

THIRD DIVISION

[G.R. No. 140604, March 06, 2002]

**DR. RICO S. JACUTIN, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

VITUG, J.:

In an accusatory Information, dated 22 July 1996, petitioner, City Health Officer Rico Jacutin of Cagayan de Oro City, was charged before the Sandiganbayan, Fourth Division, with the crime of Sexual Harassment, thusly:

“That sometime on or about 01 December 1995, in Cagayan de Oro City, and within the jurisdiction of this Honorable Court pursuant to the provisions of RA 7975, the accused, a public officer, being then the City Health Officer of Cagayan de Oro City with salary grade 26 but a high ranking official by express provision of RA 7975, committing the offense in relation to his official functions and taking advantage of his position, did there and then, willfully, unlawfully and criminally, demand, solicit, request sexual favors from Ms. Juliet Q. Yee, a young 22 year-old woman, single and fresh graduate in Bachelor of Science in Nursing who was seeking employment in the office of the accused, namely: by demanding from Ms. Yee that she should, expose her body and allow her private parts to be mashed and stimulated by the accused, which sexual favor was made as a condition for the employment of Ms. Yee in the Family Program of the Office of the accused, thus constituting sexual harassment.”^[1]

Upon his arraignment, petitioner pled not guilty to the offense charged; hence, trial proceeded.

Juliet Q. Yee, then a 22-year old fresh graduate of nursing, averred that on 28 November 1995 her father accompanied her to the office of petitioner at the City Health Office to seek employment. Juliet’s father and petitioner were childhood friends. Juliet was informed by the doctor that the City Health Office had just then filled up the vacant positions for nurses but that he would still see if he might be able to help her.

The following day, 29 November 1995, Juliet and her father returned to the City Health Office, and they were informed by petitioner that a medical group from Texas, U.S.A., was coming to town in December to look into putting up a clinic in Lapasan, Cagayan de Oro, where she might be considered. On 01 December 1995, around nine o’clock in the morning, she and her father went back to the office of petitioner. The latter informed her that there was a vacancy in a family planning project for the city and that, if she were interested, he could interview her for the job. Petitioner then started putting up to her a number of questions. When asked

at one point whether or not she already had a boyfriend, she said "no." Petitioner suggested that perhaps if her father were not around, she could afford to be honest in her answers to the doctor. The father, taking the cue, decided to leave. Petitioner then inquired whether she was still a virgin, explaining to her his theory on the various aspects of virginity. He "hypothetically" asked whether she would tell her family or friends if a male friend happened to intimately touch her. Petitioner later offered her the job where she would be the subject of a "research" program. She was requested to be back after lunch.

Before proceeding to petitioner's office that afternoon, Juliet dropped by at the nearby church to seek divine guidance as she felt so "confused." When she got to the office, petitioner made several telephone calls to some hospitals to inquire whether there was any available opening for her. Not finding any, petitioner again offered her a job in the family planning research undertaking. She expressed hesitation if a physical examination would include "hugging" her but petitioner assured her that he was only kidding about it. Petitioner then invited her to go bowling. Petitioner told her to meet him at Borja Street so that people would not see them on board the same car together. Soon, at the designated place, a white car driven by petitioner stopped. She got in. Petitioner held her pulse and told her not to be scared. After dropping by at his house to put on his bowling attire, petitioner got back to the car.

While driving, petitioner casually asked her if she already took her bath, and she said she was so in a hurry that she did not find time for it. Petitioner then inquired whether she had varicose veins, and she said "no." Petitioner told her to raise her foot and lower her pants so that he might confirm it. She felt assured that it was all part of the research. Petitioner still pushed her pants down to her knees and held her thigh. He put his hands inside her panty until he reached her pubic hair. Surprised, she exclaimed "*hala ka!*" and instinctively pulled her pants up. Petitioner then touched her abdomen with his right hand saying words of endearment and letting the back of his palm touch her forehead. He told her to raise her shirt to check whether she had nodes or lumps. She hesitated for a while but, eventually, raised it up to her navel. Petitioner then fondled her breast. Shocked at what petitioner did, she lowered her shirt and embraced her bag to cover herself, telling him angrily that she was through with the research. He begged her not to tell anybody about what had just happened. Before she alighted from the car, petitioner urged her to reconsider her decision to quit. He then handed over to her P300.00 for her expenses.

Arriving home, she told her mother about her meeting with Dr. Jacutin and the money he gave her but she did not give the rest of the story. Her mother scolded her for accepting the money and instructed her to return it. In the morning of 04 December 1994, Juliet repaired to the clinic to return the money to petitioner but she was not able to see him until about one o'clock in the afternoon. She tried to give back the money but petitioner refused to accept it.

A week later, Juliet told her sister about the incident. On 16 December 1995, she attempted to slash her wrist with a fastener right after relating the incident to her mother. Noticing that Juliet was suffering from some psychological problem, the family referred her to Dr. Merlita Adaza for counseling. Dr. Adaza would later testify that Juliet, together with her sister, came to see her on 21 December 1995, and that Juliet appeared to be emotionally disturbed, blaming herself for being so stupid as

to allow Dr. Jacutin to molest her. Dr. Adaza concluded that Juliet's frustration was due to post trauma stress.

Petitioner contradicted the testimony of Juliet Yee. He claimed that on 28 November 1995 he had a couple of people who went to see him in his office, among them, Juliet and her father, Pat. Justin Yee, who was a boyhood friend. When it was their turn to talk to petitioner, Pat. Yee introduced his daughter Juliet who expressed her wish to join the City Health Office. Petitioner replied that there was no vacancy in his office, adding that only the City Mayor really had the power to appoint city personnel. On 01 December 1995, the afternoon when the alleged incident happened, he was in a meeting with the Committee on Awards in the Office of the City Mayor. On 04 December 1995, when Juliet said she went to his office to return the P300.00, he did not report to the office for he was scheduled to leave for Davao at 2:35 p.m. to attend a hearing before the Office of the Ombudsman for Mindanao. He submitted in evidence a photocopy of his plane ticket. He asserted that the complaint for sexual harassment, as well as all the other cases filed against him by Vivian Yu, Iryn Salcedo, Mellie Villanueva and Pamela Rodis, were but forms of political harassment directed at him.

The Sandiganbayan, through its Fourth Division, rendered its decision, dated 05 November 1999, penned by Mr. Justice Rodolfo G. Palattao, finding the accused, Dr. Rico Jacutin, guilty of the crime of Sexual Harassment under Republic Act No. 7877. The Sandiganbayan concluded:

"WHEREFORE, judgment is hereby rendered, **convicting** the accused RICO JACUTIN Y SALCEDO of the crime of Sexual Harassment, defined and punished under R.A. No. 7877, particularly Secs. 3 and 7 of the same Act, properly known as the Anti-Sexual Harassment Act of 1995, and is hereby sentenced to suffer the penalty of imprisonment of six (6) months and to pay a fine of Twenty Thousand (P20,000.00) Pesos, with subsidiary imprisonment in case of insolvency. Accused is further ordered to indemnify the offended party in the amount of Three Hundred Thousand (P300,000.00) Pesos, by way of moral damages; Two Hundred Thousand (P200,000.00) Pesos, by way of Exemplary damages and to pay the cost of suit."^[2]

In the instant recourse, it is contended that -

"I. Petitioner cannot be convicted of the crime of sexual harassment in view of the inapplicability of Republic Act No. 7877 to the case at bar.

"II. Petitioner [has been] denied x x x his constitutional right to due process of law and presumption of innocence on account of the insufficiency of the prosecution evidence to sustain his conviction."^[3]

The above contentions of petitioner are not meritorious. Section 3 of Republic Act 7877 provides:

"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.”

Petitioner was the City Health Officer of Cagayan de Oro City, a position he held when complainant, a newly graduated nurse, saw him to enlist his help in her desire to gain employment. He did try to show an interest in her plight, her father being a boyhood friend, but finding no opening suitable for her in his office, he asked her about accepting a job in a family planning research project. It all started from there; the Sandiganbayan recited the rest of the story:

“x x x. Succeeding in convincing the complainant that her physical examination would be a part of a research, accused asked complainant if she would agree that her private parts (bolts) would be seen. Accused assured her that with her cooperation in the research, she would gain knowledge from it. As complainant looked upon the accused with utmost reverence, respect, and paternal guidance, she agreed to undergo the physical examination. At this juncture, accused abruptly stopped the interview and told the complainant to go home and be back at 2:00 o’clock in the afternoon of the same day, December 1, 1995. Complainant returned at 2:00 o’clock in the afternoon, but did not proceed immediately to the office of the accused, as she dropped by a nearby church to ask divine guidance, as she was confused and at a loss on how to resolve her present predicament. At 3:00 o’clock in the afternoon, she went back to the office of the accused. And once inside, accused called up a certain Madonna, inquiring if there was a vacancy, but he was told that she would only accept a registered nurse. Complainant was about to leave the office of the accused when the latter prevailed upon her to stay because he would call one more hospital. In her presence, a call was made. But again accused told her that there was no vacancy. As all efforts to look for a job in other hospitals failed, accused renewed the offer to the complainant to be a part of the research in the Family Planning Program where there would be physical examination. Thereafter, accused motioned his two (2) secretaries to go out of the room. Upon moving closer to the complainant, accused asked her if she would agree to the offer. Complainant told him she would not agree because the research included hugging. He then assured her that he was just kidding and that a pre-schooler and high schooler have already been subjected to such examination. With assurance given, complainant changed her mind and agreed to the research, for she is