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Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

ALASTAIR JOHN KANE,
Petitioner,

G.R. No. 214326

Present:

-versus-

LEONEN, *Chairperson*,
GESMUNDO,*
CARANDANG,
ZALAMEDA, and
GAERLAN, *JJ.*

PATRICIA ROGGENKAMP,
Respondent.

Promulgated:
July 6, 2020

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DECISION

LEONEN, *J.*:

An acquittal from a charge of physical violence against women and their children is not a bar to the filing of a civil action for damages for physical injuries under Article 33 of the Civil Code if an acquittal was due to reasonable doubt, without any declaration that the facts upon which the offense arises are nonexistent.

This resolves the Petition for Review on Certiorari¹ filed by Alastair John Kane, assailing the Decision² and Resolution³ of the Court of Appeals.

* On wellness leave.

¹ *Rollo*, pp. 3-20.

² *Id.* at 22-33. The March 25, 2014 Decision was penned by Associate Justice Ramon A. Cruz and was concurred in by Associate Justices Hakim S. Abdulwahid (Chairperson) and Romeo F. Barza of the Sixth Division of the Court of Appeals, Manila.

The Court of Appeals reversed and set aside the Order⁴ of the Regional Trial Court, Branch 214, Mandaluyong City, dismissing Patricia Roggenkamp's Complaint for Damages against Alastair John Kane. The Complaint, which was based on Article 33 of the Civil Code, was dismissed on the grounds of *res judicata* and lack of jurisdiction.

Alastair John Kane (Alastair John) and Patricia Roggenkamp (Patricia) are Australian citizens.⁵ They met in January 2004 in Brisbane, Australia, and became lovers immediately.⁶

Patricia decided to put up a business in the Philippines, and eventually travelled with Alastair John to Manila. They settled in a condominium unit located in Parañaque City supposedly owned by Patricia.⁷

On March 30, 2006, an Information for violation of Republic Act No. 9262 or the Anti-Violence Against Women and Children Act of 2004 was filed against Alastair John, with Patricia as the private complainant. The case, docketed as Criminal Case No. 06-0413, was then raffled to Branch 260 of the Regional Trial Court of Parañaque City.⁸

According to Patricia, she and Alastair John attended a party hosted by her son, Ashley Richard Cayzer (Ashley Richard) on November 30, 2004. The next day, December 1, 2004, after they had just arrived at their residence at about 1:00 a.m., Patricia confronted Alastair John for allegedly looking at the underwear of other female guests at the party. Ignoring Patricia, Alastair John went on to lie down on the bed. Patricia then sat on a nearby chair.⁹

Alastair John, angered by Patricia's remarks, allegedly approached Patricia, lifted her off the chair, and dropped her on the floor. Patricia further claimed that Alastair John punched her in the head, dragged her by the hair to the bed, and pushed her head against the pillow. Patricia fought back and, when she had the chance, ran to the bathroom and locked herself inside.¹⁰

³ Id. at 35-36. The September 3, 2014 Resolution in CA-G.R. CV No. 96341 was penned by Associate Justice Ramon A. Cruz and was concurred in by Associate Justices Hakim S. Abdulwahid (Chairperson) and Romeo F. Barza of the Former Sixth Division of the Court of Appeals, Manila.

⁴ Id. at 64-65, Comment. The Order was issued by Acting Presiding Judge Ofelia Calo in Civil Case No. MC 08-3871.

⁵ *Rollo*, p. 22. Court of Appeals Decision.

⁶ Id. at 92, Plaintiff-Appellant's Brief; and 113, Brief for the Defendant-Appellee.

⁷ Id. at 23. Court of Appeals Decision.

⁸ Id.

⁹ Id.

¹⁰ Id.

The next day, on December 2, 2004, Patricia's son, Ashley Richard, visited his mother and saw her lying in bed in pain. Alastair John told Ashley Richard that his mother had too much liquor the night of the party and, when they arrived home, Alastair John tried to carry her to the bed. Unfortunately, he accidentally dropped her on the floor because the bed, which allegedly had wheels, moved.¹¹

Ashley Richard then brought Patricia to the San Juan de Dios Hospital where she was prescribed painkillers for 12 days. After the trip to the hospital, Patricia went home to Alastair John. Their situation went back to being peaceful, and they even went on vacation from December 26, 2004 to January 1, 2005.¹²

On January 6, 2005, or merely five (5) days after, Alastair John allegedly verbally abused Patricia. He then left the next day, taking Patricia's car with him, as well as the keys to their Parañaque residence and another condominium unit in Pasig City where he stayed. Patricia, accompanied by her driver, went to the Pasig condominium unit and recovered possession of her car.¹³

On February 4, 2005, Patricia finally reported the incidents to the police. She explained that, prior to the December 1, 2004 incident, there were already prior incidents of abuse committed against her by Alastair John. After preliminary investigation, probable cause for violation of Republic Act 9262 or the Anti-Violence Against Women and their Children Act of 2004 was found against Alastair John.¹⁴

After trial, the Regional Trial Court, Branch 260, Parañaque City acquitted Alastair John on the ground of reasonable doubt.¹⁵ The Parañaque trial court was of the opinion that Alastair John's account of the events—that he accidentally dropped Patricia on the floor while he was carrying her—was “in accord with human experience[,]”¹⁶ while that of Patricia's was not. It further said that “if [Patricia] was really a victim of violence or abuse, she should have told the same to her son [Ashley Richard], especially because the latter, according to her, is a lawyer.”¹⁷ The Parañaque trial court more particularly said:

The Court noted that there was a heated altercation between the private complainant and the accused after they came from the birthday party of the former's son on December 1, 2004. Kane was accused of

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. at 7. As cited in the Petition for Review on Certiorari.

¹⁷ Id. at 98. As cited in the Plaintiff-Appellant's Brief.

looking and peeping at the girls during the party. The Court is inclined to give credence to the version of the accused. The same is in accord with human experience. On the other hand[,] the version of Patricia is not in accord with human experience. She claimed that she was grabbed by the hair, hit her head and chest, neck, pelvic area and shoulder but the clinical abstract does not indicate any signs of physical violence. This court finds it unnatural why Patricia declared to the doctor that she accidentally fell on a marble floor. This is her same declaration to her son, Ashley. If she was really a victim of violence or abuse, she should have told the same to her son, especially because the latter, according to her, is a lawyer. This court is also surprised why she did not leave the accused if it is true that he manhandled her. She could easily do those things because her relationship with the accused was that only of lovers and there was no marriage to protect and family to save. To reiterate, the version of Mr. Kane is shown by the parties' actuations after the date alleged in the information. They even celebrated Christmas in a beach resort with friends and with the accused playing Santa [Claus]. Noteworthy is the filing of the case almost one year after the alleged incident and after the parties started to have issues on property.¹⁸

.....

WHEREFORE, due to reasonable doubt, the accused, ALASTAIR JOHN KANE, is hereby **ACQUITTED** of the crime [of] violation of Sec. 5(a) of R.A. 9262, penalized by Sec. 6 (a) of the said Act.

SO ORDERED.¹⁹ (Emphasis in the original)

Thereafter, Patricia filed a Complaint for Damages based on Article 33 of the Civil Code before the Regional Trial Court of Mandaluyong City, praying for actual, moral and exemplary damages, and attorney's fees. Patricia argued that the right of action provided in Article 33 in cases of physical injuries is entirely separate and distinct from the criminal action earlier commenced against Alastair John.²⁰

Further, she added that the civil actions for damages under Articles 32, 33, 34, and 2176 of the Civil Code, called independent civil actions, "are not deemed instituted with the criminal action and may be filed separately by the offended party even without reservation." Considering that Alastair John was acquitted on the ground of reasonable doubt, not because he wasn't the author of the act complained of, Patricia argued that he may still be held liable under Article 33 of the Civil Code.²¹

Opposing the civil action, Alastair John filed a Motion to Dismiss on the grounds of *res judicata* and improper venue.²² Alastair John claimed that the dismissal of the criminal case barred the filing of the civil case,

¹⁸ Id at 7-8. As cited in the Petition for Review on Certiorari.

¹⁹ Id. at 30. As cited in the Court of Appeals Decision.

²⁰ Id. at 24.

²¹ Id.

²² Id.

because the cases allegedly involved identical causes of action. He emphasized that the cases were both based on his alleged physical abuse of Patricia, a matter already found to be not “in accord with human experience.”²³ With respect to the venue, Alastair John argued that it was improperly laid. The action for damages was a personal action, yet none of the parties resided in Mandaluyong City where the civil action was filed.²⁴

In an April 20, 2009 Order, the Motion to Dismiss was denied by the 214th Branch of the Regional Trial Court, Mandaluyong City, then presided by Judge Edwin D. Sorongon.²⁵

The trial court held that civil liability was not extinguished, because Alastair John’s acquittal was based on reasonable doubt. Furthermore, the action filed by Patricia was an independent civil action which, together with the actions provided in Articles 32, 34, and 2176 of the Civil Code, is separate and distinct from the criminal action and may be enforced against an offender, separately or simultaneously, with his civil liability *ex delicto* under Article 100 of the Revised Penal Code. Finally, the trial court held that venue was properly laid because at the time of the filing of the civil complaint, Patricia was already residing in Mandaluyong City.²⁶ In the words of the trial court:

“The motion is unimpressive.

“While it is true that accused’s (herein defendant) guilt in the criminal case had not been proven beyond reasonable doubt by the trial court in Parañaque City, the decision however did not state in clear and [un]equivocal terms that he did not commit the offense charged. Hence, impliedly the trial court of Parañaque acquitted him on reasonable doubt. Since civil liability is not extinguished in criminal cases if the acquittal is based on reasonable doubt[,] then the instant civil complaint must proceed. Civil liability arising from criminal and civil liability arising from Article 32, 33, 34 and 2176 quasi-delict for contract (Art. 31) are entirely separate and distinct from the criminal action that may be brought by injured party (*International Flavors and Fragrances, Inc. vs. Argos*, 364 SCRA. 792)[.]

“Even if the guilt of the accused has not been [satisfactorily] established, he is not exempted from civil liability which may be proved by preponderance of evidence only. This is the situation contemplated in Article 33 of the Civil Code where the civil action for damages is “for the same act or omission.” Although the two actions have different purposes, the matters discussed in the civil case are similar to those discussed in the criminal case. However, the judgment in the criminal proceeding cannot be read in evidence in the civil action to establish any fact there determined, even though both actions involve the same act or omission.

²³ Id. at 7–8.

²⁴ Id.

²⁵ Id. at 62, Comment. Then Presiding Judge Edwin D. Sorongon is now an Associate Justice of the Court of Appeals.

²⁶ *Rollo* pp. 62–64. Comment.

The civil liability is not extinguished where acquittal is based on reasonable doubt (*Manantan vs. Court of Appeals*, 350 SCRA 387).

“An act or omission causing damage to another may give rise to two separate liabilities on the part of the offender, i.e., (1) civil liability *ex deli[c]to*, under Article 100 of the Revised Penal Code, and (2) independent civil liabilities, such as those (a) not arising from an act or omission complained of felony, e.g. *culpa contractual* or obligations arising from law under Article 32 of the Civil Code, intentional torts under Article 32 and 34, and *culpa aquiliana* under Article 2176 of the Civil Code, or (b) where the injured party is granted a right to file an independent and distinct criminal action (Article 33, Civil Code). Either of these two possible liabilities may be enforced against the offender (separately and simultaneously) subject, however, to the caveat under Article 2177 of the Civil Code that the offended party cannot recover damages twice for the same act or omission or under both causes (*Cando, Jr. v. Isip*, G.R. No. 133978, November 12, 2002). However, a separate civil action based on subsidiary liability cannot be instituted during the pendency of the criminal case (Remedial Law, Herrera).

“Likewise, the ground of improper venue cannot be sustained. It was clarified by plaintiff that when she testified on May 22, 2007 and May 13, 2008 she considered herself a resident of Parañaque, however, in November 2008 and subsequently thereafter[,] she stayed at the condominium unit of her friend in . . . Mandaluyong City. In other words, at the time of the filing of the complaint on November 29, 2008 she was already residing in Mandaluyong City[.] Clearly, plaintiff for purposes of this instant case is a resident of Mandaluyong City.”²⁷ (Emphasis in the original)

With his Motion for Reconsideration having been denied by the trial court, Alastair John filed his Answer with Compulsory Counterclaim and Patricia, her Reply. Issues were joined and the case was set for pre-trial.²⁸

In the meantime, Judge Sorongon was appointed Associate Justice of the Court of Appeals. Judge Ofelia Calo then acted as Presiding Judge of the Mandaluyong trial court²⁹ and, in the June 8, 2010 Order, dismissed the case *motu proprio* on the ground of *res judicata* and lack of jurisdiction.³⁰

The Mandaluyong trial court said that, after “[taking] a closer look at the records extant to the instant case[,]”³¹ any subsequent proceeding in the civil case would be “a waste of time”³² since the decision of the Parañaque trial court had the effect of *res judicata*. Specifically, the Mandaluyong trial court declared that the Parañaque trial court’s evaluation of the parties’

²⁷ Id. at 63–64. As cited in the Comment.

²⁸ Id. at 24. Court of Appeals Decision.

²⁹ Id. at 64. As cited in the Comment.

³⁰ Id. at 24. Court of Appeals Decision.

³¹ Id. at 65. As cited in the Comment.

³² Id.

respective evidence meant that “the act from which the civil liability might arise did not exist.”³³

Consequently, the action based on Article 33 allegedly had no basis, and Patricia effectively committed forum shopping. Finally, it ruled that the Parañaque trial court’s decision in the criminal case already attained finality, thus depriving the Mandaluyong trial court of jurisdiction over Patricia’s Complaint for Damages.

A closer look at the records of the instant case filed by plaintiff would show that this court has no jurisdiction over the instant case.

The instant case which is for damages was also the subject matter of Criminal Case No. 06-413 litigated in another court, the Regional Trial Court of Parañaque City, Branch 260 wherein a Decision rendered by the said court acquitting the accused, the herein defendant.

....

Although the motion to dismiss filed by defendants on the grounds that the instant complaint is barred by prior judgment and improper venue was already denied for lack of merit in an Order dated 20 April 2009, the undersigned acting presiding judge deemed it proper to take a closer look at the records extant to the instant case considering that proceeding to the initial trial will just be a waste of time and any proceedings taken by the court will only be a nullity if the court has no jurisdiction because of the principle of *res judicata*.

....

Verily, the evaluation made by the RTC, Branch 260, Parañaque City of the criminal case giving credence to the version of the accused, which the Court perceived to be in accord with human experience, and pointing to factual circumstances and explaining why the version of Patricia is not in accord with human experience, is a clear showing that the act from which the civil liability might arise did not exist.

With the decision rendered by the RTC Branch 260, Parañaque City involving the same cause of action and relief sought, and identity [of] parties, this court perceives that the filing of the instant case in this jurisdiction constituted forum shopping. . . .

....

Considering that the RTC, Branch 260, Parañaque City has already taken cognizance of the case involving the same cause of action and identity of parties, and has in fact rendered a decision which has attained finality, this court therefore has no jurisdiction to try the same action.³⁴

³³ Id.

³⁴ Id. at 90–91. As cited in the Plaintiff-Appellant’s Brief. *See also Rollo*, pp. 6–66, Comment.

Patricia filed a Motion for Reconsideration, which was subsequently denied in a November 19, 2010 Order.³⁵

Alleging error on the part of the Mandaluyong trial court, Patricia appealed before the Court of Appeals. In the March 25, 2014 Decision,³⁶ the Court of Appeals granted the appeal and reversed the June 8, 2010 and August 23, 2010 Orders of the Mandaluyong trial court.

The Court of Appeals first discussed how an act or omission may give rise to two (2) separate civil liabilities on the part of an offender. The civil liability *ex delicto* or that arising from the crime is provided in Article 100 of the Civil Code. On the other hand, independent civil liabilities are provided in Articles 32, 33, 34, and 2176 of the Civil Code, which are liabilities separate and distinct from the criminal action and may be pursued independently of it. Reservation to file the civil action is even unnecessary. Thus, an offended party may pursue any of these civil liabilities, whether *ex delicto* or not, subject to Article 2177 of the Civil Code prohibiting double recovery.³⁷

The Court of Appeals then emphasized that the civil case filed by Patricia was based on Article 33 of the Civil Code, an independent civil action. Thus, contrary to the Mandaluyong trial court's ruling, the decision of the Parañaque trial court acquitting Alastair John did not operate as *res judicata* so as to bar the filing of the Complaint for Damages under Article 33. It was immaterial that the decision of the Parañaque trial court had already become final and executory, because the causes of action between the case for violation of Republic Act No. 9262 and the one filed under Article 33 of the Civil Code are different.³⁸

The Court of Appeals held that Patricia did not commit forum shopping because the causes of action for the criminal action and the Complaint for Damages are different. There can also be no forum shopping, according the Court of Appeals, when the law expressly allows the filing of an independent civil action in cases of physical injuries.³⁹

Finally, the Court of Appeals held that the venue was properly laid. Under the Rules of Court, personal actions, such as an action for damages, must be filed in the plaintiff or defendant's residence, at the election of the plaintiff, unless the parties agree on another venue. Considering that Patricia was already residing in Mandaluyong City at the time of the filing of the

³⁵ Id. at 22. Court of Appeals Decision.

³⁶ Id. at 22-33.

³⁷ Id. at 26-27.

³⁸ Id. at 28.

³⁹ Id. at 29.

case, she correctly filed the Complaint for Damages before the Regional Trial Court of Mandaluyong.⁴⁰

The dispositive portion of the Court of Appeals' March 25, 2014 Decision read:

WHEREFORE, the appeal is **GRANTED**. The Orders dated June 8, 2010 and November 19, 2010 of the Regional Trial Court of Mandaluyong City, Branch 214 in Civil Case No. MC08-3871 are **REVERSED AND SET ASIDE**. The Regional Trial Court of Mandaluyong City, Branch 214 is **DIRECTED** to reinstate Civil Case No. MC08-3871, to continue with the proceedings and to resolve the same with deliberate dispatch.

SO ORDERED.⁴¹ (Emphasis in the original)

Alastair John then filed a Motion for Reconsideration, which was denied by the Court of Appeals in the September 3, 2014 Resolution.⁴²

On October 9, 2014, Alastair John filed his Petition for Review on Certiorari.⁴³ Upon the directive of this Court, Patricia filed her Comment,⁴⁴ to which Alastair John replied.⁴⁵

Petitioner mainly argues that he may no longer be made liable for damages under Article 33 of the Civil Code. According to petitioner, the Parañaque trial court's decision on the criminal case for violation of Republic Act No. 9262 clearly established that "the act or omission from which the civil liability may arise did not exist."⁴⁶ Therefore, there is no basis to hold him liable for damages for the alleged physical injuries sustained by respondent.⁴⁷

Further, petitioner maintains that respondent's Complaint for Damages was already barred by *res judicata*. He claims that the Complaint for Damages was based on the alleged intentional physical injuries sustained by respondent. In the criminal case, however, the Parañaque trial court already ruled that the physical injuries resulted from an accident. With the decision of the Parañaque trial court having attained finality, it is allegedly binding upon the parties, and the Complaint for Damages was correctly dismissed by the Mandaluyong trial court.⁴⁸

⁴⁰ Id. at 31.

⁴¹ Id.

⁴² Id. at 35-36.

⁴³ Id. at 3-20.

⁴⁴ Id. at 61-83.

⁴⁵ Id. at 156-170.

⁴⁶ Id. at 11.

⁴⁷ Id. at 11-13.

⁴⁸ Id. at 6-10.

It follows that in filing the Complaint for Damages, respondent committed forum shopping. Specifically, respondent allegedly sought damages after she failed to secure a favorable ruling with the Parañaque trial court.⁴⁹

Finally, petitioner contends that the venue for the civil action was improperly laid. Although the term “residence” merely refers to a physical habitation or actual residence, the physical presence and actual stay in that place must be more than temporary and must be with continuity and consistency. According to petitioner, respondent failed to establish such continuity, as she testified under oath in two (2) proceedings that she was a resident of Parañaque City:⁵⁰ (1) one in 2007; and (2) another in 2008, both after the filing of the Complaint for Damages. These declarations should bind respondent, since her declarations were given under pain of prosecution for perjury.⁵¹

Respondent counters that the Court of Appeals committed no error in ruling that petitioner may still be held liable for damages, regardless of his acquittal in the criminal case. According to respondent, nowhere in the text of the Parañaque trial court decision could it be inferred that the fact from which petitioner’s civil liability might arise did not exist.

On the contrary, the Parañaque trial court explicitly stated that it acquitted petitioner “due to reasonable doubt[.]”⁵² Consequently, the Mandaluyong trial court should have proceeded to trial, and petitioner’s liability for physical injuries, if any, should have been ascertained.⁵³

Respondent further submits that *res judicata* does not apply in the present case. She maintains that the civil actions under Articles 32, 33, 34 and 2176 of the Civil Code are independent civil actions which may be separately filed by the offended party, even without reservation in the prosecution of the criminal action. Therefore, respondent is legally “allowed to file two (2) separate suits for the same act or omission. The first a criminal suit where the civil action to recover civil liability *ex-delicto* is deemed instituted, and the other a civil case for quasi-delict[.]”⁵⁴ and the independent civil action may proceed regardless of the result of the proceedings in the criminal case.⁵⁵

⁴⁹ Id. at 10-11.

⁵⁰ Id. at 38-39. TSN dated May 22, 2007.

⁵¹ Id. at 13-15.

⁵² Id. at 76.

⁵³ Id. at 73-78.

⁵⁴ Id. at 73.

⁵⁵ Id. at 74-78.

On the issue of forum shopping, respondent contends that the Court of Appeals correctly ruled on the issue. According to respondent, the civil liability under Article 33 of the Civil Code is separate and distinct from the civil liability arising under Article 100 of the Revised Penal Code. Thus, an offended party may pursue both kinds of civil liability, even simultaneously, without offending the rule against forum shopping.⁵⁶

Lastly, respondent maintains that, as correctly found by the Court of Appeals, the venue was properly laid. She argues that “whether [she] lived in other places prior to [the filing of the complaint] is irrelevant[,]”⁵⁷ and in this case, she clearly established that she was a resident of Mandaluyong City when she filed her Complaint for Damages under Article 33.⁵⁸

The issues for this Court’s resolution are:

First, whether or not petitioner Alastair John Kane may still be held civilly liable because his acquittal was based on reasonable doubt;

Second, whether or not the Complaint for Damages was already barred by *res judicata*;

Third, whether or not respondent Patricia Roggenkamp committed forum shopping; and,

Fourth, whether or not the venue was properly laid.

This Petition must be denied. The Mandaluyong trial court seriously erred in *motu proprio* dismissing respondent’s Complaint for Damages on the grounds of *res judicata* and lack of jurisdiction.

I

Respondent based her Complaint for Damages against petitioner on Article 33 of the Civil Code:

ARTICLE 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.

⁵⁶ Id. at 71–73; and 77–78.

⁵⁷ Id. at 78.

⁵⁸ Id. at 78–79.

Article 33 is explicit that in cases of defamation, fraud, and physical injuries., the civil action is “entirely separate and distinct from the criminal action” and shall “proceed independently of the criminal prosecution.” Accordingly, Article 33 “contemplates a civil action for the recovery of damages that is entirely unrelated to the purely criminal aspect of the case.”⁵⁹ Even the quantum of proof required—preponderance of evidence, as opposed to the proof beyond reasonable doubt in criminal cases—is different, confirming that the civil action under Article 33 is independent of the criminal action.

Reservation of the right to separately file a civil action for damages under Article 33 need not even be made. The civil action under Article 33 may be pursued before the filing of the criminal case,⁶⁰ during the pendency of the criminal case,⁶¹ or even after the criminal case is resolved.⁶² The only limitation is that an offended party cannot “recover [damages] twice for the same act or omission” of the defendant. Rule 111, Section 3 of the 2000 Revised Rules of Criminal Procedure provides:

RULE 111

Prosecution of Civil Action

SECTION 3. *When Civil Action May Proceed Independently.* — In the cases provided in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action may be brought by the offended party. It shall proceed independently of the criminal action and shall require only a preponderance of evidence. In no case, however, may the offended party recover damages twice for the same act or omission charged in the criminal action.

Further, “defamation,” “fraud,” and “physical injuries,” as used in Article 33, are to be understood in their ordinary sense. Specifically, the “physical injuries” contemplated in Article 33 is bodily injury, not the “physical injuries” referred to in the Revised Penal Code. As first explained in *Carandang v. Santiago*:⁶³

[Article 33] uses the words “defamation”, “fraud” and “physical injuries.” Defamation and fraud are used in their ordinary sense because there are no specific provisions in the Revised Penal Code using these terms as means of offenses defined therein, so that these two terms defamation and fraud must have been used not to impart to them any technical meaning in the laws of the Philippines, but in their generic sense. With this apparent circumstance in mind, it is evident that the term

⁵⁹ *Azucena v. Potenciano*, 115 Phil. 465, 469 (1962) [Per J. Makalintal, En Banc].

⁶⁰ *See Dulay v. Court of Appeals*, 313 Phil. 8 (1995) [Per J. Bidin, Second Division].

⁶¹ *See Madeja v. Caro*, 211 Phil. 469 (1983) [Per J. Abad Santos, Second Division]; and *Carandang v. Santiago*, 97 Phil. 94 (1955) [Per J. Labrador, First Division].

⁶² *See Azucena v. Potenciano*, 115 Phil. 465 (1962) [Per J. Makalintal, En Banc].

⁶³ 97 Phil. 94 (1955) [Per J. Labrador, First Division].

“physical injuries” could not have been used in its specific sense as a crime defined in the Revised Penal Code, for it is difficult to believe that the Code Commission would have used terms in the same article — some in their general and another in its technical sense. In other words, the term “physical injuries” should be understood to mean bodily injury, not the crime of physical injuries, because the terms used with the latter are general terms. In any case the Code Commission recommended that the civil action for physical injuries be similar to the civil action for assault and battery in American Law, and this recommendation must have been accepted by the Legislature when it approved the article intact as recommended. If the intent has been to establish a civil action for the bodily harm received by the complainant similar to the civil action for assault and battery, as the Code Commission states, the civil action should lie whether the offense committed is that of physical injuries, or frustrated homicide, or attempted homicide, or even death.⁶⁴

*Madeja v. Caro*⁶⁵ reiterates that “physical injuries” in Article 33 means bodily injury.

Alastair John was charged with violating Section 5(a) of Republic Act No. 9262, or the Anti-Violence Against Women and Children Act of 2004:

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[.]

Section 5 enumerates the various “acts of violence against women and their children,” generally defined as:

SECTION 3. *Definition of Terms.* — 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.⁶⁶

⁶⁴ Id. at 96–97.

⁶⁵ 211 Phil. 469, 472–473 (1983) [Per J. Abad Santos, Second Division].

⁶⁶ Republic Act No. 9262 (2004), sec. 3 (a).

Paragraphs (a), (b), and (c) of Section 5 specifically refer to acts of “physical violence,” which, under the law, includes “acts that include bodily or physical harm[.]”

It is not hard to see that respondent properly availed herself of a separate action for damages under Article 33 after the dismissal of the criminal case against petitioner. The criminal action filed against petitioner was one for physical injuries in the sense contemplated in Article 33, that is, bodily injury.

Nevertheless, Alastair John claims that his acquittal should have barred the filing of the Complaint for Damages. He maintains that, as allegedly held by the Parañaque trial court, the act or commission from which the civil liability might arise did not exist; hence, there is no civil liability *ex delicto* to which the Article 33 action may be anchored.

The contention is without merit.

Under Rule 120, Section 2 of the 2000 Revised Rules of Criminal Procedure, a judgment acquitting the accused must state whether the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. Furthermore, the judgment must determine if the act or omission from which the civil liability might arise did not exist:

RULE 120

Judgment

....

SECTION 2. *Contents of the Judgment.* — If the judgment is of conviction, it shall state (1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.

In case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist. (Emphasis supplied)

It is essential to indicate whether the act or omission from which the civil liability might arise did not exist. Without such declaration, it must be presumed that the acquittal was due to reasonable doubt, and the accused is civilly liable *ex delicto*. Thus, the general rule shall apply: every person criminally liable is also civilly liable.⁶⁷

In *Manantan v. Court of Appeals*,⁶⁸ accused George Manantan was charged with reckless imprudence resulting in homicide. The trial court acquitted him of the crime charged, leading the heirs of the deceased to appeal the civil aspect of the trial court decision. Despite Manantan's acquittal, the Court of Appeals granted the appeal, declared Manantan to be the "proximate cause of the vehicular accident,"⁶⁹ and held him civilly liable.

Among Manantan's arguments before this Court was that the Court of Appeals erred in finding him civilly liable, because the trial court already found that he was neither imprudent nor negligent. To this, this Court said that nowhere in the text of the trial court decision can it be inferred that no negligence or imprudence existed. All the judgment provided was that Manantan was "NOT GUILTY of the crime charged[.]"⁷⁰

Thus, the Court of Appeals "was not precluded from looking into the question of [Manantan's] negligence or reckless imprudence[.]"⁷¹ for "even if [his guilt] has not been satisfactorily established, he is not exempt from civil liability which may be proved by preponderance of evidence only."⁷² In other words, Manantan's acquittal was *not* because the act or omission from which the civil liability might arise did not exist. Therefore, Manantan was correctly held civilly liable by the Court of Appeals. Explained this Court:

Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the act or omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. There being no *delict*, civil liability *ex delicto* is out of the question, and the civil action, if any, which may be instituted must be based on grounds other than the *delict* complained of. This is the situation contemplated in Rule 111 of the Rules of Court. The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may

⁶⁷ REV. PEN. CODE, art. 100.

⁶⁸ 403 Phil. 298 (2001) [Per J. Quisumbing, Second Division].

⁶⁹ Id. at 305.

⁷⁰ Id. at 304.

⁷¹ Id. at 309.

⁷² Id.

be proved by preponderance of evidence only. This is the situation contemplated in Article 29 of the Civil Code, where the civil action for damages is “for the same act or omission.” Although the two actions have different purposes, the matters discussed in the civil case are similar to those discussed in the criminal case. However, the judgment in the criminal proceeding cannot be read in evidence in the civil action to establish any fact there determined, even though both actions involve the same act or omission. The reason for this rule is that the parties are not the same and secondarily, different rules of evidence are applicable. Hence, notwithstanding herein petitioner’s acquittal, the Court of Appeals in determining whether Article 29 applied, was not precluded from looking into the question of petitioner’s negligence or reckless imprudence.⁷³ (Citations omitted)

Like in *Manantan*, nowhere in the decision of the Parañaque trial court in the criminal case does it state that the act or omission from which civil liability might arise did not exist. On the contrary, the trial court was unequivocal that petitioner was acquitted due to reasonable doubt:

WHEREFORE, due to reasonable doubt, the accused, ALASTAIR JOHN KANE, is hereby ACQUITTED of the crime [of] violation of Sec[.] 5(a) of R.A. 9262, penalized by Sec[.] 6 (a) of the said Act.

SO ORDERED.⁷⁴ (Emphasis supplied)

Having been acquitted due to reasonable doubt, petitioner is not exempt from civil liability. This is true even if his guilt was not satisfactorily established.

II

Furthermore, contrary to petitioner’s argument, the decision of the Parañaque trial court acquitting him did not operate as *res judicata* so as to bar the filing of the Complaint for Damages under Article 33 of the Civil Code.

The concept of *res judicata* was expounded in *Club Filipino, Inc. v. Bautista*:⁷⁵

Res judicata “literally means ‘a matter adjudged; a thing judicially acted upon or decided; [or] a thing or matter settled by judgment.’” *Res judicata* “lays the rule that an existing final judgment or decree rendered on the merits, and without fraud or collusion, by a court of competent

⁷³ Id. at 308–309.

⁷⁴ *Rollo*, p. 30. Court of Appeals Decision.

⁷⁵ 750 Phil. 599 (2015) [Per J. Leonen, Second Division].

jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.”

Res judicata has two (2) aspects. The first is bar by prior judgment that precludes the prosecution of a second action upon the same claim, demand or cause of action. The second aspect is conclusiveness of judgment, which states that “issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.”

The elements of *res judicata* are:

- (1) the judgment sought to bar the new action must be final;
- (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties;
- (3) the disposition of the case must be a judgment on the merits;
and
- (4) there must be as between the first and second action identity of parties, subject matter, and causes of action[.]⁷⁶ (Citations omitted; emphasis in the original)

It is settled that a decision acquitting the accused is not *res judicata* on the independent civil action, even if the latter action arises from the same act or omission on which the criminal action was based.

In *Cancio v. Isip*,⁷⁷ cases for *estafa* were filed against Emerenciana Isip for issuing checks with insufficient funds. After it had failed to present its second witness, the prosecution moved to dismiss the *estafa* cases, but reserved the right to file a separate civil action. The motion was granted, and the private complainant, Jose Cancio, Jr., subsequently filed a case for collection of sum of money to recover the amount of the checks subject of the *estafa* cases.

Isip filed a motion to dismiss, arguing that that the collection case was barred on the ground of *res judicata*. The trial court agreed and dismissed the collection case. It held that “the dismissal of the criminal cases. . . on the ground of lack of interest or failure to prosecute is an adjudication on the merits which amounted to *res judicata* on the civil case for collection.”⁷⁸

On appeal, this Court set aside the trial court’s decision. It explained that an act or omission causing damage to another may give rise to two (2)

⁷⁶ Id. at 617–618.

⁷⁷ 440 Phil. 29 (2002) [Per J. Ynares-Santiago, First Division].

⁷⁸ Id. at 33.

separate civil liabilities: (1) civil liability *ex delicto*, or that arising from the crime, and (2) independent civil liabilities, i.e., those *not* arising from the crime, or those where the law expressly grants the injured party the right to file an independent and distinct civil action from the criminal action. An action for collection of sum of money is *not* an action arising from the crime but from contract, an independent civil action which, according to this Court, may be pursued even without reservation.⁷⁹

This Court rejected the contention that the collection case was barred by *res judicata*. Among the elements of *res judicata* is that there is an identity of causes of action between the actions, and between a criminal case based on *culpa criminal* and an action based on *culpa contractual*, there is no such identity of causes of action. The independent civil action:

. . . remains separate and distinct from any criminal prosecution based on the same act. Not being deemed instituted in the criminal action based on *culpa criminal*, a ruling on the culpability of the offender will have no bearing on said independent civil action based on an entirely different cause of action, i.e., *culpa contractual*.⁸⁰ (Citation omitted; emphasis in the original)

The defense of *res judicata* was likewise raised but nonetheless rejected in *Lim v. Kou Co Ping*.⁸¹ The case involved withdrawal authorities issued by a cement corporation, thereby allowing holders of the instrument to withdraw cement bags from the corporation's cement plant. Kou Co Ping had earlier bought withdrawal authorities, which he subsequently sold to Lily Lim. When Lim failed to withdraw cement bags covered by the withdrawal authorities, she sued Kou Co Ping for *estafa* before the Regional Trial Court of Pasig.

The trial court acquitted Kou Co Ping of *estafa* for insufficiency of evidence. However, it set the case for reception of evidence on Kou Co Ping's civil liability. After trial on the criminal case, the trial court also absolved Kou Co Ping of civil liability to Lim.

This caused Lim to subsequently file a complaint for specific performance and damages before the Regional Trial Court of Manila. Moving to dismiss the complaint, Kou Co Ping argued that his acquittal in the *estafa* case was *res judicata* on the specific performance and damages case.

The Manila trial court denied the motion to dismiss, which was affirmed by this Court. Citing *Cancio*, this Court discussed how an act or

⁷⁹ Id. at 39.

⁸⁰ Id. at 40.

⁸¹ 693 Phil. 286 (2012) [Per J. Del Castillo, First Division].

omission may give rise to civil liability arising from different sources. The source of the civil liability arising from the offense is different from that arising from contract, and an offended party may pursue either or both, subject to the prohibition on double recovery under Article 2177 of the Civil Code. Considering that the complaint for specific performance and damages is premised on a civil liability, and *not* arising from crime but from contract, this Court held that the decision on the civil aspect of the *estafa* case had no bearing on the case for specific performance and damages. In *Lim*:

A single act or omission that causes damage to an offended party may give rise to two separate civil liabilities on the part of the offender — (1) *civil liability ex delicto*, that is, civil liability arising from the criminal offense under Article 100 of the Revised Penal Code, and (2) *independent civil liability*, that is, civil liability that may be pursued independently of the criminal proceedings. The independent civil liability may be based on “an obligation not arising from the act or omission complained of as a felony,” as provided in Article 31 of the Civil Code (such as for breach of contract or for tort). It may also be based on an act or omission that may constitute felony but, nevertheless, treated independently from the criminal action by specific provision of Article 33 of the Civil Code (“in cases of defamation, fraud and physical injuries”).

The civil liability arising from the offense or *ex delicto* is based on the acts or omissions that constitute the criminal offense; hence, its trial is inherently intertwined with the criminal action. For this reason, the civil liability *ex delicto* is impliedly instituted with the criminal offense. If the action for the civil liability *ex delicto* is instituted prior to or subsequent to the filing of the criminal action, its proceedings are suspended until the final outcome of the criminal action. The civil liability based on delict is extinguished when the court hearing the criminal action declares that “the act or omission from which the civil liability may arise did not exist.”

On the other hand, the independent civil liabilities are separate from the criminal action and may be pursued independently, as provided in Articles 31 and 33 of the Civil Code, which state that:

ART. 31. When the civil action is based on an **obligation not arising from the act or omission complained of as a felony**, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter.

ART. 33. In cases of defamation, fraud, and physical injuries a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall **proceed independently of the criminal prosecution**, and shall require only a preponderance of evidence.

Because of the distinct and independent nature of the two kinds of civil liabilities, jurisprudence holds that the offended party may pursue the two types of civil liabilities simultaneously or cumulatively, without offending the rules on forum shopping, *litis pendentia*, or *res judicata*. As explained in *Cancio, Jr. v. Isip*:

One of the elements of *res judicata* is identity of causes of action. In the instant case, it must be stressed that the action filed by petitioner is an independent civil action, which remains separate and distinct from any criminal prosecution based on the same act. Not being deemed instituted in the criminal action based on *culpa criminal*, a ruling on the culpability of the offender will have no bearing on said independent civil action based on an entirely different cause of action, i.e., *culpa contractual*.

In the same vein, the filing of the collection case after the dismissal of the *estafa* cases against [the offender] did not amount to forum-shopping. The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, to secure a favorable judgment. Although the cases filed by [the offended party] arose from the same act or omission of [the offender], they are, however, based on different causes of action. The criminal cases for *estafa* are based on *culpa criminal* while the civil action for collection is anchored on *culpa contractual*. Moreover, there can be no forum-shopping in the instant case because the law expressly allows the filing of a separate civil action which can proceed independently of the criminal action.⁸² (Citations omitted; emphasis in the original)

Applying the foregoing, petitioner's acquittal in the case for violation of Section 5(a) of Republic Act No. 9262 is not *res judicata* on the action for damages under Article 33 of the Civil Code. One of the elements of *res judicata* is the identity of causes of action, with "cause of action" being the "act or omission by which a party violates a right of another."⁸³

While the criminal action and the action for damages arise from the same act or omission—the alleged physical violence committed by petitioner against respondent—these actions violate two (2) different rights of respondent: (1) her right not to be physically harmed by an intimate partner under Republic Act No. 9262; and (2) her right to recover damages for bodily injury under Article 33 of the Civil Code.

In other words, the criminal case and the civil case do not have identical causes of action, and respondent had the right to pursue either petitioner's civil liability arising from the violation of Republic Act No. 9262, or the independent civil liability provided for in Article 33 of the Civil Code. /

⁸² Id. at 298–300.

⁸³ RULES OF COURT, Rule 2, sec. 2.

Even the finality of the acquittal is immaterial in the present case. To reiterate: actions under Article 33 of the Civil Code are “‘separate, distinct, and independent’ of any criminal prosecution based on the same act [or omission]”⁸⁴ on which the civil action was filed. As this Court said in *Cancio*, “a ruling on the culpability of the offender will have no bearing on [the] independent civil action based on an entirely different cause of action[.]”⁸⁵

All told, the Court of Appeals correctly rejected petitioner’s *res judicata* argument.

III

Corollarily, this Court affirms the Court of Appeals’ ruling that respondent did not commit forum-shopping when she filed the Complaint for Damages under Article 33 of the Civil Code. Forum shopping is committed

by a party who institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or increase a party’s chances of obtaining a favorable decision or action[.]⁸⁶ (Citation omitted)

To determine whether there is forum shopping, it is necessary to ascertain “whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another[.]”⁸⁷ The test is “whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.”⁸⁸

Litis pendentia “refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious.”⁸⁹

The following requisites must concur for *litis pendentia* to be present: (1) the identity of parties, or at least such as representing the same interests

⁸⁴ *Philippine Rabbit Bus Lines, Inc. v. People of the Philippines*, 471 Phil. 415, 431 (2004) [Per J. Panganiban, First Division].

⁸⁵ *Cancio v. Isip*, 440 Phil. 29, 40 (2002) [Per J. Ynares-Santiago, First Division].

⁸⁶ *Top Rate Construction & General Services, Inc. v. Paxton Development Corporation*, 457 Phil. 740, 747–748 (2003) [Per J. Bellosillo, Second Division].

⁸⁷ *Yap v. Chua*, 687 Phil. 392, 400 (2012) [Per J. Reyes, Second Division].

⁸⁸ Id. citing *Young v. Keng Seng*, 446 Phil. 823, 833 (2003) [Per J. Panganiban, Third Division].

⁸⁹ *Aboitiz Equity Ventures, Inc. v. Chiongbian*, 738 Phil. 773, 796 (2014) [Per J. Leonen, Third Division] citing *Yap v. Chua*, 687 Phil. 392 (2012) [Per J. Reyes, Second Division].

in both actions; (2) the identity of rights asserted and relief prayed for; and (3) the identity of the two (2) cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.⁹⁰

As discussed, the final judgment on the violation for Section 5(a) of Republic Act No. 9262 does not amount to *res judicata* in the action for damages under Article 33 of the Civil Code. Further, Article 33 expressly allows the filing of a separate civil action for damages arising from physical injuries that can proceed independently of the criminal action. With one of the crucial elements of *res judicata* being absent, there can be no forum shopping in this case.

IV

The Court of Appeals correctly held that the venue was properly laid.

Venue is “the place where the case is to be heard or tried[.]”⁹¹ Under our Rules, the venue of an action generally depends on whether it is a real or personal action.

Real actions are those affecting the title or possession of a real property, or interest therein, to be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated.⁹² All other actions, called personal actions, may be commenced and tried where the plaintiff or any of the principal plaintiffs reside, or where the defendant or any of the principal defendants reside, at the election of the plaintiff.⁹³

The action for damages filed by respondent does not involve the title or possession of a real property, or interest therein. It is a personal action, and respondent, as plaintiff, had the option of either filing it in her place of residence or the defendant, petitioner’s, place of residence. She chose to file the civil case in her place of residence, that is, Mandaluyong City.

Petitioner, however, maintains that Mandaluyong City is not respondent’s place of residence. While respondent alleged in her Complaint for Damages that she resides in a condominium unit in Mandaluyong City, petitioner cites two (2) instances where respondent testified that she resides at a condominium unit in Parañaque City. The venue, petitioner argues, was

⁹⁰ Id. at 796 citing *Villarica Pawnshop, Inc. v. Gernale*, 601 Phil. 66, 78 (2009) [Per J. Austria-Martinez, Third Division].

⁹¹ *Nocum v. Tan*, 507 Phil. 620, 626 (2005) [Per J. Chico-Nazario, Second Division].

⁹² RULES OF COURT, Rule 4, sec. 1.

⁹³ RULES OF COURT, Rule 4, sec. 2.

improperly laid and the Complaint for Damages should be dismissed accordingly.

Looking into petitioner's allegations, he cites parts of the proceedings in the criminal case, specifically, the hearing held on May 22, 2007⁹⁴ and May 13, 2008⁹⁵ where respondent testified that she resided in a condominium in Parañaque.

The Complaint for Damages, however, was filed on November 28, 2008,⁹⁶ and it could very well be that, as respondent had alleged in her civil complaint, she was already a resident of Mandaluyong City at that time. Absent proof to the contrary, this Court affirms the findings of the Court of Appeals that "[a]t the time of the filing of this case, [respondent] was already residing [at Mandaluyong City]. Thus, venue was properly laid at the [Regional Trial Court] of Mandaluyong City."⁹⁷

As a final note, not only did the Mandaluyong trial court err in dismissing the action based on Article 33 of the Civil Code by assuming that the acquittal, by itself, is a declaration that the facts upon which the civil action can arise did not exist is already presumed. The court that tried the civil case also possibly erred in the manner by which it interpreted the facts on the basis of what it considered as which narrative is "in accord with human experience."⁹⁸

The two (2) points articulated in the decision regarding the criminal case seems to reveal the severe lack of gender sensitivity and/or practical wisdom on the trial court judge's part. The first is the assertion that the woman chose to hide her lover's transgressions against her person before the doctor, as well as her son. The second is the judge's assertion of his conclusion that the hesitation of the woman to immediately leave her lover is an unnatural act and, hence, unbelievable.

These assumptions that provide the filters for a judge to eventually acquit, demonstrate that there is a possibility that another civil action may interpret the facts differently. A more enlightened interpretation of the evidence may involve a less caricaturized, less patriarchal set of assumptions. For instance, the capability of women to sacrifice their own welfare in favor of those who they care for and love is known to many women.

⁹⁴ *Rollo*, p. 37.

⁹⁵ *Id.* at 15.

⁹⁶ *Id.* at 78.

⁹⁷ *Id.* at 79.

⁹⁸ *Id.* at 7.

Thus, protecting the husband's reputation before a stranger, even if that stranger be a doctor, or sparing the son from a premature dilemma that undermines his view of his father, is possibly a more ordinary and enlightened view of respondent's motive, assuming the facts as established by the court trying the criminal case.

Similarly, that someone, usually the woman, would hesitate to simply leave her family and deprive them of her caring for her part in maintaining the household, even at peril to herself or her dignity, is not outlandish, inconceivable or, sadly, even exceptional. Certainly, it is "in accord with human experience."⁹⁹

These motives, often perpetuated by culture, are the precise targets of our laws which underscore gender equality in every type of relationship. It is the awareness of the possibility of abuse that a more gendered perspective of human intentions is privileged by laws on sexual harassment—including the law which seeks to prohibit violence against women in intimate relationships. The rather dismal failure to consider the complexity of the human psyche in the criminal case may not be how the judge in the civil case will consider the case given the same set of evidence. It is in these respects that We see the wisdom of our current rules.

WHEREFORE, the Petition for Review on Certiorari is **DENIED**. The Court of Appeals' March 25, 2014 Decision and September 13, 2014 Resolution in CA-G.R. CV No. 96341 are hereby **AFFIRMED**. The Regional Trial Court of Mandaluyong City, Branch 214, is hereby **DIRECTED** to reinstate Civil Case No. MC08-3871, continue with the proceedings, and to resolve the same with dispatch.

SO ORDERED.

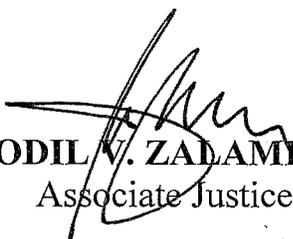

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

On wellness leave
ALEXANDER G. GESMUNDO
Associate Justice

⁹⁹ Id.

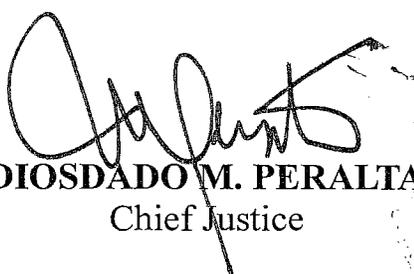

ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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.


DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

Mis-RDCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

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