

# SALIGAN Batas

## SALIGAN’s GAD Advocacy Team leads the enactment of the Safe Spaces Ordinance in Naga City

### The GAD Advocacy Team

As SALIGAN continues its work in the national and local policy advocacies affecting the marginalized, disadvantaged and exploited sector, the local Gender and Development (GAD) Advocacy Team was formed to strengthen the engagement of gender and development advocates in the local government processes of the City of Naga. It is composed of policy champions who are members of the Sangguniang Panglungsod of Naga City and various civil society organizations (CSOs) and non-government organizations (NGOs) that have been actively working with the local government to attain gender equality through the enactment and implementation of gender-sensitive policies and programs, with the following specific member groups:



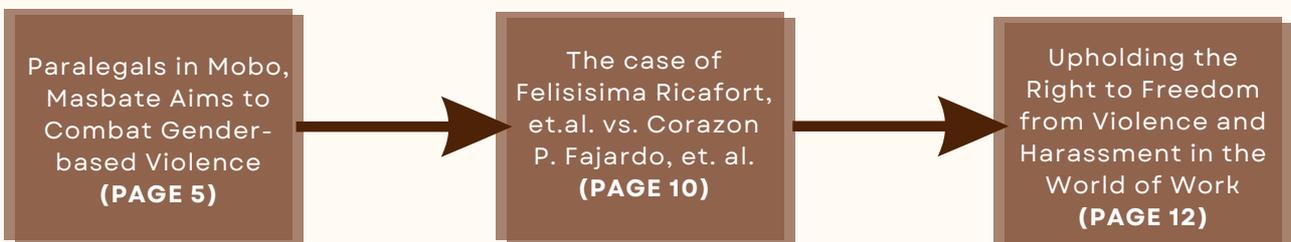
The **Naga City Council for Women (NCCW)**, created under City Ordinance No. 2000-012 and further revised by Ordinance No. 2002-053, is a tripartite-women consultative and policy-recommendatory body on the issues and concerns of women. The NCCW comprises representatives from accredited women’s organizations and NGOs categorized into different aggrupations focusing on different issues and concerns of women in the community, with support from local government offices and agencies.

The **Naga City Bantay Familia, Inc.** (Bantay Familia) is both a facility and a support system established to provide justice and healing for gender-based violence victim-survivors and created by virtue of Executive Order No. 2002-01.

The **LGBTQIA+ Federation of Naga City** is a federation of community-based LGBTQIA+ groups organized in the twenty-seven barangays of Naga City for the purpose of forming an alliance to effectively advocate for the protection and implementation of its member’s rights, specifically their equal access to basic services,

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e.i. livelihood, medical and health services, employment, and their right to association and participation in the decision-making process in local governance as mandated under Ordinance No. 1995-092, or the Empowerment Ordinance of Naga City.

The **KaBARO** is the City Hall's LGBTQIA+ Employee's Association, organized to actively partner with the city government in advancing the rights of its members and in implementing programs aligned with the city's SOGIE Ordinance.

Using the Naga City GAD Code as a guide, these member groups tackled various issues and concerns that hindered the realization of gender equality guaranteed under the said GAD Code. In a series of meetings, the following issues were identified as priorities and adopted as policy agendas for advocacy and lobbying:

**1.** Coverage of the unmarried head of the family, the solo parent under RA No. 11861, and persons with diverse sexual orientation, gender identity, expression, and sexual characteristics (SOGIESC) as beneficiaries of the housing security program of the

Kaantabay sa Kauswagan;

**2.** Protection of women, girls, and persons with diverse SOGIESC against abuse, violence, and discrimination through the enactment of gender-responsive policies and programs;

**3.** Strengthened representation and participation of people of diverse SOGIESC in local governance processes; and,

**4.** Maximizing media in promoting and realizing gender equality.

**Creating a Safe Space with the GAD Advocacy Team**

The Safe Spaces Act or Republic Act No. 11313, defining and prohibiting gender-based sexual harassment (GBSH) committed in streets and public spaces, online, in the workplace, and in educa-

tional and training institutions, was enacted into law in 2019.

Section 8 of the said law identified the local government units as the primary duty-bearers in enforcing the provisions regarding GBSH in streets and public spaces. Corollary to this, DILG-PCW JMC No. 2020-001 was issued, providing guidelines for the localization of the relevant provisions under RA No. 11313. While the local ordinance is not a prerequisite on the enforcement of the law, the LGUs are encouraged to enact their respective ordinance to ensure that the existing mechanisms and structures in the locality are maximized in the enforcement of the law.

Prior to the enactment of RA No. 11313 and even shortly thereafter, GBSH, as defined



**Finalization of the GAD Advocacy Team agenda** (L-R: Bencent Penera, President of the Naga City LGBTQIA + Federation; Hon. Gilda Gayle Abonal-Gomez, Chairperson of the Committee on Women and Gender; Atty. Hazel Lavitoria and Shyla Joy Bernal-Dumalasa SALIGAN Executive Director and legal staff, respectively; BJ de Asis, KaBARO President; Jhune Sanao, KaBARO Officer; Engr. Herlyn delos Reyes, NCCW Execom member; and Chloe Antonio, Bantay Familia representative)

under the law, like wolf-whistling, catcalling, stalking, homophobic, misogynistic, transphobic and sexist remarks, persistent telling of sexual jokes, including unwanted invitations and advances, continued to affect the majority of women, girls, and people of diverse SOGIESC in Naga City. Pursuant to its second agenda, e.i. through the protection of women, girls and persons with diverse SOGIESC against abuse, violence and discrimination through the enactment of gender-responsive policies and programs and the recent policy development, the GAD Advocacy Team was prompted to advocate for the passage of the localized safe spaces ordinance.

### **Policy Formulation and Consultation Sessions**

Consistent with the provisions of the Empowerment Ordinance<sup>1</sup>, where NGOs/CSOs who are part of the People's Council are given the power to propose legislations, participate and vote at the committee level of the Sangguniang Panlungsod, SALIGAN and its GAD Advocacy Team initiated

the formulation and filing of the proposed Safe Spaces Ordinance in partnership with its policy champions, Hon. Gilda Gayle R. Abonal-Gomez and Vice Mayor Cecilia Veluz-De Asis, who are both members of the Bantay Familia and the NCCW.

The policy proposal came into being when the NCCW raised as an issue the consistent reports made by the VAWC Desk Officers of the 27 barangays pertaining to GBSH committed against women, girls, and persons with diverse SOGIESC. Representatives from KaBARO and the LGBTQIA+ Federation validated this, as similar incidents of harassment were reported to have been committed against their members. A series of community awareness campaigns about RA No. 11313 and consultations with the Barangay Council of Women and the NCCW support offices were conducted to further validate the reports. As mentioned earlier, wolf-whistling, catcalling, stalking, homophobic, misogynistic, transphobic, and sexist remarks, and persistent telling of sexual jokes, including unwanted

invitations and advances, were among the common forms of GBSH committed mostly by colleagues, friends, acquaintances, and strangers. The participants were, likewise, asked about what they understood about the remedies available under the law and how they would be implemented, taking into consideration the existing mechanisms available in the community. The inputs gained during the awareness-raising and consultations were taken into consideration in drafting the provisions of the policy proposal, particularly the prohibited acts, penalties, and implementing mechanisms.

The final draft was presented and discussed with various sectors, such as the students of the Naga College Foundation, the Metro Naga Chamber of Commerce, government offices identified as service providers under the proposal, the Barangay Council for Women, and other stakeholders in the community. The input during the sessions enhanced even more the provisions of the proposal and validated the different roles that the stakeholders are willing to embark on as service providers and partners in ending GBSH in the community.

<sup>1</sup> Section 11 of Ordinance No. 1995-092, otherwise known as An Ordinance Initiating a System for a Partnership in Local Governance Between the City Government and the people of Naga



**Consultation-session on the draft Safe Spaces Ordinance with the Metro Naga Chamber of Commerce (business sector)**

Left photo: Ms. Marivic Balance, President of NCCW, discussed the background for the proposed Safe Spaces ordinance.

Right photo: Hon. Gilda Gayle Abonal discussed the salient provision of the proposed Safe Spaces Act

The following provisions were notable for receiving opposition or counter-proposals:

**1. Strengthening of the Naga City Business Inspection Team by designating them as monitors of the compliance of the business establishments open to the public.**

At the onset, the members of the SP Committee on Laws and Ordinances raised the concern of the possible opposition of the business group in putting additional requirement for the approval and renewal of business permits. This concern was raised to the Metro Naga Chamber of Commerce during the stakeholder consultation. The representatives from the chamber gave their support to the proposal after fully recognizing the

need to take active measures to prevent the commission of gender-based sexual harassment that may victimize them or their loved ones.

To ensure that the business inspection team is capacitated, a representative from the LGFPS and civil society organizations working for the interests of women and/or persons of diverse SOGIESC is mandated to be included as a regular member of the Naga City Business Inspection Team.

**2. Designation of the VAWC Desk as the Anti-Sexual Harassment (ASH) Desk instead of designating another officer.**

Considering that the required sensitivities and capacities for the VAWC Desk Officers and the ASH Desk Officer are similar, the barangay Council for Women recommended that both responsibilities be designated to the VAWC Desk Officer

with the condition that the VAWC Desk Officer shall undergo a refresher on gender sensitivity training and updates on laws and remedies pertaining to gender-based sexual harassment. Provided further that, if necessary, the facilities and services of the barangay must be improved.

**Lobbying and Enactment of the Safe Spaces Ordinance**

The final draft of the ordinance was introduced by the members of the GAD Advocacy Team and sponsored by one of its policy champions, Hon. Gilda Gayle R. Abonal-Gomez and her counterpart, City Youth Councilor Khrystel Rhea Bonacua. The members of the GAD Advocacy team took turns acting as resource persons during the deliberation before the Sangguniang Panlungsod

Committee on Laws and Ordinances and during the public hearing of the same.

On October 10, 2023, Ordinance No. 2023-107, entitled “An Ordinance Prohibiting Gender-Based Sexual Harassment in Streets and Public Spaces, Mandating the Implementation of a Comprehensive and Sustainable Program to Prevent, Respond, and Eliminate the same, Adopting Certain Provisions of RA No. 11313—The Safe Spaces Act, Appropriating Funds Therefor, and Providing Penalties for Violation Thereof,” was enacted and subsequently signed into law by the local chief executive on November 3, 2023.

**Furthering Gender Equality Through Advocacy Work**

The direct involvement of the GAD advocates and different stakeholders

throughout the process of enacting the Safe Spaces Ordinance ensured that their opinions were heard and taken into consideration, thus creating an issue-based and people-centered policy. Strong collaboration between the government and various interest groups is forged toward the development of gender-sensitive policies and programs, improving access to the same and strengthening transparency

and accountability of the local government. Building on this, the GAD Advocacy Team will continue to advocate for more gender-responsive policies and programs. For 2024, it is set to work on the sectoral strengthening and capacity building of persons of diverse SOGIESC in terms of their rights, remedies, and right to engage in local government processes. #



Ms. Shyla Joy R. Bernal-Dumalasa, legal staff of SALIGAN, presented the final draft of the Safe Spaces Ordinance during the joint public hearing of the Committee on Laws and Ordinances and Committee on Women and Gender presided by Atty. Oying Rosales last June 5, 2023. Present during the public hearing were representatives from various local offices and agencies identified as service provider under the proposed ordinance, members of the GAD Advocacy Team who took turns in answering queries from the other participants.

**Community Paralegals in Mobo, Masbate Aims to Combat Gender-based Violence**

In 2022 the Sentro ng Alternatibong Lingap Panlegal in partnership with the OXFAM Philippines Inc. aimed to strengthen the community response to gender-based violence (GBV) in the Municipality of Mobo Masbate through establishing a GBV Referral System by creating a community-based advocacy and monitoring group (CBAMG) and increasing the capacity on women rights, laws and remedies, gender sensitivity, local government processes and policy advocacy of the service providers and select officials from the barangay, women’s organizations, civil society organizations providing services for women and other key stakeholders.

The partnership brought about the drafting of an anti-gender-based ordinance aligned with the current conditions and issues identified throughout the engagement with the community especially the CBAMG gender advocates who strategized for the championing of the ordinance in the Sangguniang Bayan of Mobo, Masbate. And with SALIGAN's further collaboration with Misereor and the United Nation's Office for Project Services' Governance in Justice in the Philippines, the enactment of the Ordinance No. 03 series of 2023, "An Ordinance Institutionalizing the Anti-Gender Based Violence (GBV) Referral System," came into fruition together with the simultaneous training of barangay-based paralegals who took part as well in the advocacy and implementation of the referral system. The said training which was participated by a total of 29 representatives from 15 barangays of the municipality from January to August 2023 consisted of Basic, Advance, and Thematic Paralegal Trainings thus enhancing the paralegals' knowledge on gender and development, laws, and principles as well the necessary skills to assist sensitively victims of violence while addressing gender

issues. Now as gender advocates, and armed with the capacity and knowledge gained from SALIGAN's paralegal formation program, below are some of the paralegals' plans and aspirations as they take on their respective roles and functions in the community:



**AILEEN**  
**B. Bustamante, 47**

Aileen has always had the heart for community service, which she also choose to be her line of work. She is currently serving as a Barangay Chairperson in Umabay Exterior and was the ABC President sitting at the Sangguniang Bayan of Mobo. Before seating as a barangay chairperson, Aileen observed the lack of appropriate processes for the referral of cases in their barangay, which she gradually took the effort to address by applying her acquired knowledge and skills after being elected. As a paralegal, she has become more confident in herself and in assisting her community in the handling

of cases. Aileen's interest in being a paralegal comes from her will for public service. For her, it is a huge matter that, as public servants, they can assist people with no means and reduce the expense of accessing justice while having the opportunity to enhance her legal knowledge as well.

Aileen especially paid attention to paralegal knowledge and skills such as the proper filing of barangay blotters, criminal and civil procedures, and writing affidavits. The paralegal knowledge she gained from SALIGAN will aid her functions and work in the community.

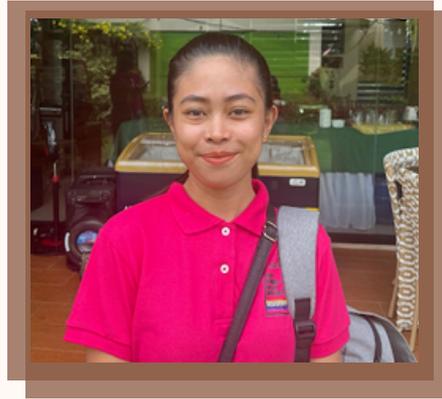
In addition, some of the knowledge she can share with her community is about laws for women, how to conduct a legal interview when there is a victim-survivor, and what to do when referring a case. *"We can now help the victim in making his complaint because I understand the process of a case."*

As a person, Aileen is confident that it will make her more efficient and effective in assisting victims of abuse and advocating for the rights of women and all genders. This will also help her community, as they will have the confidence to seek

her assistance since she has the knowledge and capability to share with them the law protecting their rights.

Paralegalism changed her perspective on community issues. For her, it is not enough to just have awareness of the issues and the ability to address them; one should also have the vision, commitment, and willingness to help others. Her commitment, interest, and empathy will remain with her as a leader and as a person whose desire is to help people and maintain true peace. Promoting the rights of people, according to her, is not just because she has a role to play; it's part of her daily life."

*"I don't want anyone to suffer oppression. I know that I can only uphold order and peace in my barangay if I can inform potential violators about the consequences of their actions. And ensure that victims are assisted in attaining justice. If I can maintain this genuine order and peace in the community, it will be proof that I have done well in governance. I also believe that if families thrive, so does the community. I know that this can cause a chain reaction extending to other communities."*



## MICHELLE V. Ruiz, 25

Michelle Ruiz joined the paralegal formation as a youth representative and was a Sangguniang Kabataan Chairperson in Mobo, Masbate. As a youth representative, Michelle was really interested to become a community paralegal so she could share her knowledge on the basic legal processes especially to children who are victims of violence. The paralegal formation set a path as well for her to be enlightened of the different laws protecting victims of abuse. *"I may have learned some already but I cannot say that it was enough", she said. "My knowledge [of laws] improved when I became part of SALIGAN paralegals",* Michelle added.

Michelle describes her community as one that is peaceful and unified. She believes that the people are well aware of the prohibitions against abuse, and she was glad that after the formation, she learned

more about these laws, especially the penalties for the perpetrators and the protections available to the victims.

During her term as an SK Chairperson, she witnessed dispute resolutions by the barangay, from which she reflected that by hearing out the parties to an issue, the root causes of which can be found. She was grateful that the training included laws protecting the children from abuse, such as but not limited to trafficking and child labor, other than those protecting their gender rights. Michelle's hopes are to make use of these new-found skills in drafting ordinances and affidavits to assist others.

As a person, Michelle was sure that being a community paralegal will have a positive effect on her, as she will be able to help others through her paralegal skills and legal research. She likened this effect on her to that of a "book." *"Books are a source of information and answers to queries. Like books, I can share my learnings from being trained by SALIGAN."*

Her experience also changed her perspective towards community issues, which cannot all be resolved by the barangay alone. Michelle will continue to promote human rights in her community.

Whatever her position [in the community], political or not, it will not bar her from aspire to harmony amongst people. She sees herself advocating for further equal rights among men and women in all aspects of life.

*"I will continue to promote human rights, as everyone deserves it. Whatever position I may later have, political or not, this will not bar me from pursuing harmony among people. For me, even if I don't hold any significant position in the community, I will continue to pursue protecting human rights."*



## CHRISTIAN

**V. Viterbo, 37**

Christian was a Brgy. Kagawad when he joined the formation of SALIGAN Community Paralegals in Mobo, Masbate. As a Barangay Officer, he was convinced that knowing the basic of the law and legal processes will help him in his public service especially those that protect the rights

not only of women but of all gender. Describing his community as generally peaceful, Christian acknowledges the occasional encounters with issues that disrupt the tranquility. From student conflicts with out-of-school youths to public disturbances among conflicting neighbors or inebriated individuals, Christian recognized the need to actively resolve even these issues.

Before being a paralegal, Christian was actively engaged in LGBTQIA+ organizations, advocating for the rights of individuals within the community. His involvement in SALIGAN's paralegal formation laid the groundwork for a broader understanding of human rights, including those of LGBTQIA+ individuals.

Christian's paralegal formation equipped him with a comprehensive understanding of the rights of both men and women, as well as the LGBTQIA+ community. Highlights of his training included the establishment of VAW Desks, GAD (Gender and Development) planning and budgeting, and advocacy planning. These tools, he believes, are crucial in addressing and preventing gender issues within the community.

Christian, a firm believer that laws should not only be enacted but enforced, is determined to utilize his newfound knowledge to benefit his community. He emphasizes the importance of sharing the benefits and protections offered by the law with his community. In doing so, he hopes to create a safer and more secure environment for everyone.

Christian believes that as a paralegal, it will not only empower his community but will also have a profound impact on him as an individual. Through this experience, he has become more open-minded, viewing social issues and events through a broader lens. As both a person and a public servant, Christian is committed to making a lasting difference in the lives of those around him.

*"By being a paralegal, I have a closer perspective and look at the members of our community. Its purpose is important and contained in it. Through this, our new generations will have more courage. Through this, everyone will have more understanding, everyone will be free to express their own thoughts."*



**SIGFREDO**  
Castillo, 72

After retiring as a school teacher, Sigfredo realized that his passion for service and education remains ingrained in him. Endowed with the constituent's trust, he became a Barangay Chairperson which gave him an opportunity to engage more with the people. By being part of SALIGAN's paralegal formation, he saw an opportunity to use his experience as a teacher to educate his community with the lessons and insights he will learn during the training. The paralegal formation was not his first introduction to the awareness of the law since he has siblings who studied law. As a barangay official, he was also able to apply the same in resolving issues in their community. However, the great difference now is that as a paralegal, he was able to have a more in depth learning about the law and the basic legal processes.

*"Now we have the proper basis in giving advice which*

*will reduce issues in the barangay."*

For Sigfredo, their acquired knowledge and understanding of the law and legal processes during the formation will come in handy in addressing not just gender but other issues in the community as well. While there are lessons during the formation which were familiar already to him as a barangay official, he highlighted that the training allowed him to synthesize and connected his knowledge on laws and legal processes for better application in the resolution of issues. *"Despite our knowledge, we couldn't always apply these because we do not understand if we can and how to do the same"*. The skills on legal interview and gathering of information as well as evidence especially intrigued him. According to him, these skills will allow him to give the proper approach in handling victims of violence and common issues in the community such as how to protect the parties' welfare and confidentiality.

Sigfredo expressed that being a paralegal will only have positive effects on him. As a public servant, he is aware that with legal knowledge, one should not just do right but also what is fair and just, without taking

sides. Personally, he also finds the need for legal knowledge, especially since, in today's time, many kinds of cases require at least these paralegal skills. He will be able to assist not just his neighbours and his community but also other officers from another barangay, who, according to him, would sometimes seek his guidance.

Sigfredo believes that the community will benefit from having a credible and trained paralegal whom people could seek assistance from. He will continue working for the promotion and protection of people's human rights, especially in his community. As a former teacher, he sees himself using his paralegal skills to create awareness in the community about the law and extend his gender advocacy to other sectors as well.

As human rights and gender advocates, the Mobo Paralegals aspire to be a positive influence to their respective communities and transform the latter into a gender-fair society. In time, they wish to look back to their beginnings and the commitments they made as community paralegals with the hope that it could inspire more people to serve and advocate for the protection of gender and human rights. #

## Development in Jurisprudence

# The case of Felisisima Ricafort, et.al. vs. Corazon P. Fajardo, et. al., (G.R. No. 215590. November 10, 2021)

The primary question in the case is whether the intervening occurrence of changing the status of the parties to the action rendered the court's final ruling moot. Therefore, the court may still review and overturn a final decision that has already been recorded in the book of entries of judgment.

This is an ejectment case filed before 11 farmers in Bula, Camarines Sur. At first, they were two farmers engaged in quarrying activity on the subject land. The owner gave these farmers permission to build a shed house as a place to rest. This two-farmer invited other co-workers to stay there and eventually cultivated the land into rice fields. When PD 27 was enacted, farmers availed themselves of the benefits of PD 27. Eventually, the Department of Agrarian Reform (DAR) issued a certificate of land transfer (CLT) in favor of the farmers.

An ejectment case and a recovery of possession were filed against the farmers occupying the subject land. The trial court ruled against the farmers and ordered them to vacate the premises. However, farmers refused to vacate the land. The case reached the Court of Appeals, which affirmed the trial court's decisions. The decision was declared final and executory, and a writ of execution was availed of by the former

land owner, but the order was never executed.

In the meantime, during the pendency of the ejectment case, the Comprehensive Agrarian Reform Law (CARL) was passed and took effect, covering agricultural lands to distribute to qualified agrarian reform beneficiaries. The subject land was covered by the DAR for the implementation of the Comprehensive Agrarian Reform Program (CARP). Subsequently, the land was awarded to 57 farmer-beneficiaries, including the farmers who are respondents to the

ejectment case. A Certificate of Land Ownership Award (CLOA) was issued to them as beneficiaries collectively. The farmers are now the owners of the farmland as beneficiaries of the CARP. Subsequently, the former landowner filed a petition to exclude the land from the coverage of CARP on the ground that it is pasture land as classified by the former DAR Secretary.

### Court resolution

The court ruled that the doctrine of immutability of judgment is not absolute and may be relaxed to serve the ends of justice. Under the doctrine of immutability of judgment, once a judgment has become final, the issues therein should be laid to rest and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law. The noble purpose of the doctrine is to put an end to disputes once and for all. The orderly administration of justice requires that, at



the risk of occasional errors, the judgments of a court reach a point of finality set by the law. Relatively, the prevailing party is entitled, as a matter of right, to a writ of execution of a final and executory judgment, and the issuance thereof is the court's ministerial duty.

However, jurisprudence dictates that the mandatory character of the doctrine of immutability of judgment may be relaxed in order to serve substantial justice, considering, among others, matters of life, liberty, or property; the existence of special or compelling circumstances; and the merits of the case. Thus, while it is true that once a judgment has become final, such judgment can no longer be re-litigated and must be enforced by execution as a matter of right, it is likewise true that where new facts have transpired after the finality of the judgment, the courts may suspend or refuse the execution thereof and grant relief as the new facts and circumstances warrant, keeping in mind that the mandatory character of the doctrine of immutability of judgment should not be used as a vehicle to perpetuate injustice.

The issuance of DAR CLOA is a supervening event that rendered the execution of

the RTC decision unjust and inequitable. One of the exceptions to the principle of immutability of final judgments is the existence of supervening events, to wit:

*The rule nevertheless admits of exceptions. Specifically, when facts and events transpired after a judgment had become final and executory, which on equitable grounds render its execution impossible or unjust. In which case a stay or preclusion of execution may properly be sought. A suspension or refusal of execution of judgment or order on equitable grounds can only be justified upon facts and events transpiring after the judgment or order had become executory, materially affecting the judgment obligation. (Italics supplied.)*

A supervening event, therefore, changes the substance of the judgment and renders the execution thereof inequitable. To invoke this exception, the case of *Gelito v. Heirs of Tirol*, presented the following requisites that must be established: first, the supervening event must have transpired after the judgment has become final and executory; and second, the supervening event must affect or change the judgment's substance so that its execution is rendered inequitable.

As applied to this case, the

Joint Decision dated June 27, 1995, rendered by Branch 31, RTC, Pili, Camarines Sur in favor of respondents and affirmed by the CA became final and executory on July 22, 2003. On the other hand, the supervening event, i.e., the Resolution of the Court, which denied with finality respondents' Motion for Reconsideration of the Decision and the Resolution of the Ejectment Case, which in turn affirmed the resolutions issued by Secretary Ochoa denying respondents' petition for exclusion from CARP coverage, was promulgated on January 10, 2019. Undeniably, the first requisite is present.

Anent the second requisite, the Court concluded with finality that the petitioners (farmer beneficiaries) are the rightful owners of the subject land by virtue of the CARP. Indubitably, the change in the status of petitioners as owners of the land and the registration of the CLOA in their favor have rendered Civil Case Nos. P-1838 and P-1815 moot.

The coverage and issuance of CLOA happened after the finality of the civil case, which turned out to be a void judgment. The Court emphasized that the absence of an indispensable party renders all subsequent actions of the court null and



The Banasi farmers are happy after learning that they won the case.

void for lack of authority to act, not only as to the absent parties but even as to those present. Thus, the assailed orders issued by the RTC as affirmed by the CA are likewise null and void, considering that out of the 66 individuals being directed by the RTC to vacate their property, only three were parties to Civil Case No. P-1838.139. Clearly, the RTC joint decision should not bind petitioners, as they were never impleaded

in the case. Furthermore, if the Court affirms the assailed CA decision and resolution, then petitioners, through the RTC's special order of demolition, would be dispossessed of the farms they till, only to be re-installed by virtue of the CARP. This absurdity, which makes a mockery of our justice system, must be avoided.

Furthermore, the rule on the immutability of judgments

cannot be applied to void judgments. The Court emphasized that the absence of an indispensable party renders all subsequent actions of the court null and void for lack of authority to act, not only as to the absent parties but even as to those present. The Court set aside the judgment rendered by the CA without an indispensable party having been impleaded for being null and void. #

### Development in Law Issuances

## Upholding the Right to Freedom from Violence and Harassment in the World of Work (ILO Convention 190)

The convention was the first international treaty to recognize the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment. The Convention was adopted in June 2019 by the International Labour Organization (ILO) and came into force on June 25, 2021. Convention 190 protects all workers regardless of their contractual status: interns, apprentices, trainees, workers whose employment has ended, volunteers, and job seekers. It emphasizes gender-based violence since women are disproportionately affected by workplace violence and harassment.

The convention covers all sectors, whether public or private, rural or urban, formal or informal. C190 provides a clear mandate to prevent and address violence and harassment in the workplace worldwide.

The importance of Convention 190 was the inclusion of clear and complete definitions of what constitutes violence and harassment in the world of work. Accordingly, it encourages countries to issue policies to address gender-based violence and harassment in the workplace. The convention defines violence and harassment as a single encompassing concept that covers "a set of unacceptable behaviors and practices or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual, or economic harm, and includes gender-based violence and harassment. The inclusion of this concept was lobbied by the trade union movement as a response to the increasing number of violence and harassment against workers. C190 adopts a victim-centered approach, focusing on the conduct, practices, or threats and their impact on

the victims. The convention will no longer tolerate gender-based discrimination in the world of work. It recognizes and defines gender-based violence and harassment as a form of violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.

According to UN statistics, 736 million women worldwide have been subjected to physical and/or sexual intimate partner violence, non-partner violence, or both at least once in their lives. And although 158 countries have passed laws on domestic violence and 141 have laws on sexual harassment in employment, this does not mean they are compliant with international standards and recommendations or are implemented and enforced.<sup>1</sup> C190 aims to eradicate or at least lessen the cases of violence not only against women but also those committed in the workforce.

Twenty-two percent of women and 18 percent of men in the Philippines have experienced violence and harassment at work,

according to a study by the Lloyd's Register Foundation and pollster Gallup. Many of the victims - 47% among women and 60% among men - did not report the incident out of fear of repercussions and the belief that nothing would come of it. The same study also found that 60% of Filipinos who have experienced workplace violence and harassment say this has happened "three or more times".<sup>2</sup>

The C190 recognizes the right of the people to be free from violence and harassment in the world of work. The convention acknowledges violence and harassment as prevalent issues in the world of work. It recognizes the importance of freedom of association to guarantee the right not to be violated or harassed in the workforce. It covers all sectors and the public sector, as it guarantees the right to equality and non-discrimination for workers in vulnerable situations.

The member states that ratify the Convention shall respect, promote, and realize the right of everyone to a world of work free from violence and harassment. Each Member shall adopt, in accordance with national law and circumstances and in consultation with

<sup>1</sup> Facts and Figures: Ending Violence Against Women. UN Women. ONU Mujeres. <https://www.unwomen.org/>

<sup>2</sup> Headlines Philstar.com, January 31, 2023. Around a fifth of Filipino employees have experienced workplace harassment — poll | Philstar.com

representative employers' and workers' organizations, an inclusive, integrated, and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work. Such an approach should take into account violence and harassment involving third parties, where applicable, and include, among others, prohibiting in law violence and harassment, ensuring that relevant policies address violence and harassment, adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment, establishing or strengthening enforcement and monitoring mechanisms, and ensuring access to remedies and support for victims.

The ratification of C190 will fortify the country's policies addressing gender-based violence in the workplace and create a safe workplace environment for Filipino workers. Though the Philippines already enacted an anti-sexual harassment law in 1995 that valued the dignity of every individual, guaranteed the full respect of human rights, and upheld the dignity of workers, employees, applicants for employment, students, or those undergoing training, instruction, and education, since then, sexual harassment in the employment, education, and training environments is hereby unlawful. The new convention will strengthen the Philippine government's mandate to promote and

protect the rights of Filipino workers, both locally and overseas, including people with disabilities, LGBTQIA+ people, and those working in difficult situations.

President Marcos endorsed the ILO Convention 190 (C190), or the Convention Concerning the Elimination of Violence and Harassment in the World of Work, on October 13, 2023, before the Senate for its concurrence. After two months, the Philippine Senate concurred with the Philippines ratification of ILO Convention 190. The Philippines is the first in Asia and the 37th to ratify the convention. #



(+63)(2)4266001 LOC.  
4858-4860



WWW.SALIGAN.ORG



SALIGAN@SALIGAN.ORG



/SALIGAN.ALAC

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