



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-1806 to 1808**
Plaintiff, For: Sexual Harassment

Present

- versus -

JESSIE MARIO B. DOSADO,
Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

OCT 6 8 2020

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves accused Jessie Mario B. Dosado's *Motion for Reconsideration*,¹ and the prosecution's *Comment/Opposition (Re: Motion for Reconsideration on the Decision dated August 20, 2020)*.²

In his *Motion for Reconsideration*, the accused prays that the Court reverse and set aside the Decision dated August 20, 2020, and issue a new one acquitting him. He avers:

1. The Court's Decision was based on its opinion, and not on the facts and testimonies of the witnesses presented.
2. The Court's conclusion was made without appreciating the testimonies of the witnesses of the defense.
 - a. Witness Glecy Ambrad clearly denied that the events in Bersonda's story happened.

¹ Dated September 3, 2020 and received by the Court on September 7, 2020

² Dated September 14, 2020 and filed by electronic mail on September 15, 2020

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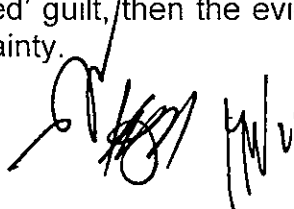
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- b. If the details in Bersonda's story did not happen, then the credibility of Bersonda, the complainant, is in issue.
3. Contrary to the Court's observation, there were so many inconsistencies in the testimonies of the prosecution's witnesses.
 - a. On cross-examination, Bersonda testified that although she was shocked, and was rendered immobile, she was still able to see what happened because her eyes remained functional. Later, she claimed that her back was turned against them and she only made side glances.
 - b. Suico, on the other hand, testified that she followed the orders of her superior even if offensive by reason of the "follow first before you complain" rule. Later, she admitted that she refused to follow an improper order he allegedly gave.
4. Witness Ambrad testified with the intention of clearing her name and telling the truth. Had there been truth to the allegation of the sexual episode, she would not have testified, especially considering that she was not even a party to the instant case.
5. Bersonda testified that Ambrad frequently visited the accused in his office, and that they frequently engaged in sexual intercourse. However, the prosecution did not present any witness to prove the same.
6. None of Bersonda's officemates testified that Ambrad frequented his office.
7. The place where the incident occurred was in the middle of a military base. The military police, the Provost Marshall, and other officers were around, and yet not a single complaint was filed on said day.
8. An accused is entitled to an acquittal if his or her innocence was not proved beyond reasonable doubt.
9. There were two (2) versions as to what really transpired. The first, according to Bersonda and Suico, and the second, according to him, Ambrad, Capt. Aure, and Cpl. Guinomon. It has been held that if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the accused' innocence, and the other consistent with the accused' guilt, then the evidence does not fulfill the test of moral certainty.

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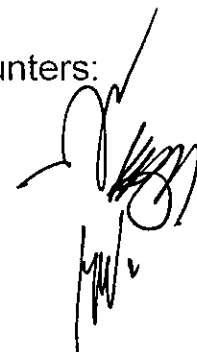
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10. The prosecution failed to prove the elements of Sexual Harassment.
 - a. The prosecution failed to prove that his acts created an intimidating, hostile or offensive environment.
 - b. A woman, even a soldier, cannot hide discomfort in meeting her alleged offender. His meetings with the complainants after the alleged incidents would show that no sexual harassment occurred.
 - c. A husband will not allow any degrading event be experienced or re-experienced by his wife, no matter what the situation or circumstances they may be in.
 - d. Contrary to human actuations, it is natural for an alleged victim to avoid situations that will likely exacerbate the situation, such as in this case, where the complainants attended an outing or dined out, even if with friends and colleagues.
 - e. In *Alcuizar v. Carpio*,³ it was held that it did not appear that therein complainant was sexually harassed because she "appeared to be having much fun," which "is not exactly a picture of one recently sexually harassed by her offending host."
 - f. No sexual favor was demanded from Suico. It was only an annoying play of words.
 - g. As for those uttered to Bersonda, the same did not result in granting favorable compensation, terms, conditions, promotions or privileges. Neither did the refusal result in limiting, segregating or classifying her in a way that would discriminate, deprive her of, or diminish, employment opportunities, or otherwise adversely affect her, nor did it impair her rights or privileges under existing laws.
11. The award of ₱5,000.00 as moral damages is not proper. Sexual Harassment is not analogous with the felonies of rape, seduction and acts of lasciviousness because it punishes misconduct in the workplace, and it is not a crime against persons or chastity.

In its *Comment/Opposition*, the prosecution counters:



³ A.M. RTJ-07-2068, August 7, 2007

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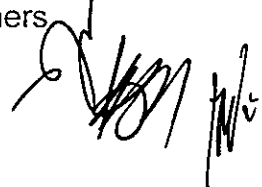
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1. The assessment of the credibility of witnesses is a matter best left to the trial court because of its unique position of being able to observe the deportment of witnesses at the stand.
2. The inconsistencies in the testimonies of Msgt. Bersonda and Sgt. Suico that were pointed out by the accused do not affect the weight of their testimonies relating to the incident in question.
3. The fact remains that Msgt. Bersonda and Sgt. Suico were transferred to another office or unit days after the harassment took place. The defense failed to establish any ill motive on their part to fabricate the charges against the accused.
4. All the elements of Sexual Harassment under Sec. 3(a) of R.A. No. 7877 are present.
 - a. The accused did not dispute the first and second elements of the offense.
 - b. The prosecution sufficiently proved that the third element, *i.e.*, demand, request or requirement of a sexual favor, is present.
 - i. The accused demanded, requested or required Msgt. Bersonda to join him and another girl in performing sexual acts. He also used his authority and influence over her to order her to stay and watch him and Glacy do sexual acts while inside his private room.
 - ii. The accused' acts, insofar as Sgt. Suico is concerned, are described in her *Affidavit-Complaint*.
 - c. It is not essential that the demand, request or requirement of a sexual favor be made as a condition for continued employment or for promotion to a higher position. It is enough that the respondent's acts result in creating an intimidating, hostile or offensive environment for the employee.
 - d. The complainants left their place of assignment because the actuations of the accused created an intimidating, hostile or offensive environment.
5. The award of moral damages is proper.
 - a. The award of moral damages is not limited to those stated in Art. 2219 of the Civil Code. Sexual Harassment is analogous to the crimes of seduction, abduction, rape, or other lascivious acts because they all involve the commission of sexual gestures and acts, among others.



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- b. The amount of Five Thousand Pesos (₱5,000.00) awarded as moral damages is reasonable. Moral damages are not intended to enrich a complainant but to help obviate the sufferings sustained on account of the culpable action of an offender.
6. The testimonies of the defense witnesses cannot overcome the allegation of the complainants. Said witnesses only testified that they had not observed anything unusual from the complainants' demeanor that would give the impression that they were sexually harassed by the accused. These do not prove that no sexual harassment occurred, especially when the acts were all done in the privacy of the accused' office.
7. The accused failed to show that he and the complainants were not physically present in the place and time alleged in the three Informations.

THE COURT'S RULING

The accused' *Motion for Reconsideration* is devoid of merit, and should be denied.

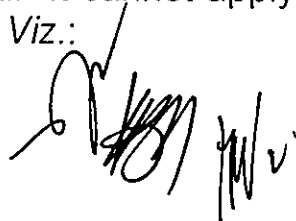
The equipoise rule does not apply in the present cases.

According to the accused, there are two (2) versions of what actually happened—the prosecution's version, and the version of the defense—and hence, the prosecution's evidence is not sufficient to support his conviction. He argues that if inculpatory facts and circumstances are capable of two or more explanations with the accused' innocence, and the other consistent with the accused' guilt, then the evidence does not fulfill the test of moral certainty.

This Court is not persuaded.

In *Malana v. People*,⁴ the Supreme Court held that the equipoise rule provides that where the evidence of the parties in a criminal case is evenly balanced, the constitutional presumption of innocence should tilt the scales in favor of the accused. It cannot apply if the evidence of the prosecution is overwhelming. *Viz.:*

⁴ G.R. No. 173612, March 26, 2008



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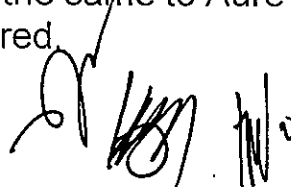
There is no merit in appellants' assiduous assertion that they should be acquitted under the equipoise rule in view of what to them are doubts as to their guilt. This rule provides that where the evidence of the parties in a criminal case is evenly balanced, the constitutional presumption of innocence should tilt the scales in favor of the accused. There is, therefore, no equipoise if the evidence is not evenly balanced. Said rule is not applicable in the case before us because the evidence here presented is not equally weighty. The equipoise rule cannot be invoked where the evidence of the prosecution is overwhelming.

(underscoring supplied)

According to the accused, this Court did not consider the testimonies of the defense witnesses when it arrived at its conclusion that the prosecution was able to prove his guilt in these cases beyond reasonable doubt. On the contrary, this Court considered said testimonies—in particular, those of witnesses Judy H. Guinomon, Rocilyn G. Naguit, and Claire R. Aure-Reyes—and even found that instead of adversely affecting the credibility of Dynne G. Bersonda and Florizel G. Suico, their testimonies corroborated those of Bersonda and Suico.

The Court already exhaustively discussed its findings and conclusions in the assailed Decision. It is unnecessary to repeat such lengthy discussion. However, for the sake of convenience, hereunder is the summary thereof.

Witnesses Guinomon, Naguit and Aure-Reyes testified on events that happened after the incident. This Court found that their testimonies had no material inconsistencies with the testimonies of the prosecution's witnesses. Witness Guinomon's testimony supported Florizel G. Suico's assertion that on October 22, 2013, after the incident, she told Guinomon that she saw the accused naked, and that he told her that it was a normal occurrence, having seen the accused naked several times prior. It must be noted that witness Guinomon's testimony even contradicts the accused' categorical statement that he does not undress in front of his staff.⁵ On the other hand, witness Aure-Reyes' testimony corroborated Dynne G. Bersonda's claim that after the incident, she reported the same to Aure-Reyes on May 16, 2013—the day the incident occurred.



⁵ Judicial Affidavit (Pursuant to A.M. No. 12-8-8-SC) dated January 7, 2019, p. 2; Record, Vol. 2, p. 20

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Similarly, witness Guinomon's testimony to prove that Suico, together with him, the accused, and a certain Ms. Orozco, went to Cendong's Restaurant on October 30, 2013; and the testimonies of witnesses Naguit and Aure-Reyes, to prove that Bersonda went to the outing on May 31, 2013 at Tanza Oasis Resort, where they saw her greet the accused; were not inconsistent with Suico and Bersonda's claims. The Court had already discussed in the assailed Decision why these facts failed to destroy Bersonda and Suico's credibility.

As this Court held in the assailed Decision, the persons who could have testified as to the incidents themselves were the persons directly involved. In SB-17-CRM-1807 and 1808, it was Suico and the accused, while in SB-17-CRM-1806, it was Bersonda, the accused and "Glacy." The Court found that Bersonda and Suico were credible witnesses. The accused merely denied Bersonda and Suico's allegations, without supporting such denial with strong evidence of non-culpability. On the other hand, the Court had reason to doubt witness Glecy B. Ambrad's testimony, it appearing that she may have been coached.

The accused is correct in his contention that witness Ambrad's testimony could have exonerated him. But this is conditioned on the finding that she is a credible witness. Had the Court found that Ambrad was a credible witness, the parties' evidence would have been evenly balanced. But the Court found otherwise.

In her *Judicial Affidavit (Pursuant to A.M. No. 12-8-8-SC)* dated March 28, 2019, witness Ambrad declared:

7. Q: **May alegasyon laban kay Col. Dosado na kayo ay nagtatalik sa harapan ni MSG. Bersonda sa loob ng opisina ni Col. Dosado. Ano ang masasabi mo dito?**

A: Wala pong katotohanan iyon. Marangal po akong babae at hindi ko po kayang gawin na pakipagtalik sa kahit kaninong lalake sapagkat mayroon na po akong asawa. At lalo na po sa harapan ng ibang tao. Napakasama po ng paratang na iyan at hindi po totoo iyan.⁶

X X X

9. Q: **Kailan ka huling nagsilbing Umbrella Girl kay Col. Dosado?**

⁶ *Judicial Affidavit* dated March 28, 2019, p. 3; Record, Vol. 2, p. 83

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A: Matagal na po. May nagbalita sa akin po na nagkaroon ng problema si Col. Dosado at dinawit po ako, kaya ako po ngayon ay umiiwas na at hindi na nag-umbrella girl sa kanya.⁷

The Court's discussion⁸ on the matter is hereunder quoted:

But the Court has reason to doubt Ambrad's testimony. First, considering the act involved, *i.e.*, engaging in sexual intercourse with the accused, and that such act was done inside the accused' office during office hours, and in front of another person, it would be natural for, and even expected of, her to deny her involvement, especially when she would have nothing to gain from admitting the same. Second, when she was asked simple questions on certain matters she mentioned in her Judicial Affidavit, she appeared to be evasive and uncertain. The pertinent portions⁹ of the TSN of her testimony reads:

Q Now Madam witness, when was the first time that you learned about this allegation against you and Colonel Dosado?

A A friend, ma'am.

Q And who is that friend, if you can recall?

A A friend who is close to me but who does not work with the Philippine Navy?

Q Can you not disclose the name of your friend, Madam witness?

A No, ma'am.

Q Okay. For what reason if I may ask?

A For her own safety, ma'am.

Q Why? What will happen to that friend of yours if you will reveal her name?

ATTY. RAMOS:

Objection, your Honors please, the Prosecutor is now going beyond the Judicial Affidavit.

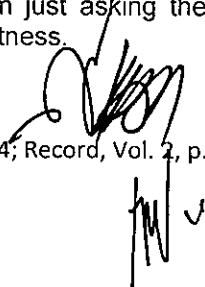
PROSECUTOR SE:

Your Honors, I am just asking the, I am just testing the credibility of the witness.

⁷ Judicial Affidavit dated March 28, 2019, p. 4; Record, Vol. 2, p. 84

⁸ Decision dated August 20, 2020, pp. 48-52

⁹ TSN, April 5, 2019, pp. 12-14, 28-31



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CHAIRPERSON:

Let the witness answer because the witness testified in her Judicial Affidavit that she was told of that rumor by someone.

ATTY. RAMOS:

Yes, Your Honors.

CHAIRPERSON:

Okay, so the Court will allow the prosecution, the prosecution's question.

PROSECUTOR SE:

Q What will happen to the friend of yours?

ATTY. RAMOS:

On another ground Your Honors please, the question is speculative because the question is "anong mangyayari sa kaibigan mo?"

CHAIRPERSON:

Reform your question.

PROSECUTOR SE:

Q Okay, now you said that for the safety of your friend. What do you mean when you say it is for the safety of your friend?

A Syempre po yung ganitong bagay para sa akin medyo kakaiba lalo na po sa kanya.

CHAIRPERSON:

Let's just retain it in the dialect.

PROSECUTOR SE:

Q Now, by the way, have you asked your friend that told you about this, where did he or she get that information?

A From the newspaper, ma'am.

x x x

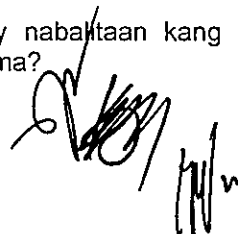
JUSTICE MIRANDA TO WITNESS:

Chair?

Q Well, they asked you earlier, do you know a certain Master Sergeant Dynn[e] Bersonda?

A Wala po.

Q Oh pero sabi mo kanina, may nabaitaan kang nagka-problema si Colonel Dosado, tama?



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A Yes po.

Q Oh tungkol saan yung problema?

A Hindi po ako sigurado kung anong problema.

Q Hindi ka sigurado?

A Opo.

Q Oo. Okey. Kasi yung Master Sergeant Dynn[e] Bersonda, may complaint-affidavit dated May, sorry, November 2013, subscribed yun don sa Administering Officer, November 12, 2013, alam mo ba ito?

A Hindi po.

Q Can you please take a look, ipakita ko sa iyo, okay? Pakibasa lang ha? Tingnan mo lang. Counsel, hah?

ATTY. RAMOS:

Yes, Your Honors.

JUSTICE MIRANDA:

Just to show her. Take your time, hah?

WITNESS:

(Witness nodded). (Witness going over the documents).

CHAIRPERSON:

Q Naiintindihan mo ba?

A Yes, Your Honors.

ATTY. RAMOS:

Can I just check if it's in English or Tagalog?

JUSTICE MIRANDA:

Okey sige nga, can you check.

ATTY. RAMOS:

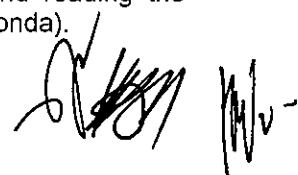
It's in English, Your Honors. She said, she can understand, Your Honors.

JUSTICE MIRANDA:

Thank you, counsel.

FOR THE RECORD:

(At this juncture, witness is going over and reading the complaint-affidavit of Master Sergeant Bersonda).



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DEPUTY CLERK OF COURT:

For the record Your Honors, the witness went over the affidavit-complaint of Master Sergeant Dynn[e] Bersonda consisting of three pages.

JUSTICE MIRANDA to WITNESS:

Q Ms. Glecy, naiintindihan mo yung binasa mo?

A Yes po.

Q May masasabi ka ba dyan?

A Pagkakaintindi ko po, walang nangyaring ganun?

Q Walang nangyaring ganun?

A Wala po.

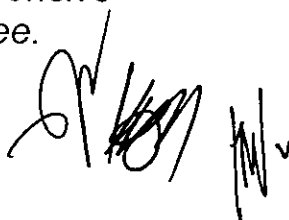
Q Pagkaintindi mo o pagkaalam mo?

A Pagkakaintindi ko po sa mga sinasabi niya na ano, may nangyaring (PAUSED), na talik, wala pong nangyaring ganun.

That she refused to disclose who told her about the allegations against the accused without any valid justification for such refusal may be an indication that Ambrad may have been coached. Later, she appeared to be uncertain about the allegations against the accused—after she denied her involvement in said allegations in her Judicial Affidavit.

If witness Ambrad's intention for testifying was to clear her name, as claimed by the accused, she would not have refused to disclose the name of the person who told her about the allegations against the accused without giving any valid reason for such refusal. Witness Ambrad had previously answered in a simple, spontaneous and straightforward manner. However, when she was asked questions about her source of information on the allegations against the accused, she became inexplicably evasive. Furthermore, she suddenly became uncertain about the allegations against the accused, which is strange, considering that it was not the first time she was asked about it, and after she emphatically denied being involved therein in her Judicial Affidavit.

Sexual Harassment is committed if the accused' acts resulted in an intimidating, hostile, or offensive environment for the employee.



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Likewise deserving scant consideration is the accused' argument that he did not commit Sexual Harassment because he did not demand sexual favors from Suico, and that his utterances were only an annoying play of words. Similarly, the words that he uttered to Bersonda did not result in granting favorable compensation, terms, conditions, promotions or privileges, and that her refusal did not result in limiting, segregating or classifying her, which would discriminate, deprive or diminish employment opportunities, or otherwise adversely affect her.

This Court already addressed the accused' arguments in the assailed Decision. For convenience, the pertinent portion¹⁰ thereof is hereunder quoted:

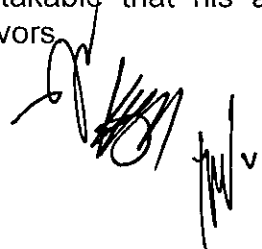
In *Domingo v. Rayala*, the Supreme Court clarified that the demand, request or requirement of a sexual favor under Sec. 3 of R.A. No. 7877 does not necessarily have to be articulated in a categorical oral or written statement. Unspoken requests for sexual favor may be discerned from the acts and statements made by the offender. In that case, it was held:

Yet, even if we were to test Rayala's acts strictly by the standards set in Section 3, RA 7877, he would still be administratively liable. It is true that this provision calls for a "demand, request or requirement of a sexual favor." But it is not necessary that the demand, request or requirement of a sexual favor be articulated in a categorical oral or written statement. It may be discerned, with equal certitude, from the acts of the offender. Holding and squeezing Domingo's shoulders, running his fingers across her neck and tickling her ear, having inappropriate conversations with her, giving her money allegedly for school expenses with a promise of future privileges, and making statements with unmistakable sexual overtones – all these acts of Rayala resound with deafening clarity the unspoken request for sexual favor.

(underscoring supplied)

In SB-17-CRM-1806, the accused ordered Bersonda to go inside his room, locked the door, and made her watch while he and Glacy engaged in sexual intercourse. Taken together with the accused' invitation to do a threesome, and his verbalization of his intention to watch Bersonda and Glacy perform sexual activities on the following day, it is unmistakable that his acts constitute an unspoken request for sexual favors.

¹⁰ Decision dated August 20, 2020, pp. 44-45



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In SB-17-CRM-1807 and 1808, the accused act of undressing in front of Suico had obvious sexual overtones. In the October 22, 2013 incident, he asked Suico to wipe his bare back with his shirt. Such task was not part of Suico's official functions as his secretary. But even assuming that his order to wipe his back was made without malice, the fact that he removed his shorts and brief while Suico was still wiping his back betrays the sexual nature of his conduct. This was further reinforced when he asked Suico to give him a bath upon his return to the office, and his act of calling Suico into his room, and while naked, smelling his brief in front of her.

In the October 25, 2013 incident, the accused, while naked, applied lotion to his private part in front of Suico. He then asked her how she felt upon seeing him naked, and asked her to compare the size of his genitals with that of her husband. Thereafter, he told her not to tell her husband about the incident.

The accused' acts involving Suico were different from those described by Guinomon, who testified that he saw the accused naked several instances when he entered the accused' room unannounced while the accused was changing clothes. In the situation described by Guinomon, there was no malice and there was no intention on the part of the accused to undress in front of his subordinate. In contrast, Suico did not enter the accused' inner room uninvited.

On October 22, 2013, Suico entered the accused' room precisely because the accused asked her to prepare his uniform, which was inside said room. Again, assuming that the order to wipe his bare back was innocent, the accused would have waited for Suico to finish wiping his back, or would have asked her to leave the room so he could change his clothes. But instead, the accused deliberately removed his shorts and brief while Suico was still wiping his back.

On October 25, 2013, the accused called Suico into his room. He had the expectation that his subordinate will follow his order. Even without his utterances or the act of applying lotion to his private part, knowing that Suico would be entering the room, his act of undressing in front of her could not have been an innocent or unintentional act.

The accused' acts resulted in an intimidating, hostile or offensive environment for Bersonda and Suico, such that they transferred to other units as soon as they had the opportunity to do so for fear that the accused may repeat the acts complained of, as he did during the October 25, 2013 incident.

A handwritten signature in black ink, appearing to be a stylized name, possibly 'J. M. V.', located at the bottom right of the page.

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A reading of Sec. 3(a) of R.A. No. 7877 would show that the offender may be convicted if the acts resulted in an intimidating, hostile, or offensive environment for the employee. The provision reads:

Sec. 3. Work, Education or Training-related Sexual Harassment Defined. – Work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

(a) In a work-related or employment environment, sexual harassment is committed when:

- (1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;
- (2) The above acts would impair the employee's rights or privileges under existing labor laws; or
- (3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

(emphasis and underscoring supplied)

It is clear from the aforementioned provision that Sexual Harassment is committed when the circumstances described in (1), (2), or (3) result from the offender's acts. Furthermore, this matter had long been settled in *Domingo v. Rayala*.¹¹ To wit:

Likewise, contrary to Rayala's claim, it is not essential that the demand, request or requirement be made as a condition for continued employment or for promotion to a higher position. It is enough that the respondent's acts result in creating an intimidating, hostile or offensive environment for the employee. That the acts of Rayala generated an intimidating and hostile environment for

¹¹ G.R. Nos. 155831, 155840 and 158700, February 18, 2008

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Domingo is clearly shown by the common factual finding of the Investigating Committee, the OP and the CA that Domingo reported the matter to an officemate and, after the last incident, filed for a leave of absence and requested transfer to another unit.

(underscoring supplied)

The award of moral damages is proper.

Articles 2217 and 2219 of the Civil Code, on moral damages, provide:

Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

Art. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in article 309;
- (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34 and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

(underscoring supplied)

It had been established that the accused' acts resulted in an intimidating, hostile or offensive environment for Bersonda and Suico, such that they transferred to other units because they were afraid that

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the accused may repeat the acts complained of. And although it has been held that Sexual Harassment is not the violation of the employee's sexuality, but the abuse of power by the offender,¹² the accused' acts were lascivious or lewd in nature.

In *Amplayo v. People*,¹³ the Supreme Court explained the term "lewd" in relation to Art. 336¹⁴ of the Revised Penal Code. To wit:

The term "lewd" is commonly defined as something indecent or obscene; it is characterized by or intended to excite crude sexual desire. That an accused is entertaining a lewd or unchaste design is necessarily a mental process the existence of which can be inferred by overt acts carrying out such intention, *i.e.*, by conduct that can only be interpreted as lewd or lascivious. The presence or absence of lewd designs is inferred from the nature of the acts themselves and the environmental circumstances. x x x

As this Court found in the assailed Decision, the accused' acts had sexual overtones, and were improper in the workplace.

At any rate, in *Jacutin v. People*,¹⁵ wherein the Sandiganbayan found therein accused guilty beyond reasonable doubt of Sexual Harassment under R.A. No. 7877, the Supreme Court did not find the award of moral and exemplary damages improper, but merely reduced the amount of damages awarded. It was held:

Conformably with prevailing jurisprudence, the grant of moral and exemplary damages by the Sandiganbayan must be tempered to reasonable levels. Moral damages are not intended to enrich a complainant but are awarded only to enable an injured party obtain some means that would help obviate the sufferings sustained on account of the culpable action of an offender. Its award must not appear to be the result of passion or undue prejudice, and it must always reasonably approximate the extent of injury and be proportional to the wrong committed. x x x

Applying the standard set in *Jacutin*, this Court found that Five Thousand Pesos (P5,000.00) awarded to each private offended party,

¹² Please see *Philippine Aeolus Automotive United Corporation v. National Labor Relations Commission*, G.R. No. 124617, April 28, 2000

¹³ G.R. No. 157718, April 26, 2005

¹⁴ Art. 336. *Acts of lasciviousness*. – Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prisión correccional*.

¹⁵ G.R. No. 140604, March 6, 2002

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for each count of Sexual Harassment, by way of moral damages, is a reasonable amount under the circumstances.

In fine, the Court finds nothing in the accused' *Motion for Reconsideration* that would warrant the reversal of the Decision dated August 20, 2020.

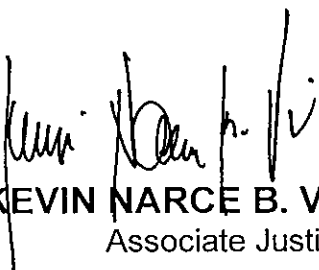
WHEREFORE, the accused' *Motion for Reconsideration* is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice