

He used to send money to [AAA]. But it was the latter who told him not to send money anymore. He also claimed that he was able to send the total amount of Php71,000.00 to [AAA] in payment of their loan. He agreed that the same is not enough to fully pay their loan in the total amount of Php85,000.00. In their exchange of messages [on] Facebook, he and [AAA] were talking about their debt, his alleged womanizing, and their separation.

On cross, he testified that [when he met a minor motor accident, he managed] to go back to the office. He confirmed that [medical expenses are included in his Employment Contract in Brunei] (Exhibit "I"). He told the court that when he arrived in Brunei, he was made to sign another contract which has lower basic salary and big amounts were deducted from it. When he met [the accident] he paid for his medicines because it would take [a] long period of time to process and claim it to their office. For a year, he estimated that he spent about \$1,000.00 for medical expenses only. He affirmed that he was the one who encourage[d] [AAA] to look for another man (Exhibit "J"). Jovelyn Ranoso Pastrana is her former friend. It is not true that he was staying in his girlfriend's house while he was in Brunei.⁸

Ruling Of The RTC

In its Decision⁹ dated August 26, 2014, the RTC convicted Christian, disposing as follows:

WHEREFORE, forgoing considered, the prosecution having proven the guilt of the accused beyond reasonable doubt, **ACCUSED CHRISTIAN ACHARON y PANTONIAL** is hereby sentenced to suffer the penalty of imprisonment with a term of two (2) years, four (4) months and one day of *prision correccional* [as minimum,] to six (6) years and one (1) day of *prision mayor* [as maximum] of his indeterminate sentence and a FINE of One Hundred (*sic*) Pesos (P100,000.00). The accused is further sentenced to undergo mandatory psychological counseling under the

⁷ Rollo, pp. 64-65.

⁸ Id. at 65-66.

⁹ Id. at 62-69.

supervision of any government accredited clinical psychologist/psychiatrist and shall immediately report to court his compliance thereto.¹⁰

The reasons advanced by the RTC for adjudging Christian guilty were his failure to maintain an open communication with his wife, his having a paramour while he was in Brunei, and his neglect of his legal obligation to extend financial support.¹¹

Aggrieved, Christian filed an appeal with the CA.

Ruling of the CA

In its Decision¹² dated February 17, 2016, the CA denied Christian's appeal and affirmed the RTC Decision. The CA held that the refusal to give financial support constitutes violence against women. According to the CA, Christian's failure to provide financial support, especially for the payment of the loan they used to send him to Brunei, constitutes economic abuse. Thus, the CA upheld his conviction.

Christian then filed this present appeal.

Issue

Whether the CA erred in finding Christian guilty of causing psychological or emotional anguish when he allegedly failed to: (1) financially support AAA; and (2) keep the communication lines open with the latter.¹³

The Court's Ruling

The Court grants the appeal. Christian is, as he should be, acquitted of the charge.

The present case is limited only to Christian's alleged lack of financial support

At the outset, it must be emphasized that Christian's criminal liability should be adjudged *only* on the basis of his alleged failure to give financial support to his wife as this is the only allegation contained in the Information.

"No less than the Constitution guarantees the right of every person accused in a criminal prosecution to be informed of the nature and cause of accusation against him."¹⁴ The purpose of the law in having a right to be informed "is to enable the accused to suitably prepare his defense, as he is

¹⁰ Id. at 69.

¹¹ Id. at 67.

¹² Supra note 2.

¹³ Id. at 17.

¹⁴ *Canceran v. People*, 762 Phil. 558, 566 (2015).



presumed to have no independent knowledge of the facts that constitute the offense.”¹⁵ By virtue of this right, “an accused cannot be convicted of a crime, even if duly proven, unless it is alleged or necessarily included in the information filed against him.”¹⁶

In this case, the Information filed against Christian only alleged that he “did then and there willfully, unlawfully and feloniously cause mental or emotional anguish, public ridicule or humiliation to his wife AAA, **by denying financial support to the said complainant.**”¹⁷

It was error, therefore, for the RTC to have allowed the introduction of evidence tending to establish, for instance, that Christian had a paramour when he was in Brunei as this is an irrelevant issue in this case in light of its absence in the Information. Needless to say, the RTC further erred in appreciating these pieces of evidence in establishing his guilt.

Prescinding from the foregoing, the Court now proceeds to determine whether Christian is indeed guilty of violating R.A. 9262 by denying financial support to AAA.

Mere failure or an inability to provide financial support is not punishable by R.A. 9262

Christian was charged, and later on convicted by the RTC and the CA, under an Information that alleges a violation of Section 5(i) of R.A. 9262, as the Information accused him of “caus[ing] mental or emotional anguish, public ridicule or humiliation to his wife AAA, by denying financial support.” Section 5(i) considers as “violence against women” those acts “[c]ausing **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 denial of access to the woman’s child/children.”¹⁸ In *Dinamling v. People*,¹⁹ the Court laid down the elements to prove a violation of Section 5(i):

- (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

¹⁵ *People v. Solar*, G.R. No. 225595, August 6, 2019, 912 SCRA 271, 310-311.

¹⁶ *Canceran v. People*, supra note 14, at 568.

¹⁷ *Rollo*, p. 34. Emphasis supplied.

¹⁸ Emphasis supplied.

¹⁹ 761 Phil. 356 (2015).

custody of minor children or access to the children or similar such acts or omissions.²⁰

Not all of the foregoing elements, however, are present in this case. Specifically, the fourth element was not established beyond reasonable doubt.

It is well-settled that “criminal and penal statutes must be strictly construed, that is, they cannot be enlarged or extended by intendment, implication, or by any equitable considerations. In other words, the **language cannot be enlarged beyond the ordinary meaning of its terms** in order to carry into effect the general purpose for which the statute was enacted.”²¹

The Court stresses that Section 5(i) of R.A. 9262 uses the phrase “denial of financial support” in defining the criminal act. The word “denial” is defined as “refusal to satisfy a request or desire”²² or “the act of not allowing someone to do or have something.”²³ The foregoing definitions connote *willfulness*, or an *active* exertion of effort so that one would not be able to have or do something. This may be contrasted with the word “failure,” defined as “the fact of not doing something [one] should have done,”²⁴ which in turn connotes passivity. From the plain meaning of the words used, the act punished by Section 5(i) is, therefore, *dolo* in nature — there must be a concurrence between intent, freedom, and intelligence,²⁵ in order to consummate the crime.

In this connection, the Court deems it proper to clarify, as Associate Justices Amy C. Lazaro-Javier and Mario V. Lopez pointed out in their respective Opinions that the crimes penalized under Sections 5(i) and 5(e) of R.A. 9262 are *mala in se*, not *mala prohibita*, even though R.A. 9262 is a special penal law.²⁶ The acts punished therein are inherently wrong or depraved,²⁷ and the language used under the said penal law requires a mental element.²⁸ Being a crime *mala in se*, there must thus be a concurrence of both *actus reus* and *mens rea* to constitute the crime. “*Actus reus* pertains to the external or overt acts or omissions included in a crime’s definition while *mens rea* refers to the accused’s guilty state of mind or criminal intent accompanying the *actus reus*.”²⁹

It is not enough, therefore, for the woman to experience mental or emotional anguish, or for her partner to deny financial support that is legally due her. In order for criminal liability to arise under Section 5(i) of R.A. 9262,

²⁰ Id. at 373.

²¹ *People v. Garcia*, 85 Phil. 651, 656 (1950). Emphasis supplied.

²² “Denial,” MERRIAM-WEBSTER DICTIONARY, accessed at <<https://www.merriam-webster.com/dictionary/denial>>.

²³ “Denial,” CAMBRIDGE DICTIONARY, accessed at <<https://dictionary.cambridge.org/dictionary/english/denial>>.

²⁴ “Failure,” CAMBRIDGE DICTIONARY, accessed at <<https://dictionary.cambridge.org/us/dictionary/english/failure>>.

²⁵ See *Guevarra v. Almodovar*, G.R. No. 75256, January 26, 1989, 169 SCRA 476, 481.

²⁶ Concurring Opinion of Associate Justice Lazaro-Javier, p. 2; Separate Concurring Opinion of Associate Justice M. Lopez, p. 2.

²⁷ Separate Concurring Opinion of Associate Justice M. Lopez, p. 2.

²⁸ Concurring Opinion of Associate Justice Lazaro-Javier, p. 3.

²⁹ Separate Concurring Opinion of Associate Justice M. Lopez, p. 3.



insofar as it deals with “denial of financial support,” there must, therefore, be evidence on record that the accused willfully or consciously withheld financial support *legally due* the woman for the purpose of inflicting mental or emotional anguish upon her. In other words, the *actus reus* of the offense under Section 5(i) is the willful denial of financial support, while the *mens rea* is the intention to inflict mental or emotional anguish upon the woman. Both must thus exist and be proven in court before a person may be convicted of violating Section 5(i) of R.A. 9262.

“It bears emphasis that Section 5(i) penalizes some forms of *psychological violence* that are inflicted on victims who are women and children.”³⁰ In prosecutions under Section 5(i), therefore, “[p]sychological violence is the means employed by the perpetrator”³¹ with denial of financial support as the weapon of choice. **In other words, to be punishable by Section 5(i) of R.A. 9262, it must ultimately be proven that the accused had the intent of inflicting mental or emotional anguish upon the woman, thereby inflicting psychological violence upon her, with the willful denial of financial support being the means selected by the accused to accomplish said purpose.**

This means that the mere failure or one’s inability to provide financial support is not sufficient to rise to the level of criminality under Section 5(i), even if mental or emotional anguish is experienced by the woman. In other words, even if the woman were to suffer mental or emotional anguish due to the lack of financial support, but the accused merely *failed* or was *unable* to so provide support, then criminal liability would not arise. A contrary interpretation to the foregoing would result in absurd, if not outright unconstitutional, consequences.

To be sure, under the Family Code, the obligation to support is imposed *mutually upon the spouses*.³² In other words, **both** the husband and the wife have the obligation to give support to each other. However, even as the law imposes the obligation to support mutually upon the spouses, the failure of the wife to financially support the husband only results in **civil liability**, whereas if it is the husband who fails to provide financial support to the wife, this will result not only in **civil liability, but also criminal liability** under Section 5(i) of R.A. 9262. Surely, this cannot be the case, as the law recognizes no

³⁰ *Dinamling v. People*, supra note 19, at 375.

³¹ *Id.* at 376.

³² ARTICLE 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

ARTICLE 70. The spouses are jointly responsible for the support of the family.

ARTICLE 195. Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:

- (1) The spouses;
- (2) Legitimate ascendants and descendants;
- (3) Parents and their legitimate children and the legitimate and illegitimate children of the latter;
- (4) Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and
- (5) Legitimate brothers and sisters, whether of the full or half-blood. (Underscoring supplied)



substantial distinction between the husband and the wife as regards their responsibility to provide financial support to each other and the family.

It is also worth emphasizing that the obligation to give support is measured “in keeping with the financial capacity of the family”³³ — which also implies that it may depend on who is earning for the family. As well, the amount of support “shall be in proportion to the resources or means of the giver and to the necessities of the recipient.”³⁴ As previously stated, therefore, the prosecution must first establish that there is an amount of support *legally due* the woman, and that the partner willfully denied the same to her to cause mental or emotional anguish, before a conviction under Section 5(i) of R.A. 9262 may be had.

The elements of a violation of Section 5(i), insofar as it deals with denial of financial support, are therefore:

- (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 willfully refuses to give or consciously denies the woman and/or her child or children financial support that is legally due her and/or her child or children; and
- (4) The offender denied the woman and/or her child or children the financial support for the purpose of causing the woman and/or her child or children mental or emotional anguish.

Applying the foregoing discussion to the facts of the present case, the Court finds that Christian is not guilty of violating Section 5(i) of R.A. 9262 for the failure of the prosecution to establish the third and fourth elements of the crime. The Court finds him innocent, for there is undenied evidence that Christian tried, as he successfully did for a time, to provide financial support. He testified under oath that he failed to continue providing support only when his apartment in Brunei was razed by fire, and when he met a vehicular accident there. There is also no dispute that he had already paid ₱71,000.00 out of the ₱85,000.000 of the debt that *the spouses* — not the husband alone — were obligated to pay from their community property.

While Christian eventually failed to continue providing financial support, this, however, is not enough to support a conviction under Section

³³ FAMILY CODE, Art. 194.

³⁴ FAMILY CODE, Art. 201.



5(i) of R.A. 9262. **Again, to be convicted under Section 5(i), the evidence must establish beyond reasonable doubt that the accused intended to cause the victim mental or emotional anguish, or public ridicule or humiliation through the *denial* of — not the mere failure or inability to provide — financial support, which thereby resulted into psychological violence.** As the prosecution failed to establish that fact, *i.e.*, willful refusal to provide financial support, then Christian cannot be held guilty of violating Section 5(i) of R.A. 9262.

Neither could Christian be held guilty of violating Section 5(e)

The Court is aware that cases involving denial of financial support typically involve Informations charging a person with a violation of either Section 5(e) or Section 5(i) of R.A. 9262. This is so because Section 5(e) of R.A. 9262 punishes the acts of:

Section 5. *Acts of Violence Against Women and Their Children.* — x x x

x x x x

- (e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:
- (1) Threatening to deprive or actually depriving the woman or her child of custody or access to her/his family;
 - (2) **Depriving or threatening to deprive the woman or her children of financial support** legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - (3) Depriving or threatening to deprive the woman or her child of a legal right;
 - (4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties[.]
(Emphasis supplied)



In fact, the Court has previously held that a person charged for violation of Section 5(i) may, in the alternative, be convicted instead for violating Section 5(e) by applying the variance doctrine.

In *Melgar v. People*³⁵ (*Melgar*), the Court explained that the variance doctrine may be applied because the only difference between Section 5(e) and Section 5(i) is the element of psychological violence. In particular, the Court, in *Melgar*, said that deprivation of financial support, by itself, is already sufficient to obtain a conviction under Section 5(e), while *psychological distress* brought by the deprivation of financial support is an essential element in order for an accused to be punished under Section 5(i). In other words, the Court held, in *Melgar*, that Section 5(i), insofar as it punishes deprivation of financial support, has the same elements as Section 5(e), but with one added element — the element of psychological violence:

Section 5 (i) of RA 9262, a form of psychological violence, punishes the act of “**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 denial of access to the woman’s child/children.**” Notably, “[p]sychological violence is an element of violation of Section 5 (i) just like the mental or emotional anguish caused on the victim. Psychological violence is the means employed by the perpetrator, while mental or emotional anguish is the effect caused to or the damage sustained by the offended party. To establish psychological violence as an element of the crime, it is necessary to show proof of commission of any of the acts enumerated in Section 5 (i) or similar acts. And to establish mental or emotional anguish, it is necessary to present the testimony of the victim as such experiences are personal to this party.” **Thus, in cases of support, it must be first shown that the accused’s denial thereof — which is, by itself, already a form of economic abuse — further caused mental or emotional anguish to the woman-victim and/or to their common child.**

In this case, while the prosecution had established that Melgar indeed deprived AAA and BBB of support, no evidence was presented to show that such deprivation caused either AAA or BBB any mental or emotional anguish. Therefore, Melgar cannot be convicted of violation of Section 5 (i) of RA 9262. This notwithstanding — and taking into consideration the variance doctrine which allows the conviction of an accused for a crime proved which is different from but necessarily included in the crime charged — the courts *a quo* correctly convicted Melgar of violation of *Section 5 (e) of RA 9262 as the deprivation or denial of support, by itself and even without the additional element of psychological violence, is already specifically penalized therein.*³⁶

The above ruling in *Melgar* was affirmed subsequently in the case of *Reyes v. People*³⁷ (*Reyes*) where the Court, despite affirming the Court’s conviction under Section 5(i), still made an *obiter dictum* and said:

³⁵ 826 Phil. 177 (2018).

³⁶ Id. at 186-187. Emphasis, underscoring, and italics supplied.

³⁷ G.R. No. 232678, July 3, 2019, 907 SCRA 479.



The Court agrees with the observation of the CA that if properly indicted, Reyes can also be convicted of violation of Section 5 (e), par. 2 for having committed economic abuse against AAA. Section 5 (e), par. 2 identifies the act or acts that constitute the violence of economic abuse, x x x [.]

x x x x

Indeed, criminal liability for violation of Section 5 (e) of R.A. No. 9262 attaches when the accused deprives the woman of financial support which she is legally entitled to. Deprivation or denial of support, by itself, is already specifically penalized therein.³⁸

Thus, Sections 5(e) and 5(i), under current jurisprudence, ultimately punish the same act, *i.e.*, the denial or deprivation of financial support by the husband or the father of the children. And, as already stated, under present jurisprudence, denial of financial support, *by itself*, is already sufficient to make a person liable for a violation of Section 5(e) of R.A. 9262.

It is thus relevant for the Court to now determine whether, like the accused in *Melgar*, Christian may be held liable for a violation of Section 5(e) of R.A. 9262 even if the Information filed was for violation of Section 5(i). To this point, the Court finds that Christian cannot likewise be held guilty of violating Section 5(e).

The current judicial interpretation that denial of financial support, by itself, is enough to convict under Section 5(e) of R.A. 9262 is **not** supported by the letter of the law. To state once more, Section 5(e), R.A. 9262 punishes:

Section 5. *Acts of Violence Against Women and Their Children.* —

x x x

x x x x

(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the **purpose or effect of controlling or restricting the woman's or her child's movement or conduct:**

- (1) Threatening to deprive or actually depriving the woman or her child of custody or access to her/his family;
- (2) **Depriving or threatening to deprive the woman or her children of financial**

³⁸ Id. at 494-495.

support legally due her or her family, or deliberately providing the woman's children insufficient financial support;

- (3) Depriving or threatening to deprive the woman or her child of a legal right;
- (4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties[.]
(Emphasis and underscoring supplied)

The language of Section 5(e) above is clear: the denial of financial support, to be punishable, must have the "purpose or effect of controlling or restricting the woman's x x x movement or conduct." To be sure, Section 5(e) uses the word "deprive"³⁹ which, like the use of the word "denial" in Section 5(i), connotes willfulness and intention. The denial or deprivation of financial support under Section 5(e) is, therefore, an intentional act that has, for its purpose, to control or restrict the woman's movement or conduct. The willful deprivation of financial support, therefore, is the *actus reus* of the offense, while the *mens rea* is the intention to control or restrict the woman's conduct. Thus, similar to the discussion in Section 5(i), Section 5(e) cannot be read as punishing the mere failure or one's inability to provide financial support, which is what happened in this case.

In this connection, the Court sees it fit to use this opportunity to clarify, for the guidance of the bench and the Bar, the applicability of Section 5(e) of R.A. 9262.

It is a well-established principle that every part of the statute must be interpreted with reference to the context.⁴⁰ Section 5(e), if read and understood in its entirety, punishes acts, or the employment of machinations, that have the effect of either (1) compelling a woman and/or her child or children to do something unwillingly or (2) preventing her and/or her child or children from doing something which is within her or her child's or her children's right/s to do. Absent this element, the failure to provide financial support will entail only *civil*, not *criminal*, responsibility.

A reading of R.A. 9262 in its entirety bolsters the foregoing reading of Section 5(e).

In an attempt to protect women from the different kinds of violence they experience or to which they are vulnerable to while being in an intimate relationship, R.A. 9262 provided an encompassing definition of "violence against women." This definition is found in Section 3(a) of R.A. 9262, which provides:

³⁹ Defined as "an act or instance of withholding or taking something away from someone or something." See "Deprivation," MERRIAM-WEBSTER DICTIONARY, accessed at <<https://www.merriam-webster.com/dictionary/deprivation>>.

⁴⁰ *Civil Service Commission v. Josen, Jr.*, G.R. No. 154674, May 27, 2004, 429 SCRA 773, 786.



SECTION 3. *Definition of Terms.* — As used in this Act, (a) “*Violence against women and their children*” refers to 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, or against her child whether legitimate or illegitimate, within or without the family abode, which result 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. It includes, but is not limited to, the following acts:

- A. “*Physical violence*” refers to acts that include bodily or physical harm;
- B. “*Sexual violence*” refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
- a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim’s body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
 - b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c) Prostituting the woman or her child.
- 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 marital 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.
- 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 victim's own money or properties or solely controlling the conjugal money or properties.**
(Emphasis and underscoring supplied)

As pointed out by Senior Associate Justice Estela M. Perlas-Bernabe, however, Section 3(a) and its four subsections above only provide for a comprehensive definition of violence against women and children.⁴¹ Section 3(a) does not provide the specific punishable acts under R.A. 9262. Instead, the specific acts that are criminalized by the law are enumerated under Section 5 of R.A. 9262, which states:

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;
- (e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or

⁴¹ Separate Concurring Opinion of Senior Associate Justice Perlas-Bernabe, p. 8.



effect of controlling or restricting the woman's or her child's movement or conduct:

- (1) Threatening to deprive or actually depriving the woman or her child of custody or access to her/his family;
 - (2) **Depriving or threatening to deprive the woman or her children of financial support** legally due her or her family, or deliberately providing the woman's children insufficient financial support;
 - (3) Depriving or threatening to deprive the woman or her child of a legal right;
 - (4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;
- (f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;
- (g) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;
- (h) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:
- (1) Stalking or following the woman or her child in public or private places;
 - (2) Peering in the window or lingering outside the residence of the woman or her child;
 - (3) Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;
 - (4) Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and
 - (5) Engaging in any form of harassment or violence;



- (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 denial of access to the woman's child/children.** (Emphasis and underscoring supplied)

A plain reading of Section 5 reveals that it is meant to specify the punishable acts based upon the classifications of violence against women already identified and defined under Section 3(a). While there is no one-to-one correspondence between the classifications of violence against women under Section 3(a), on the one hand, and the specific punishable acts under Section 5, on the other, it can still be reasonably gleaned that the punishable acts spring from the multifaceted definition of violence against women which the law aims to protect women from. For example, Sections 5(a) to 5(d) appear to protect women and their children from physical violence; Sections 5(f), 5(h) and 5(i) from psychological violence; and Section 5(g) from physical and sexual violence. Meanwhile, Section 5(e), as previously discussed, protects the woman from acts of violence that are committed for the purpose of attempting to control her conduct or actions, or make her lose her agency, with most of the enumerated examples of acts having a connection with the use of finances as the primary mode of controlling the woman. Thus, Section 5(e) could be viewed as protecting the woman from economic abuse, as defined in Section 3(a), in some cases.

To recall, when Section 5(e) describes the act of “(2) **Depriving or threatening to deprive the woman or her children of financial support** legally due her or her family, or deliberately providing the woman's children insufficient financial support”⁴² as an act of violence against women and children, it does so in the context of having “the purpose or effect of controlling or restricting the woman's or her child's movement or conduct.”⁴³ Such control or restriction of movement through the use of finances may, in some cases, rise to the level of “economic abuse” as defined in Section 3(a), as it is the financial dependence which normally allows women's partners to exercise control over the woman's actions and decisions.

Thus, situations of economic abuse — making the woman financially dependent upon her partner — if prosecuted, would also likely fall under Section 5(e). Just to provide concrete examples, the National Coalition Against Domestic Violence (NCADV), a non-profit organization based in the United States of America to improve legislation dealing with domestic violence, explains that:

[b]y controlling and limiting the victim's access to financial resources, a batterer ensures that the victim will be financially limited if he/she chooses to leave the relationship. As a result, victims of domestic violence are often

⁴² Emphasis supplied.

⁴³ See R.A. 9262, Sec. 5(e).

forced to choose between staying in an abusive relationship or facing economic hardship and possibly extreme poverty and homelessness.⁴⁴

The NCADV enumerates the different types of economic abuse as follows:

1. Interfering with the victim's work performance through harassing activities, such as frequent phone calls or unannounced visits;
2. Denying the victim access to money or the means of obtaining it, to the point that he/she is entirely dependent on the abuser for food, clothing and shelter;
3. Refusing to allow the victim to work or attend school, or engaging in activities that make it impossible for the victim to do so;
4. Intentionally withholding necessities such as food, clothing, shelter, personal hygiene products, or medication;
5. Stealing from the victim, defrauding their money or assets, and/or exploiting the victim's financial resources or property for personal gain;
6. Requiring justification for any money spent and punishing the victim with physical, sexual or emotional abuse;
7. Stealing or destroying the victim's personal belongings;
8. Forbidding a victim from maintaining a personal bank account;
9. Threatening to out an LGBTQ victim in their workplace;
10. Refusing to pay the victim court-ordered child or spousal support; or
11. Forcing their victim to obtain credit, then ruining the victim's credit rating or future ability to obtain credit.⁴⁵

Similar to the foregoing, the Battered Women's Support Services, another non-profit organization in the United States, also enumerates the various ways by which women are economically abused:

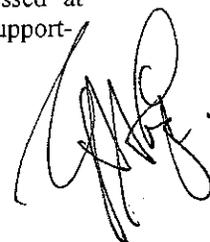
⁴⁴ See *Economic Abuse Fact Sheet*, NCADV, accessed at <http://www.mmgconnect.com/projects/userfiles/file/dcestop_now/ncadv_economic_abuse_fact_sheet.pdf>.

⁴⁵ Id.



1. Controlling paychecks and bank accounts;
2. Stealing from her;
3. Preventing the woman from accessing transportation;
4. Determining how money is spent;
5. Deciding where the woman will work;
6. Preventing the woman from working through isolation tactics;
7. Outright forbidding the woman to work;
8. Forcing the woman to work in family business with little or no pay;
9. Forcing the woman to become pregnant;
10. Preventing the woman from accessing child care;
11. Harassing the woman at her workplace to the extent that the job is lost;
12. Controlling property decisions;
13. Destroying the woman's credit rating by using credit cards, lines of credit, without permission or filing all financial contracts (lease, credit cards, utilities, etc.) in the woman's name and failing to make payments on time or at all;
14. Forcing women to turn over government benefit payments including child tax benefits;
15. Using his income for his individual interests while her income is used to maintain the family collective interests;
16. "Giving" her all the "control" of the financial decision for the family then criticizing her decisions and/or having unrealistic understanding of what things cost;
17. Forbidding her to attend school or upgrading programs.⁴⁶

⁴⁶ See Angela Marie MacDougall, *Economic Abuse and Violence Against Women — How Battered Women's Support Services Take Action*, BATTERED WOMEN'S SUPPORT SERVICES, accessed at <<https://www.bwss.org/economic-abuse-and-violence-against-women-how-battered-womens-support-services-takes-action/>>.



These examples are referenced not to provide an exhaustive list of acts that constitute economic abuse, but to highlight that there are different possible scenarios in which control of the woman is obtained through finances. As well, the foregoing examples are used to impress that mere failure to pay financial support does not constitute economic abuse contemplated by R.A. 9262.

The Court sees the need to clarify, however, that for purposes of determining the required specific intent to constitute a violation of R.A. 9262, it is the letter of Section 5 which governs.⁴⁷ Section 3(a) just provides the context — the various kinds of violence that women in intimate relationships are vulnerable to — in order to provide a full picture of what the punishable acts under Section 5 seeks to protect women from.

In sum, this is, therefore, the proper understanding of Section 5(e) of R.A. 9262, insofar as it deals with the deprivation, or threat of deprivation, of financial support: **There must be allegation and proof that the act was done with the intent to control or restrict the woman's and/or her child's or her children's actions or decisions**, consistent with the letter of Section 5(e) itself.

It is this element of specific intent to control or restrict the woman's and/or her child's or her children's actions or decisions which is the defining characteristic that makes the act of "deprivation of financial support" under Section 5(e) of R.A. 9262 criminally punishable. It is what elevates or qualifies the act of "deprivation of financial support" from one in which only civil liability may arise to an act that incurs criminal liability under Section 5(e) of R.A. 9262. As previously discussed, a contrary interpretation to the foregoing would result in absurd, if not outright unconstitutional, consequences as the law imposes the obligation to support mutually upon the spouses.

In fine, and to reiterate, for deprivation of financial support to rise to a level that would make a person criminally liable under Section 5(e), R.A. 9262, there must be allegation and proof that it was made with the **intent to control or restrict the woman's and/or her child's or her children's actions**.

The elements of a violation of Section 5(e) of R.A. 9262, insofar as it deals with deprivation of financial support, are therefore:

- (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

⁴⁷ See Separate Concurring Opinion of Senior Associate Justice Perlas-Bernabe, p. 10.



woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;

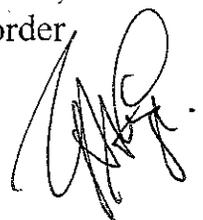
- (3) The offender either (a) deprived or (b) threatened to deprive the woman or her children of financial support legally due her or her family, or (c) deliberately provided the woman's children insufficient financial support;
- (4) The offender committed any or all of the acts under the third element for the purpose of controlling or restricting the woman's or her child's movement or conduct.

Applying the foregoing to this case, the Court holds that Christian is also not guilty of violating Section 5(e) of R.A. 9262 due to the absence of the third and fourth elements. There is no proof that he deliberately refused to give support *in order to control the behavior or actions* of AAA. Neither was there any allegation or proof that he prevented AAA from seeking gainful employment or pursuing economic opportunities. The evidence in this case simply established that he *failed or was unable* to provide financial support which, as discussed, is not enough to convict under the law.

Conclusion

From the above discussions, the Court clarifies that it now hereby abandons *Melgar* and *Reyes* insofar as they hold that a person charged with a violation of Section 5(i) of R.A. 9262 may be convicted of violating Section 5(e) by applying the variance doctrine. Based on the discussions in this Decision, the portions of Sections 5(e) and 5(i) that deal with denial or deprivation of financial support punish different things. Section 5(e) punishes the deprivation of financial support for the purpose of controlling the woman or to make her and/or her child or children lose their agency. Section 5(i), on the other hand, punishes the willful infliction of **mental or emotional anguish, or public ridicule or humiliation** upon the woman and/or her child or children by denying her and/or her child or children financial support that is legally due her and/or her child or children. Thus, while the portions of Sections 5(e) and 5(i) that deal with denial or deprivation of financial support may seem similar at first glance, they, in reality, deal with different matters and penalize distinct acts. As the Court comes to the realization that the said sections punish different things, the Court, therefore, abandons *Melgar* and *Reyes* to the extent that they hold that the variance doctrine may be applied for Sections 5(e) and 5(i) of R.A. 9262.

Finally, the Court clarifies that in either case, whether the accused is prosecuted under Section 5(e) or Section 5(i), the mere failure to provide financial support is not enough. In other words, neither Section 5(e) nor 5(i) can be construed to mean that mere failure or inability to provide support is sufficient for a conviction. Those entitled to support and are not given any have the remedy of filing a civil case for support against the delinquent person, consistent with the provisions of the Civil Code and the Family Code. In order



to be liable under the penal provisions of R.A. 9262, therefore, it is necessary to allege and prove the existence of the facts that qualify the act of denial or deprivation of financial support from one in which mere civil liability may arise to one where a person may be criminally liable.

The Court sees the need for this clarification, as R.A. 9262 was not meant to make the partners of women criminals just because they fail or are unable to financially provide for them. Certainly, courts cannot send individuals to jail because of their mere inability — without malice or evil intention — to provide for their respective families. In a developing country like ours, where poverty and unemployment are especially rampant, courts would inevitably find themselves incarcerating countless people, mostly fathers, should the interpretation be that mere failure or inability to provide financial support is enough to convict under Sections 5(e) and 5(i). As Associate Justice Rodil V. Zalameda put it simply during the deliberations of this case, “poverty is not a crime x x x [and] the failure or inability to provide support, without more, should not be the cause of a man’s incarceration.”

Also, while R.A. 9262 was indeed enacted to protect women, it was not meant to discount women’s ability to provide for themselves, especially when they are able-bodied. As Associate Justice Marvic M.V.F. Leonen explained in his Concurring Opinion:

Nevertheless, it is improper to think that women are always victims. This will only reinforce their already disadvantaged position. The perspective portraying women as victims with a heritage of victimization results in the unintended consequence of permanently perceiving all women as weak. To consider women as the weaker sex is discriminatory. In safeguarding the interests of a discriminated class, we must be careful not to perpetuate the very prejudices and biases that encourage discrimination of the members of the class.

There is now more space to believe that portraying only women as victims will not always promote gender equality before the law. It sometime aggravates the gap by conceding that women have always been dominated by men.

x x x x

No less than the Constitution mandates the State to recognize the role of women in nation building. This role is not confined to child-rearing, honorable as motherhood may be. It is entirely possible that the woman in the sexual or dating relationship is more financially capable than the man. Consistent with the spouses’ mutual obligation to provide support under the Family Code, the duty to provide financial support should not fall on the man alone. His mere failure or inability to provide financial support should not be penalized as a crime, especially when the woman is more financially capable.⁴⁸

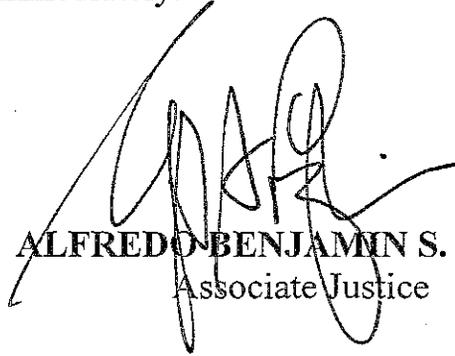
Given the foregoing findings of fact and conclusions of law, the Court herein proclaims the innocence of Christian from the charge.

⁴⁸ Concurring Opinion of Associate Justice Leonen, pp. 2-3.



WHEREFORE, premises considered, the Petition for Review on *Certiorari* is hereby **GRANTED**. The Decision dated February 17, 2016 and Resolution dated May 31, 2016 of the Court of Appeals in CA-G.R. CR No. 36913 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Christian Pantonial Acharon is **ACQUITTED** of the crime charged. Let an entry of final judgment be issued immediately.

SO ORDERED.

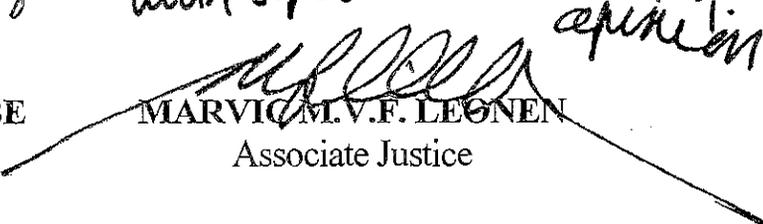

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

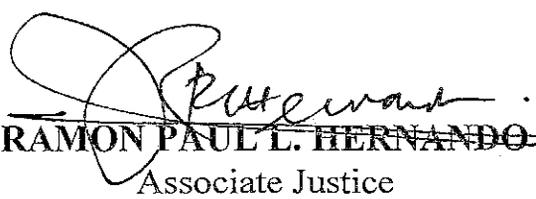
WE CONCUR:

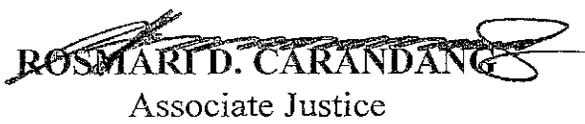

ALEXANDER G. GESMUNDO
Chief Justice

Please see separate concurring opinion

ESTELA M. PERLAS-BERNABE
Senior Associate Justice

with separate concurring opinion

MARVIC M. V. F. LEONEN
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

Pls. see separate concurring opinion

AMY C. LAZARO-JAVIER
Associate Justice

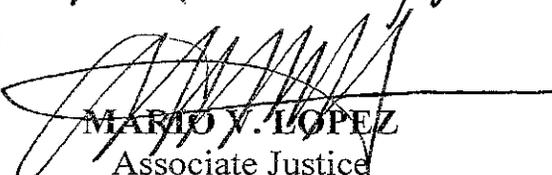

HENRI JEAN PAUL B. INTING
Associate Justice

*Pls see
Concurring Opinion*

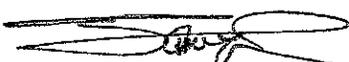


RODIL V. ZALAMEDA
Associate Justice

Pls. see concurring opinion



MARIO V. LOPEZ
Associate Justice



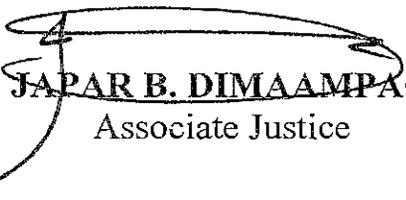
SAMUEL H. GAERLAN
Associate Justice



RICARDO R. ROSARIO
Associate Justice



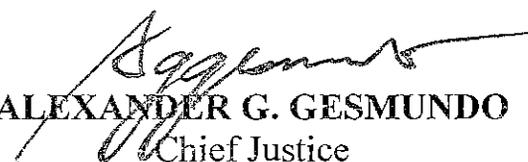
JHOSEP V. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

