



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

XXX,¹

Petitioner,

G.R. No. 252739

Present:

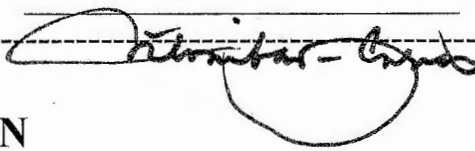
GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,*
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

April 16, 2024

X-----

X

DECISION

HERNANDO, J.:

Pursuant to its policy to protect the safety, health, and welfare of women and children, the State has a duty to acknowledge the different, but no less

¹ In line with the Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 9262, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.
* No part due to prior participation in the proceedings before the Court of Appeals.

damaging forms, that violence and abuse can take, to provide meaningful safeguards that concurrently defend the wellbeing of the victims and seek commensurate redress from their abusers. Marital infidelity is one such form of domestic violence that not only transgresses the matrimonial vows of faithfulness and commitment, but also inflicts inconceivable psychological and emotional harm upon the aggrieved spouse and their children. As a form of psychological abuse, marital infidelity destroys the stability and unity of the family at its core, shatters the self-worth and trust of the betrayed spouse, and fosters deep-seated trauma borne of emotional turmoil and related mental health issues. To stem the perpetuation of the cycle of abuse, and to prevent the normalization of extramarital promiscuity in our society, the Court declares marital infidelity to be a form of psychological violence punishable under Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004.

Before the Court is a Petition for Review on *Certiorari*² filed by XXX, assailing the Decision³ and the Resolution⁴ of the Court of Appeals (CA) in CA-G.R. CR No. 40938. The CA Decision affirmed the Decision⁵ rendered by the Branch 144, Regional Trial Court of [REDACTED] (RTC), in Criminal Case No. R-MKT-17-00580-CR which found XXX guilty of violating Section 5(i) of Republic Act No. 9262. The CA Resolution denied XXX's Motion for Reconsideration of the CA Decision.

The Factual Antecedents

In an Information⁶ dated December 29, 2016, XXX was charged with a violation of Sec. 5(i) of Republic Act No. 9262. The accusatory portion reads:

On July 19, 2016 or prior thereto, in the city of [REDACTED],⁷ [the] Philippines, accused, being the husband of complainant AAA,⁸ did then and there willfully,

² *Rollo*, pp. 9–21.

³ *CA rollo*, pp. 137–151. The November 8, 2019 Decision in CA-G.R. CR No. 40938 was penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Ricardo R. Rosario (now a Member of the Court) and Zenaida T. Galapate-Laguilles of the Ninth Division, Court of Appeals, Manila.

⁴ *Id.* at 167–172. The June 22, 2022 Resolution in CA-G.R. CR No. 40938 was penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Ricardo R. Rosario (now a Member of the Court) and Zenaida T. Galapate-Laguilles of the Former Ninth Division, Court of Appeals, Manila.

⁵ RTC records, pp. 101–114 The November 17, 2017 Decision in R-MKT-17-00580-CR was penned by Presiding Judge Liza Marie R. Picardal-Tecson of Branch 144, Regional Trial Court, [REDACTED].

⁶ RTC Records, p. 1.

⁷ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁸ “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

unlawfully and feloniously [keep] a mistress, thereby causing upon complainant mental and emotional anguish, in violation of the aforesaid law.

CONTRARY TO LAW.⁹

XXX and his wife, AAA, were married on February 11, 1999. They have one child.¹⁰

AAA, the private complainant, testified that XXX was an employee of the Bureau of Customs and was assigned at the Port of Manila. Since they resided in Tarlac City, XXX stayed in Sampaloc, Manila, during the weekdays and would come home to Tarlac on weekends.¹¹

In the morning of July 16, 2016, AAA's co-worker sent her a private message stating that she needed to know something important. AAA asked what it was and was told that one EEE sent the co-worker some photos and messages. Upon seeing the photos, AAA recognized their family vehicle parked at a certain place, and was told that her husband, XXX, was keeping a mistress therein. AAA's co-worker also told her that XXX has a child with the mistress.¹²

When AAA received these messages, she was beside XXX who was asleep. She felt deeply hurt because it confirmed her previous suspicions that XXX was unfaithful to her.¹³

The co-worker told AAA that she was contacted by EEE because AAA was inaccessible in social media. AAA claimed that EEE previously attempted to contact her through Facebook, but she ignored the attempt since she did not know EEE. However, after receiving the photos and messages from her co-worker, AAA accepted the request from EEE. Thereafter, EEE sent AAA a message saying, "*Alam mo ba na ang asawa mo ay may asawa [rito]? May kinakasamang babae dito? Na may anak pa sila na four years old? Batang lalaki.*"¹⁴ In response, AAA asked where "rito" was, to which EEE replied, "*Dito sa Makati. Filmore, Palanan, Makati.*"¹⁵ As XXX was with her at the time, AAA could only cry. XXX asked her what the problem was, but said it was nothing.¹⁶

On July 19, 2016, AAA, accompanied by her mother and a family friend, BBB, went to Makati City and asked assistance from the Palanan barangay authorities in the hopes of catching XXX. Upon reaching the place, they found

⁹ *Id.*

¹⁰ *Id.* at 102.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 103.

¹⁵ *Id.*

¹⁶ *Id.*

the address given by EEE, and XXX and AAA's family vehicle parked outside.¹⁷

When they knocked at the gate, it was opened by an unknown person. BBB pretended to not know and asked for the owner of the vehicle parked outside, upon which XXX's alleged mistress, YYY, went out. Upon seeing her, AAA could not contain herself and grabbed YYY's hands and pulled her outside the gate yelling, "*Ilabas mo yung asawa ko.*" YYY was then unable to react out of shock. AAA continued demanding to see her husband but XXX did not come out. AAA then directed BBB and her mother to go inside and get XXX to come outside. XXX only appeared after being threatened that AAA and her companions will go to his workplace instead.¹⁸

A police mobile passed by during the encounter and intervened. The officers were about to pull AAA away from XXX when suddenly a little boy ran outside calling for his "Daddy."¹⁹ Seeing this, AAA told XXX, "*May anak ka talaga, ano?*"²⁰ Before XXX could respond, the police officers asked AAA to board the police mobile and escorted them all to the barangay hall. Discussions ensued at the barangay hall which led to XXX eventually admitting that he is the father of the boy. This resulted in a shouting match, with AAA demanding that the whole incident be recorded in the barangay blotter. XXX asked to talk to AAA at his place in Sampaloc, and when they arrived there, XXX asked her what she wanted to do. AAA replied that, at the time, she did not want anything to happen.²¹

The following day, XXX brought his and AAA's son home to Tarlac and asked AAA to have a discussion as a family. He again asked her what she wanted to happen, to which she replied that she wanted XXX to go to jail. XXX responded, "*Ah, ganon? Gusto mo akong makulong?*" and locked himself in the bathroom.²²

AAA worried that XXX would hurt himself, but he eventually left the bathroom and went to the kitchen where he got a knife and threatened to stab himself with it. Apparently scared, their son ran to AAA. While she was holding their son, XXX grabbed him. Fearing that their son might get injured by the knife, AAA embraced their son to shield him. Thereafter, XXX left the house. He returned only the next weekend, told AAA that their relationship is irreparable, and asked her to leave him alone.²³

¹⁷ *Id.*

¹⁸ *Id.* at 103–104.

¹⁹ *Id.* at 104.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 105.

²³ *Id.*

After the incident, AAA was unable to work for three to four months and could not sleep. She stayed with different relatives but kept silent about her marital problems. She just explained that she did not want to see their house, XXX, or his belongings.²⁴

On the witness stand, BBB confirmed AAA's narration of events. She added that, during the confrontation on July 19, 2016 in Makati City, she went back to the house where XXX and YYY were found. She talked to YYY and asked her how long they had been staying there. YYY replied, "*Hindi pa naman katagalan.*"²⁵ BBB further observed that the same little boy was with YYY, and asked him how old he was, to which he replied, "four," and called YYY "Mommy" and XXX "Daddy."²⁶ BBB added that she asked YYY if she knew that XXX had a wife, to which the latter responded in the affirmative.²⁷

BBB further testified that upon discovery of XXX's mistress, AAA was visibly emotional, would not stop crying, and appeared to be in immense disbelief that she had been cheated on by her husband.²⁸

For his part, XXX admitted that he and AAA are married and have one child together. He also admitted having a child with YYY. However, he denied keeping a mistress, which supposedly caused AAA emotional and mental anguish. He denied having any relationship with YYY and asserted that the boy was only the result of a one-night stand.²⁹

XXX further defended that, on that day on July 19, 2016, he only went to YYY's house in Makati to visit their child, who he only sees about three or four times a year. He also contended that he was only able to enter that house a total of three times.³⁰

Ruling of the Regional Trial Court

In its Decision³¹ dated November 17, 2017, the RTC found XXX guilty of the crime charged. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, accused [XXX] is found **GUILTY** of the charge of violation of Republic Act No. 9262, Section 5(i) and is sentenced to an indeterminate penalty of imprisonment for **two (2) years, four (4) months and [o]ne (1) day** of *prision correccional* as minimum to **eight (8) years and one (1) day** of *prision mayor* as maximum.

²⁴ *Id.*

²⁵ *Id.* at 107.

²⁶ *Id.*

²⁷ *Id.*

²⁸ TSN, BBB, June 15, 2017, p. 18.

²⁹ *Id.*

³⁰ *Id.* at 110.

³¹ *Id.* at 101–114.

In addition to imprisonment, accused [XXX] is **ORDERED** to (a) pay a fine in the amount of **ONE HUNDRED THOUSAND PESOS** ([PHP] 100,000.00); and (b) undergo mandatory psychological counseling or psychiatric treatment and report compliance to the Court, as set forth in the last paragraph of Section 6 of Republic Act No. 9262.

SO ORDERED.³²

The trial court found that the prosecution has sufficiently established all the elements of Sec. 5(i), Republic Act No. 9262 against XXX. Specifically, the RTC noted that XXX's acknowledgement as the father on the child's birth certificate proved the existence of an extramarital affair with YYY.³³

The trial court likewise gave weight to AAA's behavior and manner of testifying, describing it as the kind where "anguish can readily be seen," and that the "emotion shown by [AAA] could not have resulted in an exaggeration of her feelings, considering that [XXX] himself admitted to committing marital infidelity that resulted in the birth of his child with [YYY]."³⁴

In conclusion, the trial court pronounced:

It is clear that the distress experienced by complainant was brought about by the infidelity and dishonesty of accused, including the fact that accused was able to carry on the affair without her knowledge. The situation was further aggravated that private complainant learned of the affair from a stranger who informed her co-worker of the same. Private complainant succinctly described the humiliation she suffered. . .³⁵

XXX appealed his conviction.

Ruling of the Court of Appeals

On November 8, 2019, the CA promulgated the assailed Decision,³⁶ affirming the RTC Decision. The dispositive portion of the appellate court's decision reads:

The appeal is DENIED. The *Decision* dated 17 November 2017 rendered by Branch 144 of the Regional Trial Court, National Capital Judicial Region, [REDACTED] in Crim. Case No. R-MKT-17-00580-CR is AFFIRMED *in toto*.

IT IS SO ORDERED.³⁷

³² *Id.* at 114.

³³ *Id.* at 111.

³⁴ *Id.* at 112.

³⁵ *Id.*

³⁶ *CA rollo*, pp. 137-151.

³⁷ *Id.* at 151.

In sustaining XXX's conviction, the CA pointed out that the element of the offense in contention—that the accused caused the victim mental and emotional anguish—was sufficiently proven. The appellate court emphasized:

As the RTC pointed out in the assailed *Decision*, “the anguish of private complainant was apparent during her emotional breakdown while narrating the circumstances that led [. . .] to the confrontation between her and [XXX] on July 19, 2016”, and “[s]he was hurt by the confirmation of her suspicions that [XXX] had been unfaithful during their marriage and that he disregarded her effort to keep their family together.”³⁸

XXX filed a motion for reconsideration,³⁹ but the same was denied in the assailed Resolution.

Dissatisfied, XXX filed the present Petition, contesting his conviction.

Issue

We determine whether XXX was guilty of violating Sec. 5(i) of Republic Act No. 9262.

XXX argues that the prosecution failed to establish beyond a reasonable doubt that the mental and emotional anguish suffered by AAA was caused by his unfaithfulness, and, that he did not commit any of the acts mentioned in Sec. 5(i) of Republic Act No. 9262, as charged in the Information.

Our Ruling

We agree with the findings of the RTC and the CA. XXX is guilty of violating Sec. 5(i) of Republic Act No. 9262.

RA 9262 is a form of social legislation that has the primary objective of protecting women and their children from all forms of domestic violence

Before delving into the main issue, the Court finds that a brief discussion on the historical and social contexts that underscore the necessity of Republic Act No. 9262 would be a useful aid in fully elucidating upon the merits of this case.

³⁸ *Id.* at 149–150.

³⁹ *Id.* at 152–156.

Violence against women is internationally recognized as a form of discrimination and violation of human rights.⁴⁰ Examining violence against women in the human rights framework reveals that the specific causes of such violence are inextricably linked to the broader context of systemic gender-based discrimination and subordination that women are forced to endure.⁴¹ Such violence is a manifestation of the unequal power relationship between men and women, as well as widespread and deeply entrenched gender biases and prejudices against women that have historically placed women beneath men, who are thus in a position to exercise power and control over women.⁴²

The discrimination and violence faced by women is an issue of global magnitude with one in three women worldwide having been subjected to either physical and/or sexual violence in their lifetime.⁴³ The international community has sought to address violence against women through the following conventions and international agreements.

The United Nations General Assembly (UNGA) adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on December 18, 1979 to bring women to the forefront of the conversation on human rights, serving not only as an international bill of rights for women, but also as an “agenda for action” by countries to ensure the enjoyment of these rights.⁴⁴ Although the CEDAW does not explicitly mention violence against women, the Committee on the Elimination of Discrimination against Women, which is the treaty body established to monitor implementation by party-states of the CEDAW, has unequivocally stated that violence against women is a form of gender-based discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.⁴⁵ The Committee recommended that states parties take effective measures to overcome all forms of gender-based violence and ensure that all laws against gender-based violence provide adequate protection to all women.⁴⁶

As further recognition that violence against women constitutes a violation of the rights and fundamental freedoms of women, and the continued pervasiveness of gender-based discrimination and violence throughout the

⁴⁰ United Nations Study of the Secretary General, *Ending violence against women: From words to action*, 27, (2006).

⁴¹ *Id.*

⁴² *Garcia v. Drilon*, 712 Phil. 44, 91 (2013) [Per J. Perlas-Bernabe, *En Banc*].

⁴³ World Health Organization, *Violence Against Women*, available at <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> (last accessed on June 12, 2024).

⁴⁴ Convention on the Elimination of All Forms of Discrimination against Women, December 18, 1979, available at <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> (last accessed on June 12, 2024).

⁴⁵ Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (1992), par. 1, available at <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (last accessed on June 12, 2024).

⁴⁶ *Id.* at par. 24.

world, the UNGA adopted the Declaration on the Elimination of Violence against Women (DEVAW) on December 20, 1993, and expressly links the rights espoused therein to those embodied in the Universal Declaration of Human Rights (UDHR).⁴⁷ The DEVAW defines “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”⁴⁸ States parties are directed to condemn violence against women and to prioritize pursuing policies of eliminating violence against women.⁴⁹

Lastly, the Beijing Declaration and Platform for Action was adopted by 189 countries at the Fourth Conference on Women on September 15, 1995. The states parties to the Beijing Declaration reaffirmed their commitment to ensure the enjoyment of human rights of women and girls,⁵⁰ and to prevent and eliminate all forms of violence against women and girls.⁵¹

Having adopted the UDHR, CEDAW, DEVAW, and the Beijing Declaration, the Philippines has a legal obligation to implement the policies and rights enshrined in these conventions. The Philippines’s commitment to ending gender-based violence also finds legal impetus in Section 14, Article II of the Constitution, which sets out the State policy of ensuring the fundamental equality of women and men before the law.⁵²

As a major step forward towards achieving the goal of eliminating all forms of violence against women, Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004 was passed into law. The Court in *Estacio v. Estacio*,⁵³ explained the policy considerations behind the enactment of Republic Act No. 9262:

Republic Act No. 9262 is a social legislation enacted as a measure to address domestic violence. It acknowledges that in situations where abuse happens at home, women are the likely victims. This is largely due to the unequal power relationship between men and women, and the widespread gender bias and prejudice against women which have historically prevented their full advancement, forcing them into subordination to men.

⁴⁷ See Universal Declaration of Rights, December 10, 1948, General Assembly resolution 217 A.

⁴⁸ Declaration on the Elimination of Violence against Women, December 20, 1993, General Assembly resolution 48/104, art. 1.

⁴⁹ *Id.* at art. 4.

⁵⁰ Beijing Declaration, September 15, 1995, available at <http://www.un-documents.net/beijingd.htm> (last accessed June 12, 2024), par. 9.

⁵¹ *Id.* at par. 29.

⁵² CONST.; art. II, sec. 14.

⁵³ 885 Phil. 157 (2020) [Per J. Leonen, Third Division].

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The law specifically protects women from violence committed in the context of an intimate relationship, which can be physical violence, sexual violence, psychological violence, or economic abuse. This also includes those committed against the woman's child.⁵⁴ (Citations omitted)

Although We completely reject the perspective that women are always victims and are inherently weaker than men, the Court has recognized the reality that women are the more likely victims of violence as compared to men,⁵⁵ and that the most common form of violence experienced by women is domestic violence or intimate partner violence.⁵⁶

Based on worldwide surveys conducted by the World Health Organization, 27% of women aged 15 to 49 years who have been in a relationship reported that they have been subjected to some form of physical and/or sexual violence by their intimate partner.⁵⁷

The Philippines reflects similarly alarming statistics. As of December 31, 2022, the Philippine Commission on Women (PCW) reported that 17.5% of women aged 15 to 49 have experienced any form of physical, sexual, or emotional violence by their current or most recent husband or intimate partner,⁵⁸ with emotional violence as having the highest percentage among the forms of violence against women at 15.2%.⁵⁹ Violations of Republic Act No. 9262 reported to the Philippine National Police and the PCW rank first among the different categories of crimes involving violence against women from 2018 to 2022.⁶⁰

The foregoing statistics clearly emphasize the continuing importance and necessity of upholding statutory protections for women and their children. Republic Act No. 9262 provides a clear legal framework to promote and strengthen the rights of women and their children from violence and threats to their personal safety and security. As the goal of the law is to achieve equality by eliminating violence against women and children, it is thus imperative to identify and address the varied and intersectional ways that women experience violence.

⁵⁴ *Id.* at 169.

⁵⁵ *Garcia v. Drilon*, 712 Phil. 44, 95–97 (2013) [Per J. Perlas-Bernabe, *En Banc*].

⁵⁶ United Nations Study of the Secretary General, *Ending violence against women: From words to action*, 43, (2006).

⁵⁷ World Health Organization, *Violence Against Women*, available at <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> (last accessed on June 12, 2024).

⁵⁸ Philippine Commission on Women, *Estado ni Juana: State of Filipino Women Report*, December 31, 2022, p. 41.

⁵⁹ *Id.* at 41–42.

⁶⁰ *Id.* at 50–51.

Marital infidelity resulting to mental and emotional anguish is punishable under Republic Act No. 9262

Sec. 5(i) of Republic Act No. 9262 provides:

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:

-
- (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 access to the woman's child/children.

In *Dinamling v. People*,⁶¹ the Court enumerated the elements of this crime:

- (1) The offended party is a woman and/or her child or children;
- (2) The woman is either the wife or former wife of the offender, or is a woman with whom the offender has or had a sexual or dating relationship, or is a woman with whom such offender has a common child. As for the woman's child or children, they may be legitimate or illegitimate, or living within or without the family abode;
- (3) The offender causes on the woman and/or child mental or emotional anguish; and
- (4) The anguish is caused through acts of public ridicule or humiliation, repeated verbal and emotional abuse, denial of financial support or custody of minor children or access to the children or similar such acts or omissions.⁶²

The presence of the first two elements is undisputed. First, the victim is AAA, a woman; and second, she is married to the accused, XXX, with the fact of their marriage having been stipulated upon during the proceedings before the trial court.⁶³

The contention centers on the third element, against which XXX stresses that “the anguish allegedly suffered by [AAA] could equally have been caused by the refusal of [XXX] to get back together with [AAA],”⁶⁴ and that “[AAA] was still hoping at that moment that their family could still be rehabilitated.”⁶⁵

⁶¹ 761 Phil. 356 (2015) [Per J. Peralta, Third Division].

⁶² *Id.* at 373.

⁶³ RTC records, p. 102.

⁶⁴ *Rollo*, p. 15.

⁶⁵ *Id.*

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XXX's argument utterly lacks legal logic.

We note XXX's admission of the mental and emotional anguish suffered by AAA; only that, according to him, it could not have been caused by his philandering. However, as correctly observed by both the RTC and the CA, "the anguish of [AAA] was apparent during her emotional breakdown while narrating the circumstances that led [. . .] to the confrontation between her and [XXX] on July 19, 2016", and "[s]he was hurt by the confirmation of her suspicions that [XXX] had been unfaithful during their marriage and that he disregarded her effort to keep their family together."⁶⁶ This clearly relays to the courts the fact of XXX's infidelity, including the discovery and confirmation thereof, is the sole source of AAA's stress and grief. XXX's imputation of self-inflicted torment upon AAA will not work to dilute his culpability for her marital woes.

Moreover, XXX's own unwitting statement debilitates his defense that AAA's suffering "*could equally have been*" caused by his refusal to reconcile. Aside from willfully misinterpreting AAA's reactions, XXX is effectively admitting not just his unfaithfulness, but that it also caused his wife a great amount of mental and emotional distress.

BBB's testimony further supports Our own findings:

Q: Did you see the effect of the discovery of the mistress and the child on [AAA]?

A: *Opo.*

Q: What was the effect to [AAA]?

A: *Yun pong emotion na iyak na iyak si [AAA], parang normal po sa isang babae iyong hindi nya matanggap na niloloko siya ng asawa nya. Iyak [nang] iyak, hindi [siya] humihinto sa kakaiyak.⁶⁷*

BBB's testimony is unequivocal and corroborative: AAA's inconsolability is the undisputed by-product of XXX's infidelity. Even if We indulge XXX's contention, the same will not stand, for it does not take much to see that XXX's assertion only flicked a pebble against a wall at best, and is simply baseless and speculative at worst. We note that, aside from mere verbal arguments, XXX has not presented even a hint of proof to support his claim that AAA's suffering was caused by his refusal to repair their broken relationship. What is certain at this point, however, is that when AAA witnessed for herself proof of XXX's infidelity, it caused her uncontrollable emotions that could only be described as, "*iyak [nang] iyak.*" It is more in accord with normal human behavior to feel and act utterly deceived and betrayed and consequently, experience mental and emotional sorrow, when one is cheated on by their own spouse.

⁶⁶ CA rollo, pp. 149-150.

⁶⁷ TSN, BBB, June 15, 2017, p. 18.

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We quote with approval the trial court's findings:

Based on the Court's observation of [AAA's] behavior and manner of testifying, the anguish can readily be seen during her narration of the events that transpired and the emotion shown by [AAA] could not have resulted in an exaggeration of her feelings, considering that [XXX] himself admitted to committing marital infidelity that resulted in the birth of his child with [YYY].⁶⁸

Another argument that XXX had raised before the trial and appellate courts—which the Court now wishes to address, due to its important legal implications—is that YYY is not his mistress but rather, merely a one-time sexual partner. He thus concludes that the Information, which charged him of “keeping a mistress,” is defective and failed to respect his right to be informed of the nature and cause of the accusation against him, enshrined in Article III, Sec. 14(2) of the 1987 Constitution.

Again, XXX is wrong with his gravely misguided reasoning.

A review of the Information will reveal that the offense charged was the act of “causing upon complainant mental and emotional anguish,” and not the act of “keeping of a mistress.”

We quote with approval the CA's findings:

Thus, appellant's argument that “[t]here was no showing that[,] at any time between their one-time sexual encounter in 2011 and the incident on 19 July 2016[,] appellant held, maintained, supported, or took care [of] [YYY] as his mistress” merits no consideration, as the element of the offense which needs to be proved is the fact that appellant caused private complainant mental and emotional anguish, and there is no requirement that appellant must have held, maintained, supported, or took care of the putative mistress in order to be liable for inflicting psychological violence on private complainant.⁶⁹

An illicit sexual encounter committed by a male person, however casual or infrequent, constitutes marital infidelity that is tantamount to psychological violence punishable by the provisions of Republic Act No. 9262. This is easily apparent from Sec. 3(c) of the law which defines psychological violence, to wit:

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

⁶⁸ RTC records, p. 112.

⁶⁹ CA rollo, p. 149.

deprivation of the right to custody and/or visitation of common children.
(Emphasis supplied)

Further, in *XXX v. People*,⁷⁰ the Court explained:

Marital infidelity is one of the forms of psychological violence. The prosecution in this case was able to satisfactorily establish petitioner's marital infidelity, his cohabitation with CCC who even bore him a child, and his abandonment of AAA. BBB's psychological trauma was evident when she wept in open court upon being asked to narrate petitioner's infidelity. In particular, BBB explained that she was deeply hurt because her father had another family and loved another woman other than her mother, BBB. (Emphasis supplied, citations omitted)

Moreover, in *XXX v. People*,⁷¹ the Court held:

To begin with, We must emphasize that what distinguishes Section 5 (i) from the other violations of Section 5 of R.A. 9262, are the indispensable requirements of (1) psychological violence; and (2) emotional anguish or mental suffering. Psychological violence is the means employed by the perpetrator, while emotional anguish or mental suffering are the effects caused to or the damage sustained by the offended party. As We said in the case of *Dinamling*, the **"focus of this particular criminal act [Section 5 (i) of R.A. 9262] is the causation** of non-physical suffering, that is, mental or emotional distress, or even anxiety and social shame or dishonor on the offended party." (Emphasis in the original, citations omitted)

The Court has recognized the various modes through which psychological violence may be committed though the act or omission was not expressly enumerated in Sec. 3(c), Republic Act No. 9262. In *XXX v. People*,⁷² the Court ruled that a husband's abandonment of his wife amounts to psychological violence and emotional abuse under Republic Act No. 9262 as abandonment "would naturally cause mental and emotional suffering to the wife, a person whom the husband is obliged to cohabit with, love, respect, and give support to."⁷³ The same spousal obligations are also breached when a husband commits marital infidelity.

Here, AAA's trauma due to her discovery of XXX's cheating was both palpable and searing. The trial court observed that her "anguish can readily be seen during her narration of the events."⁷⁴ XXX's sexual affair bore him a child outside his marriage, and this point must be emphasized: when the unfaithfulness was discovered, the boy was already four years old. This only means that XXX's deceit and clandestine, extramarital affair went on for four

⁷⁰ G.R. No. 250219, March 1, 2023 [Per J. Hernando, First Division] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷¹ G.R. No. 252087, February 10, 2021 [Per J. Carandang, First Division].

⁷² G.R. No. 263449, November 13, 2023 [Per J. Lopez, J.Y., Second Division].

⁷³ *Id.* at 5, citing *Mangalino v. People*, G.R. No. 250051, February 3, 2020 [Notice, Second Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷⁴ RTC records, p. 112.

years, which he consciously hid from AAA for that long until it was finally unveiled.

Chief Justice Alexander G. Gesmundo, in his Concurring Opinion, agrees that “the acknowledgement of filiation and continuing to visit the child, coupled with keeping such fact from his wife for a prolonged time, may be considered proof that he committed marital infidelity of sufficient gravity as to cause mental or emotional anguish on the wife.”⁷⁵ It is not hard to see how all these deceptions, deliberately and carefully executed together for a long period of time, form a devastating picture to the victim-spouse who suddenly finds that, for the past several years, she had been living a lie and tolerating a liar.

While not invoked as a defense, and to avoid any confusion, a distinction must be made from *Acharon v. People*,⁷⁶ where the Court *en banc* declared:

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, 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.” In prosecutions under Section 5(i), therefore, “[p]sychological violence is the means employed by the perpetrator” 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.** (Emphasis in the original, citations omitted)

The Court’s pronouncement in *Acharon* that the accused must be proven to have intended to inflict mental or emotional anguish upon the woman applies only to circumstances involving willful denial of financial support, and not marital infidelity. This is only logical since, as We have held, to criminalize the *mere inability* rather than *willful denial* of financial support “would result in absurd, if not outright unconstitutional, consequences.”⁷⁷

⁷⁵ C.J. Gesmundo, Reflections dated August 8, 2023, p. 2. [to cite Concurring Opinion once available]

⁷⁶ G.R. No. 224946, November 9, 2021 [Per J. Caguioa, *En Banc*].

⁷⁷ *Id.*

While We agree with *Acharon* that the crimes penalized under Sec. 5(i) are *mala in se* and not *mala prohibita*, thereby requiring specific criminal intent, We hereby hold that **in instances of marital infidelity, the requirement of specific criminal intent to cause mental and emotional suffering is already satisfied at the moment the perpetrator commits the act of marital infidelity. This finds basis in the fact that marital infidelity is inherently immoral and depraved under prevailing societal, cultural, and religious norms.** In the normal course of human behavior, an aggrieved wife will never approve of a rogue and wandering husband, and *vice versa*. The same line of reasoning just cannot be applied in cases of willful denial of financial support. In other words, marital infidelity, divorced from its legal connotations, is an act which is essentially wrong in itself. To pose a rhetoric, what else could adulterers have expected to cause upon their spouse when they committed an act of unfaithfulness, aside from mental and emotional pain?

To further illustrate, it can be said that one who kills another person—an inherently vile act—will generally be found guilty, barring all justifications, as long as specific intent to kill is proven. Intent to kill, in turn, is conclusively presumed from the fact of the victim's death, thereby completing the ingredients of the crime.

Applied to the present case, can it also be said that the specific intent to cause mental and emotional anguish upon the victim may be conclusively presumed from the fact of infidelity itself?

The Court firmly believes so.

Mr. Justice Henri Jean Paul B. Inting, in his Concurring Opinion, offers a learned view as regards the intent aspect of the present controversy. We quote with approval his view that:

[W]hen a special penal law is silent as to criminal intent as an element of the crime, the presumption in favor of scienter requires a court to read into a statute only that *mens rea* which is necessary to *separate wrongful conduct from "otherwise innocent conduct."* That is, when the act punished by the law is *not innocent in itself*, a general intent to commit the *actus reus* is sufficient for conviction, and the Court must not read specific intent as an element of the offense when the law is otherwise silent on that matter. This ultimately relates to due process, for no law can be passed nor interpreted in a way that criminalizes a broad range of apparently innocent conduct.

.....

The foregoing cases uniformly reveal that specific criminal intent must be required if, in the absence thereof, a wide array of conduct that is *innocent in itself* will be penalized, in violation of the constitutional right to due process. However, if the conduct punished is **not innocent in itself**, the criminal statute will **not** be taken as one requiring specific intent; instead, the legal *maxim*,

“ignorance of the law excuses no one,” is applicable. In such a case, “[t]he accused, if he does not will the violation, usually is in a position to prevent it with no more care than society might reasonably expect and no more exertion than it might reasonably exact from one who assumed his responsibilities.” The law only requires the prosecution to show “general intent,” *i.e.*, that the accused “possessed knowledge with respect to the *actus reus* of the crime,” or “knowledge of the circumstances that the law has defined as material to the offense.”

Applying the foregoing, the Court must resolve the question of whether the conduct prohibited by Section 5(i) of RA 9262 is innocent in itself. If it is, then a strict specific criminal intent must be required; otherwise, only a general intent to voluntarily commit the prohibited act is sufficient for conviction in case of its violation.

There cannot be any serious debate that the act of “causing mental or emotional anguish, public ridicule or humiliation to the woman or her child,” through “repeated verbal and emotional abuse” and marital infidelity, among others, **is not innocent in itself**. Marital infidelity is even violative of the obligations between a husband and wife under Article 68, in relation to Article 55, of the Family Code. Indeed, as early as 1948, the Court has recognized that damages may be recovered for mental and psychological suffering. such act that causes mental or emotional anguish is a form of violence upon persons.⁷⁸

Thus, in ascertaining whether the third element is satisfied or not in cases involving marital infidelity, the question to be asked therefore is this: did the wife or her child suffer mental or emotional anguish due to the acts committed by the offender? If the answer is yes, then the third element already exists. The husband’s intent to cause mental or emotional anguish upon the wife or her child is already presumed upon the husband’s mere commission of the act of marital infidelity. Another observation that supports this pronouncement is the way the statute is worded: a closer look will reveal that the provision deliberately chose the phrasing “causing mental or emotional anguish” to highlight the idea as discussed above, and without much regard to the intent of the offender. Otherwise, the law could have simply made an explicit requirement that the offender intended to cause such mental or emotional harm. However, it did not.

The esteemed Mr. Justice Alfredo Benjamin S. Caguioa who wrote eloquently for the Court in *Acharon*, submits in his Dissenting Opinion that *Acharon* squarely applies to this case, even though what is involved is marital infidelity and not a willful denial of financial support. He posits that the *ponencia* renders the crime subjective.⁷⁹

The Court disagrees.

To be sure, rendering the crime subjective is not, and should not be, the purpose and objective of the law. To require proof of intent to cause mental or

⁷⁸ J. Inting, Reflections dated October 22, 2023, pp. 13–15. [to cite Concurring Opinion once available]

⁷⁹ J. Caguioa, Reflections dated April 15, 2024, pp. 1–4. [to cite Dissenting Opinion once available]

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emotional anguish upon the victim in cases of marital infidelity for purposes of prosecuting violations of Sec. 5(i) would make the enforcement of the law utterly difficult if not impossible to achieve, for offenders would simply feign lack of intent in order to evade prosecution. While intent to inflict emotional suffering and the emotional anguish itself that is suffered by the victim are both states of mind, the key difference is that the latter may be demonstrated externally and consequently, proven through overt acts. The former, on the other hand, is virtually impossible to ascertain, being purely a mental process that may be easily modified at a person's whim. Indeed, it is conceded that the rights of an accused must be safeguarded, especially the right to be presumed innocent, but it must not be extended to a point where a statutory provision is rendered inutile.

Mme. Justice Amy C. Lazaro-Javier, in her Concurring Opinion, delivers a most apt and categorical pronouncement:

Indeed, protection of women and children—and no other—is the main objective of Republic Act No. 9262. If we thus seek to fully animate the intent and purpose of the law and truly take upon ourselves to deliver genuine justice to these women and children, **our vantage point must lie from the eyes of those the law seeks to protect, never from the eyes of those we protect them from or against.** For to do the latter would turn a blind eye to the undeniable existence of the injury which the law intends to prevent.⁸⁰ (Emphasis supplied)

Indeed, to hold otherwise would negate the purpose of the law –

[For] offenders can simply claim that they engaged in marital infidelity for virtually any self-serving reason (e.g., boredom, curiosity, or adventure) since it is extremely difficult for the prosecution to show that infidelity was employed specifically to cause mental or emotional anguish upon the offended spouse. Nothing short of a confession by the accused would be necessary to prove his intent to cause psychological violence upon his wife.⁸¹

Meanwhile, Mme. Justice Maria Filomena D. Singh, in her Concurring Opinion, pointedly expounds on the deleterious effects of a seemingly harmless “one-night stand,” thus:

Marital infidelity is a deliberate breach of trust. It does not happen by accident. It involves an awareness, a conscious choice to engage in actions that violate the marital vows.

Even if the accused, as in this case, pleads no intent to cause emotional distress, the very nature of infidelity will unfailingly result in such psychological harm. The sense of security within the relationship is breached. The broken trust and the realization that the partner has strayed emotionally or physically often leads to a profound sense of despair. Infidelity, thus, inherently carries the effect

⁸⁰ J. Lazaro-Javier, Concurring Opinion, p. 9.

⁸¹ *Id.*

of mental anguish as it violates the very foundation of the marriage. It is a clear betrayal not only of the spouse but also of the institution of marriage, which is considered the foundation of the family.⁸²

Given all of the above, does it now mean that all scenarios involving extramarital relationships will rise to the level of criminality as to make it punishable under Sec. 5(i) of the law? The answer is no.

As the name suggests, marital infidelity presupposes that there is a bond or commitment to which one owes fidelity, but the Court takes notice of non-traditional family setups and more modern relationship arrangements in which extramarital entanglements are not equivalent to unfaithfulness. For example, it may be argued, such as in cases of estranged relations and consciously consenting spouses, that not all instances of extramarital relationships inflict mental or emotional suffering to the other spouse. In such situations, it is the Court's view that there is no crime committed as there is a crime only when the acts or omissions cause or are likely to cause mental or emotional suffering upon the wife or her child. In Our view, this interpretation is more in sync with Republic Act No. 9262's main thrust, which is the protection of women and their children. Thus, it is rational to say that it is more concerned with defending them as victims, rather than penalizing offenders, which is merely a consequence of its defensive and protective stance. **In other words, Republic Act No. 9262 looks at the effects of a certain act or omission against a woman or their child, rather than the motive of the offender.**

In sum, We find Allan guilty of violating Sec. 5(i) of Republic Act No. 9262 for committing marital infidelity, thereby inflicting mental and emotional anguish upon his wife, AAA.

Marital infidelity is an act that falls under Sec. 5(i) of Republic Act No. 9262

As regards the fourth element, Allan posits that in order to be found liable under Sec. 5(i) of Republic Act No. 9262, it is required that the anguish be caused by any of the following: (1) acts of public ridicule or humiliation; (2) repeated verbal and emotional abuse; and (3) denial of financial support or custody of minor children or access to the children, or similar acts or omissions. He claims that marital infidelity is not one of the acts mentioned.

We disagree.

As already discussed, the law itself includes marital infidelity as one of the forms of psychological violence.

⁸² J. Singh, Concurring Opinion, p. 5.

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We approve the pronouncement of the appellate court, quoted below:

Contrary to appellant's claims, however, a reading of the RTC's *Decision* reveals that the trial court found that his "admission of siring a child with a woman other than his wife was enough to establish the cause of [Donna's] distress." Appellant's contention that the finding of guilt was based on public ridicule or humiliation rather than his extramarital activities appears to be based entirely on the fact that the phrase "public ridicule or humiliation" was written in boldface in a single instance in the assailed *Decision*, which is an unwarranted conclusion and merits no further discussion.⁸³

We take this opportunity to issue a reminder that the family is the basic social unit of the community. Marriage, in turn, is the foundation of the family and an inviolable social institution, whose nature, consequences, and incidents are governed by law.⁸⁴ The only "third party" allowed to be involved in contracts of marriage is the State.

We do not wish to restrict couples their freedoms as to the manner of handling their personal affairs, relationships, and issues. However, such freedoms must always be within the bounds of what is acceptable in the eyes of the law and morals.


The State's commitments to upholding marriage as an inviolable social institution and to strengthening the solidarity of the family cannot be invoked to let intimate partner violence go unchecked. In harmonizing these provisions of the Constitution and the law, the Court recognizes that violence against women and their children is a pervasive and enduring societal ill that requires State intervention in the form of Republic Act No. 9262. With its stated aim of protecting women and their children from all forms of domestic violence and threats to their safety and security, Republic Act No. 9262, in turn, reinforces the strength of the marital bond and preserves peace and harmony in the family.

ACCORDINGLY, the Petition is **DENIED**. The November 8, 2019 Decision and the June 22, 2022 Resolution of the Court of Appeals in CA-G.R. CR No. 40938 are **AFFIRMED**. Petitioner XXX is found **GUILTY** of violating Section 5(i) of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004. Petitioner is **SENTENCED** to suffer an indeterminate penalty of **two (2) years, four (4) months and one (1) day of *prision correccional***, as minimum, to **eight (8) years and one (1) day of *prision mayor***, as maximum, and is **ORDERED** to (a) pay a fine in the amount of **ONE HUNDRED THOUSAND PESOS (PHP100,000.00)**; and (b) undergo mandatory psychological counseling or psychiatric treatment and report compliance to the Court, as set forth in the last paragraph of Section 6 of Republic Act No. 9262.


⁸³ CA *rollo*, p. 150.

⁸⁴ FAMILY CODE, art. 1.

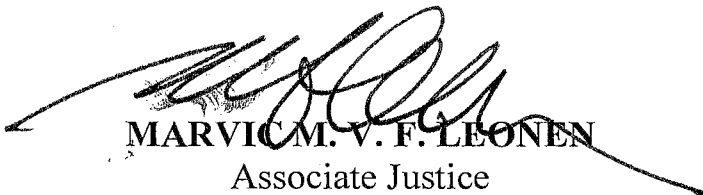
SO ORDERED.



RAMON PAUL L. HERNANDO
 Associate Justice

WE CONCUR:



ALEXANDER G. GESMUNDO
 Chief Justice


I dissent. See separate opinion

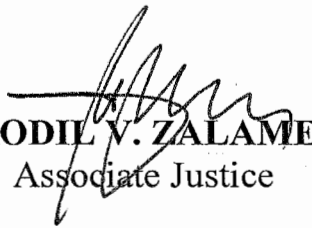

MARVIC M. V. F. LEONEN
 Associate Justice

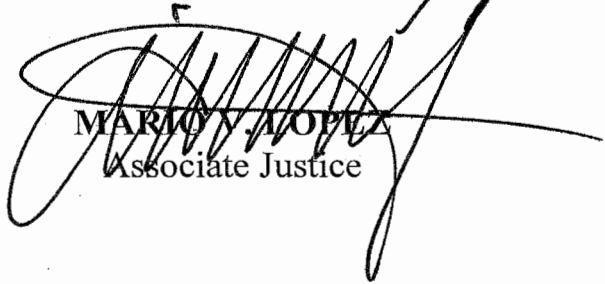

ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

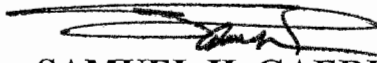
See Dissent

See Concurring

AMY C. LAZARO-JAVIER
 Associate Justice


*See separate concurring
 Opinion*

HENRI JEAN PAUL B. INTING
 Associate Justice



RODIL V. ZALAMEDA
 Associate Justice


Pls. see dissenting opinion

MARIO V. LOPEZ
 Associate Justice



SAMUEL H. GAERLAN
 Associate Justice

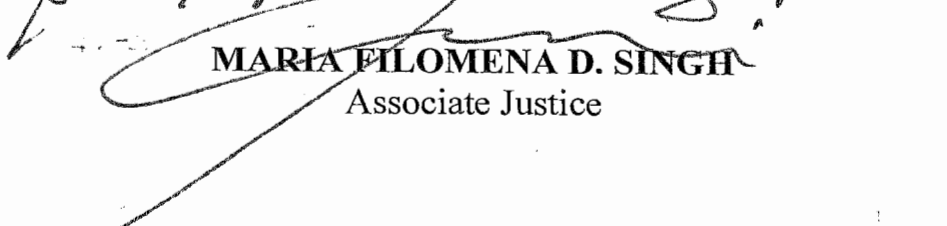
No part.
RICARDO R. ROSARIO
 Associate Justice

See my separate concurring opinion!

JHOSEP V. LOPEZ
 Associate Justice

I dissent, joining the dissenting opinion of Justice M. Lopez

JAPAR B. DIMAAMPAO
 Associate Justice

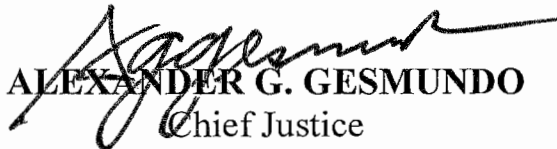
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JOSE MIDAS P. MARQUEZ
 Associate Justice

I join the dissent of Justice M. Lopez

ANTONIO T. KHO, JR.
 Associate Justice

See Separate Concurring Opinion

MARIA FILOMENA D. SINGH
 Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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