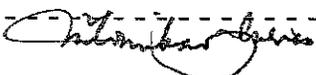


EN BANC

G.R. No. 239215 – MICHAEL KNUTSON, acting on behalf of minor RHUBYSIBAL KNUTSON v. HON. ELISA R. SARMIENTO-FLORES, in her capacity as Acting Presiding Judge of the Regional Trial Court, Branch 69 of Taguig City, and ROSALINA SIBAL KNUTSON.

Promulgated:

July 12, 2022

X ----- X


CONCURRENCE

LAZARO-JAVIER, J.:

The ability to ask the right question is more than half the battle of finding the answer. — Thomas J. Watson, Founder, International Business Machines Corporation

I concur.

The *ponencia* illustrates the importance of first correctly defining the issue so we may arrive at the appropriate ruling.

Here, the facts are straightforward. The child has allegedly been abused by her mother after she and her spouse, the child's father, became estranged. The child's father sought government protection **on behalf of the child**. The police allegedly did not provide assistance. So he **petitioned** the trial court for relief, **on behalf of the child**.

What sowed the trial court's confusion, apparently, was the father's invocation of Republic Act. No. (RA) 9262, the *Anti-Violence Against Women and Their Children Act of 2004*,¹ and its rule of procedure, the *Rule on Violence Against Women and Their Children*. Somehow, the title of this rule is thought-provoking as it is ambiguous – as worded, it seems to imply that there is a rule on the violence inflicted upon women and their children, or stated differently, that violence against women and their children may be *regulated* and that the *Rule* provides that *regulation*. As well, as the **thought process of the trial court** has shown, the **belief in error** was that *Rule* could **only be availed of by women for women and on behalf of their** children.

¹ Republic Act. No. 9262, Anti-Violence Against Women and Their Children Act of 2004, Approved: March 08, 2004.



This thought process was in error as it glossed over these considerations: (i) the fact that children have fathers too, (ii) that when there is marital breakdown or the separation of unmarried couples, there could be permutations of the traditional family set-up, where the decision-making responsibilities for and parenting time or contact with the children are situated among several but not necessarily united loci, and (iii) each of these loci could *potentially* summon the protection of the law for the children being allegedly abused.

The foregoing three (3) matters are explicitly recognized by the *Rule on Violence Against Women and their Children*. Its Section 8 is clear on who may apply for a protection order – the offended party or the legal agents of the latter, the parent/s or the guardian/s, among a host of others. As we can read from Section 8, the applicant for the protection order need not be for the applicant's own protection. The applicant may simply be a conduit. The legal bases for this are plenty. Section 3, Rule 3 of the *Rules of Civil Procedure*, as amended recognizes the legitimacy of claims staked by **litigation guardians** on behalf of their wards. In the case of married couples, this representation is available to parents, as recognized by Article 220 (6) of the *Family Code* – that a parent or both parents have the right to represent their children in all matters affecting their interests.

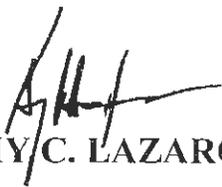
Child abuse matters can either be **relational** or **non-relational**. Relational child abuse is governed by and large by RA 9262. RA 7610 may also be invoked because this statute does not distinguish between relatives and non-relatives. If the child abuse is by a stranger, the offense belongs to RA 7610.

The *Rule on Violence Against Women and their Children* deals only with protection orders falling under RA 9262. This means that the protection is sought **for the woman and/or her child** (both biological and those only under her care) in a domestic or intimate setting, and **subsidiarily together with the latter, on behalf of members of their family and/or household**. Take away this setting or the child's *qualifying* status, child abuse would be dealt with under RA 7610 and its administrative processes for protective custody. But the **proper party** who may invoke them is not *only the women and their children*. A subset of *others* may invoke them **on their behalf**. In the same manner, these laws may be invoked not only against the relational figure who has allegedly committed the abuse but also those who conspired with the former.

Here, the trial court asked in error, *is the father entitled to invoke the Rule on Violence Against Women and their Children?* The question is in error since the *father* was not invoking the *Rule* for *his own benefit*

but *for the child, on her behalf*. The trial court should have asked, may the allegedly *abused child's father* seek a protection order *on behalf of the child*? Had the issue been framed this way, and had the trial court been alerted to this framing, it would have avoided the mistaken references to the case law it cited in its assailed Order and would have resolved the issue appropriately. As it is, we only could surmise as to what has happened to the child, and hope that the delay in the disposition of the case below has not factored in any further harm to her.

ACCORDINGLY, I join the *Majority* in reversing the assailed dispositions of the trial court and in issuing a Temporary Protection Order against the mother of the child.


AMY/C. LAZARO-JAVIER

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
CSC-1, Office of the Secretary of the Court