



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

N O T I C E

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 26, 2023** which reads as follows:*

“G.R. No. 267008 (XXX in behalf of his minor children AAA and BBB,¹ Petitioner, v. HON. CICERO B. JANDOC in his capacity as Presiding Judge of Branch 29, Regional Trial Court of [REDACTED], JUNIE SALLIDAO a.k.a. “A. kho” and “Shawn Akhey Nauy,” REUBEN EDRALIN a.k.a. “Justin Lin,” and YYY, Respondents). — This is a Petition for *Certiorari*² assailing the denial of the *ex parte* application for temporary protection order under Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004.

The antecedents follow.

XXX on behalf of his minor children AAA and BBB, filed a petition under Republic Act No. 9262³ for the issuance of Temporary and Permanent Protection Orders before the Regional Trial Court docketed as Civil Case No. 7638. XXX averred that he discovered the marital infidelity of his wife YYY through the exchange of phone messages with her two paramours identified as Reuben Edralin (Reuben) and Junie Sallidao (Junie). Specifically, Reuben sent to YYY the following messages: “*bigyan mo ko anak natin,*” “*it feels good to wrap and hold*

¹ In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records, and court proceedings in cases under Republic Act No. 7610 are kept confidential by replacing their names and other personal circumstances with fictitious initials.

² *Rollo*, pp. 3–33.

³ Entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES.” Approved on March 8, 2004.

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*u in my arms,” “sarap ng lips mo,” “malapit na ulit magdamagan tayu,” “kahit gano pa kalakas ungol mo beh di tayu maririnig.”*⁴ On the other hand, Junie sent to YYY these messages: *“Iyut na ah tayu babe huhu,” “Mahagisan nga ng granada,” “Unahan ko na sila,” “Hagisan ko sila ng granada;”* and *“Patayin ang anay.”*⁵ AAA read the messages and asked XXX *“Bakit ginawa to ni Mama?”* AAA expressed fear and said *“Natatakot ako Pa.”*⁶ Moreover, YYY neglected their minor children and incurred unexplained debts despite PHP 150,000.00 allotment from his salaries as a seafarer. YYY would also bring BBB in places to hide from her creditors.⁷ Lastly, XXX claimed that YYY’s actions caused psychological and emotional violence to their minor children.⁸

Meantime, the Regional Trial Court, Branch 29, [REDACTED], [REDACTED] (RTC) issued a Notice of Preliminary Conference.⁹ On March 3, 2023, the RTC conducted a hearing on the permanent protection order. On even date, the RTC issued an Order,¹⁰ in open court, declaring the prayer for issuance of Temporary Protection Order moot and academic citing Section 16 of A.M. No. 04-10-11-SC or the Rule on Violence Against Women and Their Children, thus:

X X X X

Atty. Marcos articulated on the matters relative to the motion or prayer of (*sic*) the Petition for the Issuance of a Temporary Protection Order. He anchored his ground that the respondent may have committed psychological and/or emotional violence against the child in whose favor this petition is filed. He admits that there is no allegation of physical violence committed by the said respondent/mother against the children. On the other hand, he concluded that there is psychological or emotional violence on the basis that the mother may have committed marital infidelity. When asked by the court to show the specific evidence to support his contention, the counsel had pointed out some of the conversations between the respondent/mother and the alleged paramours. The said counsel cannot categorically point out as to whether the respondent/mother and her paramours had committed sexual intercourse or that they have sexual relationship. Nonetheless, the petitioner, through counsel, manifested that he will be filing the proper pleading to support the same or that they will just prove the same in the presentation of evidence for the petitioner. **Nevertheless, the record shows that a notice of preliminary conference and hearing as well as notice to file an opposition was being sent to the respondents as to show that the court had acted on the petition under Section 16 of Administrative Matter No. 04-10-11-SC, such that when the court has not issued a temporary protection order *ex-parte*. It being so, the motion for issuance of Temporary Protection Order is considered moot and academic. The action of the court under Section 16 of the above-cited rule therefore stands.**

⁴ *Rollo*, pp. 16–22.

⁵ *Id.* at 24–25.

⁶ *Id.* at 10.

⁷ *Id.* at 14.

⁸ *Id.* at 13.

⁹ *Id.* at 5.

¹⁰ *Id.* at 59.

gpa

SO ORDERED.¹¹

On March 14, 2023, XXX moved for a reconsideration¹² and reiterated his prayer for issuance of a temporary protection order. XXX maintained that the totality of evidence is sufficient to support a finding that the children suffered psychological and emotional abuse from their mother.¹³ On March 31, 2023, the RTC denied the motion for reconsideration,¹⁴ to wit:

Atty. Marcos manifested that a motion for reconsideration was earlier filed relative to the non-issuance of an *ex-parte* TPO to which the court is inclined to deny the same considering the explicit provision of Section 15 in relation to Section 16 of A.M. No. 04-10-11-SC wherein the court need not even explain whether it is satisfied or not for issuing an *ex-parte* TPO and there being no *ex-parte* TPO issued, the Clerk of Court forthwith issued the corresponding notice upon the respondents to file opposition including therein the date of preliminary conference which is today.

X X X X

As agreed upon by the parties, the hearing of this case is again set on April 28, 2023 and May 5, 2023 all at 2:00 in the afternoon.

SO ORDERED.¹⁵

Aggrieved, XXX directly filed this Petition for *Certiorari* before the Court ascribing grave abuse of discretion on the part of the RTC in declaring moot and academic the prayer for issuance of Temporary Protection Order.¹⁶ XXX invoked the landmark case of *Knutson v. Sarmiento-Flores*,¹⁷ which allowed the father of the allegedly abused child to directly question before this Court the RTC's dismissal of the petition for protection orders.¹⁸

The petition must be dismissed.

The original jurisdiction of the Supreme Court to issue writs of *certiorari* is not exclusive but shared with the Court of Appeals (CA) and the RTC.¹⁹ However, this concurrence of jurisdiction does not give a party unbridled freedom to choose the venue of action. The policy on the hierarchy of courts adjures the Court from dealing with causes that are also well within the competence of the CA and the RTC to resolve.²⁰ This Court is a court of last resort and must so remain if it is to satisfactorily perform its constitutional functions.²¹ The doctrine of hierarchy of

¹¹ *Id.*

¹² *Id.* at 60–82.

¹³ *Id.* at 60–81.

¹⁴ *Id.* at 37–39.

¹⁵ *Id.*

¹⁶ *Id.* at 3–27.

¹⁷ G.R. No. 239215, July 12, 2022 [Per J. Lopez, M., *En Banc*].

¹⁸ *Rollo*, pp. 26–27.

¹⁹ Section 4, Rule 65 of the Rules of Court.

²⁰ *Banez, Jr. v. Concepcion*, 693 Phil. 399, 412 (2012) [Per J. Bersamin, First Division].

²¹ *Vergara, Sr. v. Suelto*, 240 Phil 719, 732 (1987) [Per J. Narvasa, First Division].

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courts is both a constitutional imperative and a filtering mechanism to enable the Court to focus on more important matters.²² The Court's jurisdiction to issue extraordinary writs should generally be exercised with respect to actions or proceedings before the CA, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the CA.²³

Here, XXX failed to present compelling reasons to justify direct recourse to this Court. Unlike the *Knutson* case, XXX did not raise a pure question of law or an issue of first impression. There is also no urgency or exigent situation because the RTC has not yet finished the hearing on the prayer for permanent protection order, which requires the examination of facts and probative value of evidence. In any event, XXX is only assailing the denial of the *ex parte* application for temporary protection order for being moot and academic. On this score, it bears emphasis that Section 15 of A.M. No. 04-10-11-SC is explicit that “[i]f the court is satisfied from the verified allegations of the petition that there is reasonable ground to believe that an imminent danger of violence against women and their children exists or is about to recur, the court may issue *ex parte* a temporary protection order which shall be effective for thirty days from service on the party or person sought to be enjoined.” Notably, no temporary protection order was issued which suggests that the RTC is not satisfied with XXX's allegations. To be sure, the RTC issued a notice of preliminary conference and conducted hearing on the prayer for permanent protection order. Corollarily, Section 16 of the rules provides that “[w]here no temporary protection order is issued *ex parte*, the clerk of court shall forthwith issue the corresponding notice to the respondent requiring him to file an opposition within five days. The date of the preliminary conference and hearing on the merits shall be indicated on the notice.” Thus, the RTC did not err in declaring the prayer for temporary protection order moot and academic in view of the pendency of the hearing for permanent protection order.

Lastly, the proper course of action for XXX is to wait the RTC's resolution on the prayer for permanent protection order and to avail the appropriate remedies under the rules. Pursuant to Sections 30 and 31 of A.M. No. 04-10-11-SC, if the RTC finds the petition meritorious; it shall render judgment granting the offended party permanent protection against acts of violence and such other necessary reliefs. Any aggrieved party may appeal by filing a notice of appeal with the court that rendered the final order or judgment within fifteen (15) days from notice.

FOR THESE REASONS, the petition is DISMISSED.

SO ORDERED.”

²² *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 123, 178–183 (2019) [Per J. Jardaleza, *En Banc*].

²³ *Vergara, Sr. v. Suelto*, 240 Phil 719, 733 (1987) [Per J. Narvasa, First Division].

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mm} 9/22

22 SEP 2023

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 29
[REDACTED], Nueva Vizcaya
(Civil Case No. 7638)

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Supreme Court, Manila

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