



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

BBB,*

Petitioner,

G.R. No. 193225

Present:

VELASCO, JR., J.,
Chairperson,
DEL CASTILLO,**
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

- versus -

Promulgated:

AAA,*

Respondent. February 9, 2015

X-----X

RESOLUTION

REYES, J.:

Petitioner BBB is now before this Court with a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Civil Procedure to assail the Decision² dated November 6, 2009 and Resolution³ dated August 3, 2010 of

* Section 44 of Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004) requires the confidentiality of all records pertaining to cases of violence against women and their children. Per said section, all public officers and employees are prohibited from publishing or causing to be published in any format the name and other identifying information of a victim or an immediate family member. The penalty of one (1) year imprisonment and a fine of not more than Five Hundred Thousand pesos (P500,000.00) shall be imposed upon those who violate the provision. Pursuant thereto, in the courts' promulgation of decisions, final resolutions and/or final orders, the names of women and children victims shall be replaced by fictitious initials, and their personal circumstances or any information, which tend to identify them, shall likewise not be disclosed.

** Additional Member per Raffle dated October 18, 2010 *vice* Associate Justice Diosdado M. Peralta.
¹ *Rollo*, pp. 16-40.

² Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Arcangelita M. Romilla-Lontok and Sixto C. Marella, Jr. concurring; *id.* at 43-60.

³ Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justices Fernanda Lampas Peralta and Florito S. Macalino concurring; *id.* at 41-42.

A

the Court of Appeals (CA) in CA-G.R. CV No. 89581, which affirmed with modification the issuance against him on August 14, 2007 of a Permanent Protection Order (PPO)⁴ by the Regional Trial Court (RTC) of Pasig City, Branch 162, in favor of his wife, herein respondent AAA.

Antecedent Facts

The CA aptly summarized as follows the facts of the case until the RTC's issuance of the PPO against BBB:

Both [BBB] and [AAA] allege that they first met in 1991 but started to date seriously only in 1996. [AAA] was then a medical student and was raising her first child borne from a previous relationship, a boy named [CCC], with the help of her parents.

During the relationship with [BBB], [AAA] bore two more children namely, [DDD] (born on December 11, 1997) and [EEE] (born on October 19, 2000).

To legalize their relationship, [BBB] and [AAA] married in civil rights on October 10, 2002 and thereafter, the birth certificates of the children, including [CCC's], was amended to change their civil status to legitimated by virtue of the said marriage.

The relationship, both admit, was far from ideal and has had its share of happy moments and heated arguments. The two however have contradicting statements as to the cause of their present situation.

[BBB] alleges that [AAA's] irrational jealousy has caused their frequent arguments. According to [BBB], [AAA] has been suspicious of [BBB] and his relationship with his female co-workers, which [BBB] alleges, contrary to [AAA's] suspicion, are purely professional. According to [BBB], because of their repeated fights, he was forced to leave the family home to prevent the brewing animosity between him and his wife. Soon after [BBB] left, [AAA] herself decided to leave the family home and brought the children with her, which made it difficult for [BBB] to see their kids regularly. This has also caused the family expense to double, making it even more difficult for [BBB] to fulfill his financial obligations.

[AAA], on the other hand, alleges that their heated arguments were often due to [BBB's] incessant womanizing. When confronted about it, [BBB], instead of denying the same, would even curse [AAA].

The breaking point for [AAA] came when, [BBB's] alleged mistress, a woman by the name of [FFF], insulted and humiliated [AAA] in public, in the presence of [BBB] himself, who, according to [AAA], did nothing to stop the same. Extremely hurt, [AAA] decided to leave the conjugal home with the children and lived temporarily at a friend's house.

⁴

Issued by Presiding Judge Cesar Pabel D. Sulit; id. at 61-75.

She however went back to the conjugal home with [DDD] and [EEE] after some time, leaving her son [CCC] at her friend's house.

What made matters worse, according to [AAA], was the apparent biases of [BBB] in favor of [DDD] and [EEE]. That despite his promise to treat [CCC] as his own, [BBB] would still treat the latter differently from the two kids, putting [CCC] at a disadvantage. [AAA], cites as example the instances when, [BBB] would buy food and toys for [DDD] and [EEE] only, buying nothing for [CCC].

While living separately from [BBB], [AAA] discovered that [BBB] was not paying the rentals due on the condominium unit they were occupying, forcing [AAA] to move out. [AAA] was likewise compelled to find work to support the family, after [BBB] has started to be remiss in his financial obligations to the family. According to [AAA], the amounts given by [BBB] were not sufficient to cover the family expenses, forcing her to request for loans from friends.

[AAA] likewise feels threatened after discovering [that BBB] was stalking her and/or their children. [AAA] alleges that she found out that [BBB] has sought the help of one [GGG], a friend of [BBB] who lives within the same compound where [AAA] lives, to go through the guard's logbook to monitor their every move, i.e., who visits them, what time [AAA] leaves and returns back home, etc.

Citing the foregoing as constituting economic and psychological abuse, [AAA] filed an application for the issuance of a Temporary Protection Order with a request to make the same permanent after due hearing, before the Regional Trial Court of Pasig City.

Finding good ground in [AAA's] application, the court *a quo* issued a Temporary Protection Order (TPO). The TPO was thereafter, made permanent by virtue of a Decision of the RTC dated August [14, 2007], the dispositive portion of which orders:

“X X X X

- a. *Prohibiting [BBB], directly and indirectly, from stalking, harassing, annoying, or otherwise verbally abusing [AAA], directly or indirectly, to refrain from insulting her, cursing her and shouting invectives at her;*
- b. *Prohibiting [BBB] from committing or threatening to commit any act that may cause mental and emotional anguish to [AAA], i.e. publicly displaying her extramarital relations with his mistress [FFF] and anyone else for that matter;*
- c. *Prohibiting [BBB] from exposing the minor children to immoral and illicit environment, specifically prohibiting him to allow her (sic) mistress [FFF] and anyone else to be with them in instances where he would be allowed by this Court to see their children;*
- d. *Allowing [BBB] ALONE to see and visit his children once a month (for a total of 12 visits per year) at the latter's residence for a maximum period of 2 years [sic] each visit, subject to further orders from this Court. For this purpose, [BBB's every visit] shall be accompanied by the Court*

Sheriff, who shall coordinate with [AAA] as to the availability of time and date of children for such visit, at the expense of [BBB]. For every visit, the Court Sheriff is directed to submit his report within 5 days from the date [BBB] visited the children;

- e. Directing [BBB] to allow [AAA] to continue to have lawful use and possession of the motor vehicle more particularly described as follows:*

*One (1) Hyundai Starex Van
1997 Model
Plate Number: WJP 902
Chassis Number:
Serial Number KMJWH7HPXU158443*

- f. Granting [AAA] permanent sole custody over their common children until further orders from this Court;*
- g. Ordering [BBB] to provide support in the amount of Php 62,918.97 per month (not Php 81,650.00 being prayed by [AAA]) to [AAA] as monthly support, inclusive of educational expenses, groceries, medicines, medical bills, and insurance premiums, starting from the month of January 2007 to be given within the first five (5) days of the month through the Court Sheriff, who shall coordinate with [AAA] in receiving such support;*
- h. Requiring [BBB] to stay away from the offended party and any designated family or household member at a distance of 100 meters;*
- i. Requiring [BBB] to stay away from the residence, school, place of employment or any specified place frequented regularly by the offended party and children and any designated family or household member;*
- j. Ordering [BBB] to post bond of Php 300,000.00 to keep peace pursuant to Section 23 of RA 9262 with the undertaking that [BBB] will not commit the violence sought to be prevented and that in case such violence is committed[,] he will pay the amount determined by the Court in its judgment;*
- k. Ordering [BBB] to pay the sum of Php 100,000.00 (not Php 200,000.00 being prayed by [AAA]) representing both reasonable attorney's fees and cost of litigation, including cost of suit.*

*x x x x."*⁵

Ruling of the CA

BBB filed before the CA an appeal⁶ to challenge the RTC Decision dated August 14, 2007. BBB alleged that the RTC's (a) issuance of the PPO against him, (b) award to AAA of the sole custody over their children, (c) directives for him to pay attorney's fees and costs of litigation and to post an

⁵ Id. at 44-48.

⁶ See Appellant's Brief, id. at 147-184.

excessive amount of bond, and (d) declaration that he had an abusive character lack factual bases.

On November 6, 2009, the CA rendered the assailed decision affirming the factual findings and dispositions of the RTC, but ordering the remand of the case for the latter to determine in the proper proceedings who shall be awarded custody of the children. Like the RTC, the CA found that under the provisions of Republic Act (R.A.) No. 9262,⁷ BBB had subjected AAA and their children to psychological, emotional and economic abuses. BBB displayed acts of marital infidelity which exposed AAA to public ridicule causing her emotional and psychological distress. While BBB alleged that FFF was only a professional colleague, he continued to have public appearances with her which did not help to dispel AAA's accusation that the two had an extra-marital relation. Further, BBB verbally abused AAA either in person or through text messages. The CA likewise did not favorably consider BBB's claim that he cannot provide financial support to AAA and the children in the amount required by the RTC as his income merely depended on contractual hosting and events management assignments. The CA emphasized that AAA was in the position to know the sources of BBB's income. Citing Section 28⁸ of R.A. No. 9262 and Article 213⁹ of the Family Code, the CA, however, ordered the RTC to determine who shall be entitled to exercise custody over the children, who at that time were already older than seven years of age.

The CA denied BBB's Motion for Partial Reconsideration¹⁰ by way of the Resolution¹¹ dated August 3, 2010 which is likewise assailed in the instant petition.

Issues

Undaunted, BBB now comes before this Court raising the following issues:

⁷ Anti-Violence Against Women and Their Children Act of 2004.

⁸ Sec. 28. *Custody of children*. — The woman victim of violence shall be entitled to the custody and support of her child/children. Children below seven (7) years old or older but with mental or physical disabilities shall automatically be given to the mother, with right to support, unless the court finds compelling reasons to order otherwise.

x x x x

⁹ Art. 213. In case of separation of the parents, parental authority shall be exercised by the parent designated by the Court. The Court shall take into account all relevant considerations, especially the choice of the child over seven years of age, unless the parent chosen is unfit.

x x x x

¹⁰ *Rollo*, pp. 76-94.

¹¹ *Id.* at 41-42.

I

WHETHER OR NOT THE [CA] COMMITTED ERROR IN AFFIRMING THE RTC'S DECISION TO MAKE THE [TEMPORARY RESTRAINING ORDER (TPO)] PERMANENT.

II

WHETHER OR NOT THE [CA] COMMITTED ERROR IN AFFIRMING THE RTC'S AWARD OF ATTORNEY'S FEES AND COST OF LITIGATION IN FAVOR OF [AAA].

III

WHETHER OR NOT THE [CA] COMMITTED ERROR IN AFFIRMING THE RTC'S ORDER REQUIRING [BBB] TO POST AN EXCESSIVE AMOUNT OF BOND TO KEEP THE PEACE.¹²

IV

WHETHER OR NOT THE CA AND THE RTC CORRECTLY ADMITTED INTO EVIDENCE THE UNAUTHENTICATED TEXT MESSAGES ADDUCED BY AAA.¹³

V

WHETHER OR NOT THE AWARD OF SUPPORT SHOULD BE DELETED AS THE SPOUSES' COMMON BIOLOGICAL CHILDREN, DDD AND EEE, ARE ALREADY UNDER BBB'S ACTUAL CARE AND CUSTODY SINCE AUGUST 2010 WHEN AAA LEFT TO WORK AS A NURSE IN THE UNITED STATES.¹⁴

In support of the instant petition, BBB merely reiterates his factual claims in the proceedings below relative to his financial position and AAA's supposedly baseless accusations and demands from him. In addition, he posits that the text messages offered by AAA as evidence were unauthenticated; hence, doubt exists as to their admissibility. Further, he points out that due to the current whereabouts and circumstances of the parties, the PPO issued against him is rendered moot. He now has actual care and custody of DDD and EEE, while CCC, who is not his biological

¹² Id. at 24-25.

¹³ Id. at 338-339.

¹⁴ Id. at 340-341; *see also* BBB's Manifestation, *id.* at 13-15.

son, resides in a college dormitory. BBB and AAA barely get in touch with each other except when the latter initiates the same.

In her Comment¹⁵ to the petition, AAA counters that BBB erroneously raises factual issues which are subjects beyond the contemplation of a petition filed under Rule 45 of the Rules of Civil Procedure. Further, BBB continuously violates the PPO, which under the provisions of R.A. No. 9262, is supposed to be immediately executory upon its issuance by the RTC. AAA claims that BBB still verbally abuses her. BBB has not posted the ₱300,000.00 bond required from him. He likewise has not paid the attorney's fees and costs of litigation awarded to AAA. He does not provide support for CCC, who, in the eyes of the law, is also among his legitimated children. AAA further alleges that in 2010, she left DDD and EEE under the care of BBB only because the circumstances then obtaining forced her to do so. Three years had then lapsed from the time she filed an application for a protection order and still, no execution of the PPO ensued. She could not depend for financial support from BBB. She was thus left with no choice but to yield custody over DDD and EEE even if the set-up exposed the children to BBB's illicit affairs. AAA points out that since their children are all older than seven years of age, they are already capable of choosing for themselves whom they want to exercise custody over them.

Pending the Court's deliberation of the instant case, BBB filed a Manifestation and Motion to Render Judgment Based on a Memorandum of Agreement (MOA).¹⁶ BBB alleges that on July 29, 2013, he and AAA had entered into a compromise anent the custody, exercise of parental authority over, and support of DDD and EEE.¹⁷

AAA's counsel, Atty. Shielah Elbinias-Uyboco (Atty. Uyboco), filed a Comment to the MOA¹⁸ pointing out that AAA signed the MOA while emotionally distressed and *sans* the former's advice and guidance. Atty. Uyboco likewise emphasizes that BBB's illicit relationship with FFF continues in violation of the PPO issued by the RTC.

In BBB's Reply,¹⁹ he counters that AAA should be presumed to have acted with due care and full knowledge of the contents of the MOA which she signed. Further, BBB's alleged involvement with FFF is an issue which need not be resolved in a judgment based on compromise.

¹⁵ Id. at 249-266.

¹⁶ Id. at 354-357.

¹⁷ Please *see* Memorandum of Agreement, *id.* at 358-361.

¹⁸ Id. at 371-373.

¹⁹ Id. at 383-388.

Disquisition of the Court

The instant petition is not a proper subject of a compromise agreement.

The Court cannot take the simplest course of finally writing *finis* to the instant petition by rendering a judgment merely based on compromise as prayed for by BBB due to reasons discussed below.

Alleging psychological violence and economic abuse, AAA anchored her application for the issuance of a TPO and a PPO on the basis of the provisions of R.A. No. 9262. In the instant petition, what is essentially being assailed is the PPO issued by the RTC and which was affirmed by the CA. The rules, however, intend that cases filed under the provisions of R.A. No. 9262 be not subjects of compromise agreements.

It bears stressing that Section 23(d) of A.M. No. 04-10-11-SC²⁰ explicitly prohibits compromise on any act constituting the crime of violence against women. Thus, in *Garcia v. Drilon*,²¹ the Court declared that:

Violence, however, is not a subject for compromise. A process which involves parties mediating the issue of violence implies that the victim is somehow at fault. x x x.²² (Emphasis deleted)

AM No. 10-4-16-SC,²³ on the other hand, directs the referral to mediation of all issues under the Family Code and other laws in relation to support, custody, visitation, property relations and guardianship of minor children, *excepting* therefrom those covered by R.A. No. 9262.

While AAA filed her application for a TPO and a PPO as an *independent action* and *not as an incidental relief* prayed for in a criminal suit, the instant petition cannot be taken outside the ambit of cases falling under the provisions of R.A. No. 9262. Perforce, the prohibition against subjecting the instant petition to compromise applies.

The courts *a quo* committed no error in issuing a PPO against BBB.

²⁰ Re: Rule on Violence Against Women and Their Children, effective November 15, 2004.

²¹ G.R. No. 179267, June 25, 2013, 699 SCRA 352.

²² Id. at 431, citing the Commentary on Section 311 of the Model Code on Domestic and Family Violence.

²³ Re: Rule on Court-Annexed Family Mediation and Code of Ethical Standards for Mediators, effective July 18, 2010.

Anent the main issues raised in the instant petition, the Court finds no error in the CA's ruling that the RTC properly issued a PPO against BBB and that a remanding of the case to the trial court is necessary to determine who shall exercise custody over CCC, DDD and EEE. However, the choices of the children as with whom they would prefer to stay would alter the effects of the PPO. Hence, this Court affirms the herein assailed PPO *except items (d), (f), (g), (h) and (i)*²⁴ thereof relative to who shall be granted custody over the three children, how the spouses shall exercise visitation rights, and the amount and manner of providing financial support, which are matters the RTC is now directed to determine with dispatch.

The Court notes BBB's manifestation that he and AAA had arrived at an amicable settlement as regards the issues of custody, exercise of parental authority over, and support of DDD and EEE. While these matters can be lawful subjects of compromise, AAA's vacillation, as expressed by her counsel, compels the Court to exercise prudence by directing the RTC to resolve with finality the aforesaid issues. The parties are, however, not precluded from entering into a compromise as regards the aforesaid issues, but the Court now requires the RTC's direct supervision lest the parties muddle the issues anew and fail to put an end to their bickering.

No grounds exist which compel this Court to resolve the first three issues raised by BBB since they are merely factual in character.

In *Padalhin v. Laviña*,²⁵ the Court declared that:

Primarily, Section 1, Rule 45 of the Rules of Court categorically states that the petition filed shall raise only questions of law, which must be distinctly set forth. A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.

x x x [T]he substantive issue of whether or not the petitioners are entitled to moral and exemplary damages as well as attorney's fees is a factual issue which is beyond the province of a petition for review on certiorari. x x x

²⁴ Rollo, pp. 73-74.

²⁵ G.R. No. 183026, November 14, 2012, 685 SCRA 549.

In the case at bar, the **petitioner spouses present to us issues with an intent to subject to review the uniform factual findings of the RTC and the CA.** Specifically, the instant petition challenges the existence of clear and substantial evidence warranting the award of damages and attorney's fees in Laviña's favor. Further, the instant petition prays for the grant of the Spouses Padalhin's counterclaims on the supposed showing that the complaint filed by Laviña before the RTC was groundless. **It bears stressing that we are not a trier of facts.** Undoubtedly, the questions now raised before us are factual and not legal in character, hence, beyond the contemplation of a petition filed under Rule 45 of the Rules of Civil Procedure.²⁶ (Italics in the original and emphasis ours)

In BBB's case, he avers that the RTC and the CA's (a) issuance of the PPO, (b) award of attorney's fees and costs of litigation in AAA's favor, and (c) directive for him to post a bond in the amount of ₱300,000.00 all lack factual bases. The first three issues presented unmistakably call for a re-calibration of evidence. While the general rule that only legal issues can be resolved in a petition filed under Rule 45 recognizes exceptions,²⁷ BBB's case does not fall in the latter category. The RTC and the CA are in accord with each other as to their factual findings, which are supported by substantial evidence, thus, binding upon this Court.

The doubt raised by BBB anent the admissibility of the text messages as evidence is not genuinely a legal issue.

In the case of *Justice Vidallon-Magtolis v. Salud*,²⁸ it is stated that any question as to the admissibility of text messages as evidence is rendered moot and academic if the party raising such issue admits authorship of the subject messages.²⁹

BBB argues that the RTC and the CA erred in admitting as evidence the text messages which were sent by him and FFF to AAA since they were unauthenticated. However, BBB himself effectively admitted in the pleadings filed with this Court and the CA that he indeed sent the text messages attributed to him by AAA. The Appellant's Brief³⁰ filed before the CA stated in part that:

²⁶ Id. at 565, citing *Vda. de Formoso v. Philippine National Bank*, G.R. No. 154704, June 1, 2011, 650 SCRA 35, 48-49.

²⁷ Please see *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, G.R. No. 190515, June 6, 2011, 650 SCRA 656, 660.

²⁸ 506 Phil. 423 (2005).

²⁹ Id. at 445.

³⁰ *Rollo*, pp. 147-184.

[AAA] conveniently chose to leave out the initiatory messages to which [BBB] replied to. *It is **totally obvious** that the alleged messages from [BBB] are only messages that are in response to an ongoing verbal or virtual tussle and the adamant refusal of [AAA] to bring the children home despite the entreaties of [BBB]. Be it noted that [BBB], for the past several months leading up to their separation, and up to the time that the instant case has been filed, continuously endured the extreme mood swings, malicious accusations, haranguing, curses, insults, and even violence from [AAA].*³¹ (Emphasis and underscoring in the original and italics ours)

Further, in the instant petition, BBB repleads that:

[I]t is utterly apparent that the alleged messages from [BBB] are only messages that are in response to an ongoing verbal or virtual tussle between the parties.³²

In the above-quoted portions of the pleadings, BBB attempted to justify why he sent the messages to AAA. However, in doing so, he, in effect, admitted authorship of the messages which AAA adduced as evidence. It is likewise noted that BBB did not deny ownership of the cellphone number from which the text messages were sent.

Hence, while at first glance, it would seem that the issue of admissibility of the text messages requires an interpretation of the rules of evidence, this Court does not find the same to be necessary. While BBB had admitted authorship of the text messages, he pleads for this Court to consider those messages as inadmissible for allegedly being unauthenticated. BBB's arguments are unbearably self-contradictory and he cannot be allowed to take refuge under technical rules of procedure to assail what is already apparent.

The deletion from the PPO of the directive of the RTC and the CA relative to the award of support is not warranted. While CCC is not BBB's biological son, he was legitimated under the latter's name. Like DDD and EEE, CCC is entitled to receive support from BBB.

³¹ Id. at 167.

³² Id. at 32.

BBB claims that DDD and EEE are now under his sole care and custody, which allegedly renders moot the provision in the PPO relative to support. BBB points out that CCC is not his biological son. Impliedly then, BBB justifies why CCC is not entitled to receive support from him.

This Court is not persuaded.

Article 177 of the Family Code provides that “[o]nly children conceived and born outside of wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other may be legitimated.” Article 178 states that “[l]egitimation shall take place by a subsequent valid marriage between parents.”

In the case at bar, the parties do not dispute the fact that BBB is not CCC’s biological father. Such being the case, it was improper to have CCC legitimated after the celebration of BBB and AAA’s marriage. Clearly then, the legal process of legitimation was trifled with. BBB voluntarily but falsely acknowledged CCC as his son. Article 1431 of the New Civil Code pertinently provides:

Art. 1431. Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

At least for the purpose of resolving the instant petition, the principle of estoppel finds application and it now bars BBB from making an assertion contrary to his previous representations. He should not be allowed to evade a responsibility arising from his own misrepresentations. He is bound by the effects of the legitimation process. CCC remains to be BBB’s son, and pursuant to Article 179 of the Family Code, the former is entitled to the same rights as those of a legitimate child, including the receipt of his father’s support.

Notwithstanding the above, there is no absolute preclusion for BBB from raising before the proper court the issue of CCC’s status and filiation. However, BBB cannot do the same in the instant petition before this Court now. In *Tison v. CA*,³³ the Court held that “the civil status [of a child] cannot be attacked collaterally.” The child’s legitimacy “cannot be contested by way of defense or as a collateral issue in another action for a different purpose.”³⁴ The instant petition sprang out of AAA’s application for a PPO before the RTC. Hence, BBB’s claim that CCC is not his

³³ 342 Phil. 550 (1997).

³⁴ Id. at 558, citing Tolentino A., CIVIL CODE OF THE PHILIPPINES, COMMENTARIES AND JURISPRUDENCE, Vol. I, 1990 ed., 535-537.

biological son is a collateral issue, which this Court has no authority to resolve now.

All told, the Court finds no merit in BBB's petition, but there exists a necessity to remand the case for the RTC to resolve matters relative to who shall be granted custody over the three children, how the spouses shall exercise visitation rights, and the amount and manner of providing financial support.

The RTC and the CA found substantial evidence and did not commit reversible errors when they issued the PPO against BBB. Events, which took place after the issuance of the PPO, do not erase the fact that psychological, emotional and economic abuses were committed by BBB against AAA. Hence, BBB's claim that he now has actual sole care of DDD and EEE does not necessarily call for this Court's revocation of the PPO and the award to him of custody over the children.

This Court, thus, affirms the CA's order to remand the case for the RTC to resolve the question of custody. Since the children are now all older than seven years of age, they can choose for themselves whom they want to stay with. If all the three children would manifest to the RTC their choice to stay with AAA, then the PPO issued by RTC shall continue to be executed in its entirety. However, if any of the three children would choose to be under BBB's care, necessarily, the PPO issued against BBB relative to them is to be modified. The PPO, in its entirety, would remain effective only as to AAA and any of the children who opt to stay with her. Consequently, the RTC may accordingly alter the manner and amount of financial support BBB should give depending on who shall finally be awarded custody over the children. Pursuant to Articles 201 and 202 of the Family Code, BBB's resources and means and the necessities of AAA and the children are the essential factors in determining the amount of support, and the same can be reduced or increased proportionately. The RTC is reminded to be circumspect in resolving the matter of support, which is a mutual responsibility of the spouses. The parties do not dispute that AAA is now employed as well, thus, the RTC should consider the same with the end in mind of promoting the best interests of the children.

A final note on the effectivity and violation of a PPO

The Court reminds the parties that the application for the issuance of a PPO is not a process to be trifled with. It is only granted after notice and hearing. Once issued, violation of its provisions shall be punishable with a

fine ranging from Five Thousand Pesos (₱5,000.00) to Fifty Thousand Pesos (₱50,000.00) and/or imprisonment of six (6) months.³⁵

Section 16 of R.A. No. 9262, on the other hand, provides that “[a] *PPO shall be effective until revoked by a court upon application of the person in whose favor the order was issued.*”

Pending the resolution of the instant petition, BBB claims that he and AAA had executed a MOA, upon which basis a judgment by compromise is sought to be rendered. Atty. Uyboco, on her part, pointed out AAA’s vacillation anent the MOA’s execution. With the foregoing circumstances, the parties, wittingly or unwittingly, have imposed upon this Court the undue burden of speculating whether or not AAA’s half-hearted acquiescence to the MOA is tantamount to an application for the revocation of the PPO. The Court, however, refuses to indulge the whims of either parties. The questions raised in the instant petition for the Court to dispose of revolve around the propriety of the PPO’s issuance. The Court resolves that principal query in the affirmative. The PPO thus stands unless AAA, categorically and without any equivocation, files an application for its revocation.

IN VIEW OF THE FOREGOING, the petition is **DENIED**. The Decision dated November 6, 2009 and Resolution dated August 3, 2010 of the Court of Appeals in CA-G.R. CV No. 89581 are **AFFIRMED**. The **Permanent Protection Order**, dated August 14, 2007, issued against BBB by the Regional Trial Court of Pasig City, Branch 162 **STANDS except items (d), (f), (g), (h) and (i)**³⁶ thereof. The case is hereby remanded to the trial court for it to accordingly modify the aforecited items after determining with dispatch the following:

- (1) who between BBB and AAA shall exercise custody over the three children;
- (2) how the parties shall exercise their respective visitation rights; and
- (3) the amount and manner of providing financial support.

The Reply and Manifestation dated November 10, 2014 and December 4, 2014, respectively, are **NOTED**.


³⁵ Please *see* R.A. No. 9262, Section 12.

³⁶ *Rollo*, pp. 73-74.

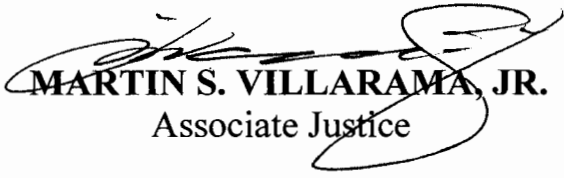
SO ORDERED.

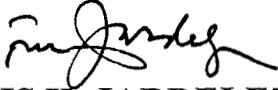

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

