

## THIRD DIVISION

[ G.R. No. 211962, July 06, 2020 ]

**JOSE ROMEO C. ESCANDOR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### RESOLUTION

**LEONEN, J.:**

At the core of sexual harassment in the workplace, as penalized by Republic Act No. 7877, otherwise known as the Anti-Sexual Harassment Act of 1995, is abuse of power by a superior over a subordinate.<sup>[1]</sup> Sexual harassment engenders three-fold liability: criminal, to address the wrong committed against society itself; civil, to address the private wrong against the offended party; and administrative, to protect the public service.<sup>[2]</sup> Courts and administrative bodies should not hesitate to penalize insidious acts of sexual harassment, especially when committed by high-ranking public officers.

This resolves a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure filed by petitioner Jose Romeo C. Escandor (Escandor). He prays for the reversal of the assailed October 17, 2013 Decision<sup>[3]</sup> and February 28, 2014 Resolution<sup>[4]</sup> of the Special Third Division of the Sandiganbayan. The assailed Decision found Escandor guilty beyond reasonable doubt of the offense of sexual harassment as penalized by the Anti-Sexual Harassment Act. The assailed Resolution, denied Escandor's Motion for Reconsideration.

Escandor was the Regional Director of the National Economic and Development Authority Region 7, Cebu City from August 16, 1992 to October 31, 2005. Private complainant Cindy Sheila C. Gamallo (Gamallo) was a contractual employee of the National Economic and Development Authority Region 7 for the United Nations Children's Fund assisted Fifth Country Program for Children from March 1995 to December 2003.<sup>[5]</sup>

In an Information<sup>[6]</sup> dated March 21, 2007, Escandor was charged with violating Republic Act No. 7877 as follows:

That in *(sic)* or about the period from the month of July 1999 until November 2003, at Cebu City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused JOSE ROMEO C. ESCANDOR, a public officer, being the Regional Director of NEDA Regional Office No. 7, based in Sudlon, Lahug, Cebu City (SG-28), in such capacity and committing the offense in relation to his official functions and taking advantage of his position, and with grave abuse of authority, with deliberate intent, with evident bad faith, did then and there willfully, unlawfully and criminally perform or make a series of unwelcome sexual

advances or verbal or physical behaviour of sexual nature, and demand, solicit, and request sexual favors from Mrs. Cindy Sheila Cobarde-Gamallo, then a Contractual Employee of the NEDA Regional Office No. 7 for the UNICEF-assisted Fifth Country Program for Children (CPC V), and, thus, the accused's subordinate, thereby exercising authority, influence or moral ascendancy over said Mrs. Cindy Sheila Cobarde-Gamallo in her working place, namely **by: telling her that he has fallen in love with her and has been attracted to her for a long time already, maliciously grabbing her hands, embracing her and planting a kiss on her forehead; telling her that if it were possible, he would have prevented her marriage with her husband; asking her for a date; groping her thigh; sending her winpop messages showing his amorous concern for her; on the office Christmas party of 2002, by grabbing her on a stairway and kissing her on the lips; giving her gifts of chocolates, wine and a bracelet on that same Christmas, and consistently throughout this time, sending her text messages suggestive of sex; which acts of the accused resulted to an intimidating, hostile, or offensive environment as these caused discomfort and humiliation on his subordinate, Ms. Cindy Sheila Cobarde-Gamallo,** adversely affecting her and her family, thus constituting sexual harassment.<sup>[7]</sup> (Emphasis supplied)

In her Complaint-Affidavit,<sup>[8]</sup> Gamallo averred that the first incident of sexual harassment happened one afternoon in July 1999, when Escandor called her in his office.<sup>[9]</sup> There, Escandor apologized for his temper the previous day when he got angry at Gamallo for the delay in the payment of her salary. Escandor, who was standing near his computer, then asked Gamallo to approach him. When she did, he "grabbed her hand, embraced her, and kissed her on the forehead."<sup>[10]</sup>

Gamallo further narrated the succeeding incidents of sexual harassment, as follows:

9. One day sometime in 2000 RD Escandor called me to his office. . . . Then he said that I deserved to be happy, that I am beautiful and smart and that many men admired me. . . . To my great horror, he told me he had been attracted to me for a long time and if it was only possible, he would have prevented me from marrying Mark. ... He said he liked the way I walked . . . He declared I was the kind of woman he wanted. . .

10. In the afternoon of the same day, ... he gently said he loved me and he could no longer hold back his attraction to me. . . . Suddenly, I felt his hand on my thigh.<sup>[11]</sup>

After these incidents, Gamallo told her colleague, Lina Villamor, about what Escandor did to her.<sup>[12]</sup>

Escandor's alleged advances continued in the succeeding days, when Escandor would frequently ask Gamallo personal questions such as her mood, what she did at home and during weekends, and details about her family, among others.<sup>[13]</sup> Because of the frequency of Escandor summoning Gamallo to his office, Gamallo related the incidents to Rafael Tagalog (Tagalog), her immediate superior. Together with Villamor, Tagalog helped Gamallo avoid situations where she would be alone

with Escandor. Whenever Escandor would look for Gamallo, either Tagalog or Villamor would accompany her to his office.<sup>[14]</sup>

However, Escandor's alleged advances did not stop. He incessantly sent Gamallo unsolicited messages through Winpop, an intra-office messaging system, such as "Hello," "How are you today," "I miss you," "You look beautiful," "You look nice in your dress," and "I love you more every day."<sup>[15]</sup> When Gamallo did not reply to these messages, Escandor threatened her that she would be removed from the meeting list.<sup>[16]</sup>

During their Christmas party in 2000, Gamallo claimed she felt conscious as Escandor stared at her during her dance performance with her officemates. After the party, she went to get her things from the third floor of the office and when she reached the guard's station, Escandor was there. Upon reaching him, he grabbed her and was about to kiss her on the lips. However, she moved away and the kiss landed on her left cheek. Gamallo then ran downstairs where Villamor was waiting for her.<sup>[17]</sup> In the same year's Christmas, Gamallo received chocolates, wine, an agenda book and a bracelet from Escandor.<sup>[18]</sup> A few days after, Gamallo told then Asst. Regional Director of the National Economic Development Sandra Manuel (Manuel) about the incidents. Manuel advised her not to resign, but made arrangements with Tagalog and Villamor to guard her.<sup>[19]</sup>

In February 2001, while in Cebu for a workshop, Escandor tracked Gamallo and Villamor to a folk house near their hotel. He did not make any advances but insisted to pay for their drinks, which Gamallo and Villamor refused.<sup>[20]</sup>

Escandor's sexual advances allegedly continued, until Gamallo finally quit her job in November 2003.<sup>[21]</sup>

Three colleagues testified to corroborate Gamallo's account.<sup>[22]</sup> Villamor testified that not only had Gamallo told her about Escandor's sexual advances, but that she herself saw Escandor make such overtures, causing Gamallo great distress to the point of reducing her to tears.<sup>[23]</sup> She said that after those instances, she tried to prevent Gamallo from being left alone with Escandor.<sup>[24]</sup>

Tagalog claimed that he, too, found out about the sexual harassment after he saw Escandor commit "some improper acts and advances... to wards Gamallo."<sup>[25]</sup> He said that "he counseled her to give Escandor the benefit of the doubt [since] he might be undergoing a midlife crisis."<sup>[26]</sup> Still, as Gamallo's immediate superior, he said he did his best to "protect her from Escandor."<sup>[27]</sup>

Finally, Manuel averred that in 2000, she also learned of Escandor's indiscretions— first, when Villamor told her, and second, when Gamallo herself confided in her.<sup>[28]</sup> She said that while she "dissuaded Gamallo from resigning," she "reported the matter to the [National Economic and Development Authority] Deputy Director General."<sup>[29]</sup> This caused the latter to confront Escandor.<sup>[30]</sup> Escandor, learning about her action "accused her of disloyalty and told her to resign from NEDA."<sup>[31]</sup>

In his defense,<sup>[32]</sup> Escandor testified that he never engaged in the acts recounted by Gamallo. He claimed that the acts allegedly committed by him are "pure fabrication."<sup>[33]</sup> He explained that his office was always open and its inside was visible from the outside, as their office was designed such that every room would have one door beside a large glass window measuring around four by six feet, making the people inside visible.<sup>[34]</sup> He also claimed that he could not have harassed Gamallo as his wife, who was employed at the same office, could also see the things happening in his office, just like the other employees.<sup>[35]</sup>

According to Escandor, the filing of the Complaint was part of an effort by a group of disgruntled employees to remove him and his wife from office.<sup>[36]</sup> He averred that the Complaint was also filed in retaliation to the filing of administrative cases against Gamallo's husband, Atty. Russ Mark Gamallo (Atty. Gamallo), who was also a National Economic and Development Authority employee.<sup>[37]</sup>

To prove this scheme against him, Escandor presented as lone witness John Louis Savellon, a utility worker at the National Economic and Development Authority, who testified that some of his officemates asked for his support to oust Escandor.<sup>[38]</sup> When he declined, Atty. Gamallo and a certain Mark Cabadsan harassed him. He also said that he heard someone say in the library, "*Tan awa nato asa kutob si Escandor kini kafil sa sexual harassment cases*" (Let us see how far Escandor can go when the sexual harassment cases are filed).<sup>[39]</sup>

Escandor also questioned Gamallo's credibility, averring that her acts when she was still with the National Economic and Development Authority were inconsistent with her claims of sexual harassment. Escandor questioned Gamallo's signature in a Memorandum Petition indorsed to the Director General of the National Economic and Development Authority in October 2000 against the demand of Senator Osmena for Escandor's ouster.<sup>[40]</sup> Escandor also questioned Gamallo's March 2003 application to be his secretary.<sup>[41]</sup>

On October 17, 2013, the Sandiganbayan rendered a Decision<sup>[42]</sup> finding Escandor guilty of sexual harassment. It found that the prosecution was able to prove the elements of sexual harassment as defined and punished under Republic Act No. 7877.<sup>[43]</sup> It gave credence to Gamallo's testimony, noting that "there is nothing in the records that would indicate that Gamallo is dishonest or untruthful."<sup>[44]</sup>

The Sandiganbayan also noted that Escandor presented only one corroborating witness, despite identifying several individuals who were allegedly present during the incidents of sexual harassment:

Escandor's testimony identifies several people who were allegedly present during the incidents recounted by Gamallo - Mrs. Escandor, his secretary, the other staff, the security guard, and so on. However, with the exception of Mrs. Escandor whose testimony was excluded, it is unfortunate for the accused that only Savellon could corroborate part of his defense that the NEDA employees allegedly schemed to oust Escandor from office. It is unbelievable, to say the least, that Escandor, a person of high rank at the NEDA, could not find other witnesses to refute

Gamallo's claims, while the complainant was able to gather witnesses who testified on her behalf.<sup>[45]</sup>

The Sandiganbayan disposed of the case in the following manner:

WHEREFORE, in view of the foregoing, the accused Jose Romeo C. Escandor is found GUILTY beyond reasonable doubt and is sentenced to imprisonment for six (6) months and to pay a fine of Twenty Thousand Pesos (P20,000.00), with subsidiary imprisonment in case of insolvency.<sup>[46]</sup>

Escandor filed a Motion for Reconsideration,<sup>[47]</sup> where he stated that the Sandiganbayan erred in ignoring undisputed evidence and established facts on record showing the belated filing of the Complaint. He averred that the Decision "contravened the exacting test in assessing the credibility of a sexual harassment complaint."<sup>[48]</sup> He also stated that the Sandiganbayan erroneously disregarded the doctrinally settled rule in evaluating major self-contradictions and irreconcilable inconsistencies.<sup>[49]</sup> His motion was denied by the Sandiganbayan in its February 28, 2014 Resolution.<sup>[50]</sup>

Hence, this petition.

Petitioner insists that the evidence fails to establish his guilt beyond reasonable doubt.<sup>[51]</sup> He likewise assails his conviction as having been made for an offense which was never charged in the Information since Gamallo testified to events that supposedly transpired during the Christmas Party in 2000, whereas the Information alleged sexual harassment for events that supposedly transpired during the Christmas party in 2002.<sup>[52]</sup> He claims that this amounts to a violation of his constitutional right to be informed of the nature and the cause of accusation against him.<sup>[53]</sup>

He further assails his conviction based on a complaint that was filed after the lapse of the three (3) year prescriptive period under Section 7 of Republic Act No. 7877.<sup>[54]</sup>

For resolution are the following issues:

First, whether or not Jose Romeo C. Escandor's guilt for sexual harassment under Republic Act No. 7877 has been established beyond reasonable doubt.

Second, whether or not the discrepancy in the date of the Christmas party in which some complained act/s were allegedly committed suffices to absolve Jose Romeo C. Escandor of liability.

Third, whether or not the Complaint against Jose Romeo C. Escandor was filed on time.

### **I (A)**

Republic Act No. 7877, otherwise known as the Anti-Sexual Harassment Act of 1995, was the first criminal statute enacted in the Philippines to penalize sexual