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WHEREFORE, the Petition for *Certiorari* is **DISMISSED**.
SO ORDERED.

Hernando, Carandang, Zalameda, and Gaerlan, JJ.*, concur.

THIRD DIVISION

[G.R. No. 211962. July 6, 2020]

JOSE ROMEO C. ESCANDOR, *petitioner*, vs. **PEOPLE OF THE PHILIPPINES**, *respondent*.

SYLLABUS

- 1. CRIMINAL LAW; ANTI-SEXUAL HARASSMENT ACT OF 1995 (RA NO. 7877); AN ACT OF SEXUAL HARASSMENT MAY RESULT IN THREE DISTINCT LIABILITIES: CRIMINAL, CIVIL AND ADMINISTRATIVE.**— 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 harassment. It was adopted pursuant to the declared policy that “the State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education.” x x x Under Republic Act No. 7877, an act of sexual harassment may result in three distinct liabilities: criminal, civil, and administrative. An action for each can proceed independently of the others. In a criminal action, the accused is prosecuted for a wrong committed against society itself or the State whose law he or she violated. In a civil action, a defendant is sued by the plaintiff in an effort to correct a private wrong. The purpose of an administrative

* Designated additional Member per Raffle dated July 1, 2020.

action, on the other hand, is to protect the public service by imposing administrative sanctions to an erring public officer.

2. **ID.; ID.; SEXUAL HARASSMENT; ELEMENTS.**— Sexual harassment as defined and penalized under Republic Act No. 7877 requires three elements for an accused to be convicted: (1) that the employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person has *authority, influence, or moral-ascendancy* over another; (2) the authority, influence, or moral ascendancy exists in a *work-related, training-related, or education-related environment*, and (3) the employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who has authority, influence, or moral-ascendancy over another *makes a demand, request, or requirement of a sexual favor*.
3. **ID.; ID.; ID.; SEXUAL HARASSMENT IS MALUM PROHIBITUM.**— Since Republic Act No. 7877 is a special criminal statute, the offense of sexual harassment is *malum prohibitum*. Thus, in prosecuting an offender for sexual harassment, intent is immaterial. Mere commission is sufficient to warrant a conviction. The Court explained in *Narvasa v. Sanchez* the reason why, even without intent, sexual harassment is penalized: Assuming *arguendo* that respondent never intended to violate [Republic Act No.] 7877, his attempt to kiss petitioner was a *flagrant disregard of a customary rule that had existed since time immemorial — that intimate physical contact between individuals must be consensual. Respondent’s defiance of custom and lack of respect for the opposite sex were more appalling because he was a married man*. Respondent’s act showed a low regard for women and disrespect for petitioner’s honor and dignity. This is in contrast with crimes *mala in se*, which are so serious in their effects on society as to call for almost unanimous condemnation of its members. In crimes *mala in se*, the intent governs; but in *mala prohibita*, the only inquiry is whether the law has been violated.
4. **ID.; ID.; ID.; PENALTIES.**— Conviction under Republic Act No. 7877 subjects the offender to criminal penalties. Under Section 7, any person who violates the law shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than ₱10,000.00

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nor more than P20,000.00, or both such fine and imprisonment at the discretion of the court. Since in a criminal action, the State prosecutes the accused for an act or omission punishable by law, the action is commenced by filing the complaint with the regular courts or the office of prosecutor. The criminal action arising from violation of the provisions of Republic Act No. 7877 prescribes in three (3) years.

- 5. ID.; ID.; ID.; THE OFFENDED PARTY MAY PURSUE A SEPARATE CIVIL ACTION.**— Criminal liability for sexual harassment notwithstanding, the offended party may pursue a separate civil action. x x x Civil liability arises from the damage or injury caused by the felonious act. Thus, in a civil action, the real party plaintiff is the offended party, while in a criminal action, the plaintiff is the “People of the Philippines.” Furthermore, the quantum of evidence required in a civil action is mere “preponderance of evidence,” in contrast to “proof beyond reasonable doubt” which is required for conviction in a criminal action. Being independent from criminal action, the conviction or acquittal of the accused is not a bar to an independent suit for damages in a civil action. Accordingly, in *London v. Baguio Country Club*, this Court allowed an independent action for damages against the accused despite the existence of an ongoing criminal case.
- 6. ID.; ID.; ID.; ID.; THE EMPLOYER OR THE HEAD OF OFFICE OR INSTITUTION MAY ALSO BE IMPEADED IN AN INDEPENDENT ACTION FOR DAMAGES.**— Aside from the actual perpetrator, the employer, or the head of office or institution may also be impleaded in an independent action for damages. They would be solidarily liable for damages if they did not take immediate action on a sexual harassment complaint. Section 4 of Republic Act No. 7877 requires the employer or head of office to promulgate appropriate rules and regulations to prevent the commission of acts of sexual harassment and to provide procedures for the resolution, settlement or prosecution of acts of sexual harassment. In the government, the Civil Service Commission promulgated CSC Resolution No. 01-0940, otherwise known as the Administrative Disciplinary Rules on Sexual Harassment Cases, which apply to all government officials and employees. For the private sector, each organization’s rules promulgated in accordance with Section 4 shall apply.

7. **ID.; ID.; EMPLOYERS AND HEADS OF OFFICES ARE REQUIRED TO CREATE A COMMITTEE ON DECORUM AND INVESTIGATION OF CASES ON SEXUAL HARASSMENT.**— Section 4(b) of Republic Act No. 7877 further requires employers and heads of offices to create a “committee on decorum and investigation of cases on sexual harassment.” Pursuant to this, all national or local agencies of the government, state colleges and universities, including government-owned or controlled corporations, were required to create their own Committee on Decorum and Investigation. Unlike in criminal and civil actions which are brought before regular courts, an administrative action is commenced by filing a complaint with the disciplining authority or agency, or with the Committee on Decorum and Investigation, which shall receive and investigate sexual harassment complaints. x x x Unlike in a criminal action where the penalty is a fine, imprisonment, or both, the penalty in an administrative action is, at most, dismissal, from the service. This is because an administrative action seeks to protect the public service by imposing administrative sanctions to the erring public officer.
8. **ID.; ID.; AT THE CORE OF SEXUAL HARASSMENT IN THE WORKPLACE IS POWER EXERCISED BY A SUPERIOR OVER A SUBORDINATE.**— At the core of sexual harassment in the workplace is power exercised by a superior over a subordinate. The power emanates from how the superior can remove or disadvantage the subordinate should the latter refuse the superior’s sexual advances. Thus, sexual harassment is committed when the sexual favor is made as a condition in the hiring of the victim or the grant of benefits thereto; or when the sexual act results in an intimidating, hostile, or offensive environment for the employee.
9. **REMEDIAL LAW; EVIDENCE; FACTUAL FINDINGS OF THE TRIAL COURT, RESPECTED.**— Factual findings of the trial court on the credibility of witnesses and their testimonies are entitled to great respect. These findings will not be disturbed in the absence of any clear showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances. This is because trial provides judges with the “opportunity to detect, consciously or unconsciously, observable cues and micro expressions that could, more than the words said and taken as a whole, suggest sincerity or betray lies and ill will.” x x x The

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Sandiganbayan, being the court which conducted trial, “is in the best position to determine the truthfulness of witnesses.” Indeed, this court must “give the highest respect to [its] the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand.” x x x When the victim’s testimony is straightforward, convincing, consistent with human nature, and unflawed by any material or significant controversy, it passes the test of credibility and the accused may be convicted solely on the basis thereof.

10. ID.; CRIMINAL PROCEDURE; INFORMATION; THE TIME OF THE COMMISSION OF THE OFFENSE MUST BE ALLEGED AND DEFECT THEREIN MUST BE ASSAILED BEFORE ARRAIGNMENT; HOWEVER, PRECISE DATE NEED NOT BE STATED EXCEPT WHEN IT IS A MATERIAL INGREDIENT OF THE OFFENSE.

— Rule 110, Section 11 of the Rules of Court requires that the time of the commission of the offense must be alleged as near to the actual date as the information will permit; otherwise, the right of the accused to be informed would be violated. The accused must raise the issue of defective information in a motion to quash or bill of particulars, which may only be filed before arraignment. Petitioner failed to assail the Information within the permitted period. Thus, it is now too late for him to claim that the information was defective. When the accused fails, before arraignment, to move for the quashal of such information and goes to trial thereunder, he thereby waives the objection and may be found guilty of as many offenses as those charged in the information and proved during trial. Assuming he is permitted to assail the Information, it is still not defective. Rule 110, Section 11 of the Revised Rules of Criminal Procedure specifically provides that it is not necessary to state in the information the precise date that the offense was committed except when it is a material ingredient of the offense. In this case, the time of the commission of the offense is not an essential element under Republic Act No. 7877. Thus, the phrase “on or about” in the information does not require the prosecution to prove any precise date.

11. CRIMINAL LAW; ANTI-SEXUAL HARASSMENT ACT OF 1995 (RA 7877); SEXUAL HARASSMENT; NOT NEGATED BY DELAY IN REPORTING THE CRIME.— Escandor assails his conviction citing “unreasonable delay and silence”

as it was only initiated five years after the alleged incidents. x x x There is no time period within which a victim is expected to complain about sexual harassment. The time to do so may vary depending upon the needs, circumstances, and more importantly, the emotional threshold of the employee. x x x Neither has prescription set in by the time Gamallo filed her Complaint Affidavit on September 4, 2004. Escandor's acts of sexual harassment persisted until December 2003, the end of Gamallo's employment with the National Economic and Development Authority Region 7. By the time she filed her Complaint-Affidavit, only about nine (9) months had lapsed. This is well-within the three (3) years permitted by Section 7 of Republic Act No. 7877 within which an action under the same statute may be pursued.

APPEARANCES OF COUNSEL

Alvarez Nuez Galang Espina & Lopez for petitioner.
Office of the Special Prosecutor for respondent.

D E C I S I O N

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.¹ 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.² Courts and

¹ In *Floralde v. Court of Appeals*, 392 Phil. 146, 150 (2000) [Per J. Pardo, *En Banc*]:

Sexual harassment in the workplace is not about a man taking advantage of a woman by reason of sexual desire; it is about power being exercised by a superior officer over his women subordinates. The power emanates from the fact that the superior can remove the subordinate from his workplace if the latter would refuse his amorous advances. (Emphasis supplied)

² In *Domingo v. Rayala*, 569 Phil. 423, 447 (2008) [Per J. Nachura, Third Division]:

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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 Decision³ and February 28, 2014 Resolution⁴ 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 2003.⁵

In an Information⁶ 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

Basic in the law of public officers is the *three-fold liability rule*, which states that the wrongful acts or omissions of a public officer may give rise to civil, criminal and administrative liability. An action for each can proceed independently of the others. *This rule applies with full force to sexual harassment.* (Emphasis supplied)

³ *Rollo*, at pp. 59-94.

⁴ *Id.* at 96-100.

⁵ *Id.* at 61.

⁶ *Id.* at 103-107.

(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.⁷ (Emphasis supplied)

In her Complaint-Affidavit,⁸ Gamallo averred that the first incident of sexual harassment happened one afternoon in July 1999, when Escandor called her in his office.⁹ 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."¹⁰

⁷ *Id.* at 103-105.

⁸ *Id.* at 267-279.

⁹ *Id.* at 268.

¹⁰ *Id.*

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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.¹¹

After these incidents, Gamallo told her colleague, Lina Villamor, about what Escandor did to her.¹²

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.¹³ 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.¹⁴

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."¹⁵ When

¹¹ *Id.* at 268-269.

¹² *Id.* at 269.

¹³ *Id.* at 270.

¹⁴ *Id.* at 271.

¹⁵ *Id.* at 271.

Gamallo did not reply to these messages, Escandor threatened her that she would be removed from the meeting list.¹⁶

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.¹⁷ In the same year's Christmas, Gamallo received chocolates, wine, an agenda book and a bracelet from Escandor.¹⁸ 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.¹⁹

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.²⁰

Escandor's sexual advances allegedly continued, until Gamallo finally quit her job in November 2003.²¹

Three colleagues testified to corroborate Gamallo's account.²² 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

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 273.

¹⁹ *Id.* at 272.

²⁰ *Id.* at 274.

²¹ *Id.* at 278.

²² *Id.* at 405, Comment.

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of reducing her to tears.²³ She said that after those instances, she tried to prevent Gamallo from being left alone with Escandor.²⁴

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

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.²⁸ She said that while she “dissuaded Gamallo from resigning,” she “reported the matter to the [National Economic and Development Authority] Deputy Director General.”²⁹ This caused the latter to confront Escandor.³⁰ Escandor, learning about her action “accused her of disloyalty and told her to resign from NEDA.”³¹

In his defense,³² Escandor testified that he never engaged in the acts recounted by Gamallo. He claimed that the acts allegedly committed by him are “pure fabrication.”³³ 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

²³ *Id.* at 406.

²⁴ *Id.* at 406.

²⁵ *Id.* at 406-407.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 407.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 407.

³² *Id.* at 281-324, Counter Affidavit.

³³ *Id.* at 282.

four by six feet, making the people inside visible.³⁴ 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.³⁵

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.³⁶ 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.³⁷

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.³⁸ 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 ka file sa sexual harassment cases*" (Let us see how far Escandor can go when the sexual harassment cases are filed).³⁹

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 Osmeña for Escandor's

³⁴ *Id.* at 300.

³⁵ *Id.*

³⁶ *Id.* at 282.

³⁷ *Id.*

³⁸ *Id.* at 81.

³⁹ *Id.* at 81.

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ouster.⁴⁰ Escandor also questioned Gamallo's March 2003 application to be his secretary.⁴¹

On October 17, 2013, the Sandiganbayan rendered a Decision⁴² 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. 7877.⁴³ It gave credence to Gamallo's testimony, noting that "there is nothing in the records that would indicate that Gamallo is dishonest or untruthful."⁴⁴

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.⁴⁵

The Sandiganbayan disposed of the case in the following manner:

⁴⁰ *Id.* at 110.

⁴¹ *Id.* at 118.

⁴² *Id.* at 59-94. The October 17, 2013 Decision in SB-07-CRM-0043 was penned by Associate Justice Alex L. Quiroz and concurred in by Associate Justices Jose R. Hernandez and Samuel R. Martires of the Special Third Division of the Sandiganbayan.

⁴³ *Id.* at 90.

⁴⁴ *Id.* at 91.

⁴⁵ *Id.* at 93.

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.⁴⁶

Escandor filed a Motion for Reconsideration,⁴⁷ 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.”⁴⁸ He also stated that the Sandiganbayan erroneously disregarded the doctrinally settled rule in evaluating major self-contradictions and irreconcilable inconsistencies.⁴⁹ His motion was denied by the Sandiganbayan in its February 28, 2014 Resolution.⁵⁰

Hence, this petition.

Petitioner insists that the evidence fails to establish his guilt beyond reasonable doubt.⁵¹ 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 2002.⁵² He claims that this amounts to a violation of his constitutional

⁴⁶ *Id.* at 93.

⁴⁷ *Id.* at 131-187.

⁴⁸ *Id.* at 132.

⁴⁹ *Id.* at 133.

⁵⁰ *Id.* at 96-100. The February 28, 2014 Resolution was penned by Associate Justice Alex L. Quiroz and concurred in by Associate Justices Amparo M. Cabotaje-Tang and Samuel R. Martires of the Third Division of the Sandiganbayan.

⁵¹ *Id.* at 29.

⁵² *Id.* at 28.

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right to be informed of the nature and the cause of accusation against him.⁵³

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. 7877.⁵⁴

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 harassment. It was adopted pursuant to the declared policy that "the State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education."⁵⁵

It defines sexual harassment as follows:

SECTION 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

⁵³ *Id.* at 33.

⁵⁴ *Id.* at 29.

⁵⁵ Section 2, Republic Act No. 7877.

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.

(b) In an education or training environment, sexual harassment is committed:

(1) Against one who is under the care, custody or supervision of the offender;

(2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;

(3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations; or

(4) When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act.

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Sexual harassment, as initially conceived, was the product of a consciousness that emerged among women, and propelled various feminist movements. Its subsequent recognition in law is an offshoot of those campaigns.

The concept of sexual harassment began in the context of unwanted sexual relations imposed by superiors on subordinates in the workplace.⁵⁶ As early as 1887, the plight of women working in factories and the extortion *vis-à-vis* sexual favors that they experience have been noted by several commentators.⁵⁷ In 1840, women's moral reform societies in the United States started petition drives for statutes penalizing seduction, in response to what were then inadequate legal protection of women against sexual predation at work.⁵⁸ In the decade before the American Civil War, women's rights movement began pursuing discussions on women's socioeconomic conditions which make them vulnerable to sexual coercion.⁵⁹ Women's rights advocates publicized the case of domestic servant Hester Vaughn who was held guilty of infanticide. After being fired by her employer who impregnated her, Vaughn gave birth alone and impoverished, and left her infant dead.⁶⁰ Vaughn's case propelled efforts by women's groups to institute legal reforms to protect women

⁵⁶ REVA B. SIEGEL, *A Short History of Sexual Harassment*, in DIRECTIONS IN SEXUAL HARASSMENT LAW 3 (2004).

⁵⁷ *Id.* The article cited the following authors:

Thus, by the close of the nineteenth century, we find Helen Campbell's 1887 report on Women Wage-Workers invoking the common understanding that "[h]ousehold service has become synonymous with the worst degradation that comes to woman." Campbell also described in some detail the forms of sexual extortion practiced upon women who worked in factories and in the garment industry. Along similar lines, Upton Sinclair's 1905 expose. *The Jungle* dramatized the predicament of women in the meat-packing industry by comparing the forms of sexual coercion practiced in "wage slavery" and chattel slavery[.]

⁵⁸ MARILYN WOOD HILL, *THEIR SISTERS' KEEPERS: PROSTITUTION IN NEW YORK CITY* 140-141 (1993).

⁵⁹ REVA B. SIEGEL, *A Short History of Sexual Harassment*, in DIRECTIONS IN SEXUAL HARASSMENT LAW 6 (2004).

⁶⁰ *Id.*

from sexual predation, and to enable other modes of collective self-help, such as organizing labor unions for women.⁶¹

These developments made by the early feminist and labor movements were sustained in the 1970s by several lawyers and activists representing women in courts. It was during this time that a concerted retaliation against sexual harassment was pursued by advocates.⁶² The term “sexual harassment” was coined by Lin Farley during a consciousness-raising session for a Cornell University course on women and work, where the women in the discussion group repeatedly described being fired or quitting a job because they were harassed and intimidated by men.⁶³ In her works, Farley recognized the sexual coercion women experienced at work as a “social order that situates sexual relations between men and women in relations of economic dependency.”⁶⁴ In April 1975, Farley testified before the New York City Human Rights Commission Hearings on Women and Work, and defined sexual harassment as “unsolicited nonreciprocal male behavior that asserts a woman’s sex role over her function as a worker.”⁶⁵ Inspired by the case of Carmita Dickerson Wood, an administrative assistant at Cornell University who quit her position due to harassment by her supervisor, Farley and other women activists at Cornell formed the Working Women United, a women’s rights organization that sought to combat sexual harassment of women in the workplace.⁶⁶

In 1979, Catharine MacKinnon published her book “Sexual Harassment of Working Women” which propelled the adoption

⁶¹ *Id.* at 7.

⁶² *Id.* at 8.

⁶³ *Id.*

⁶⁴ *Id.* at 9 citing LIN FARLEY, *SEXUAL SHAKEDOWN: THE SEXUAL HARASSMENT OF WOMEN ON THE JOB* (1978).

⁶⁵ *Id.*

⁶⁶ Carrie N. Baker, *The Emergence of Organized Feminist Resistance to Sexual Harassment in the United States in the 1970s*, 19 J. WOMEN’S HISTORY 161, 164 (2007).

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of laws on sexual harassment in the United States.⁶⁷ Her central argument was that sexual harassment was sex discrimination: “Sexual harassment is discrimination ‘based on sex’ within the social meaning of sex, as the concept is socially incarnated in sex roles. Pervasive and ‘accepted’ as they are, these rigid roles have no place in the allocation of social and economic resources.”⁶⁸ Through the works of Lin Farley and Catharine MacKinnon, the discourse on sexual harassment translated into that of anti-discrimination.

In 1964, in the United States, the Civil Rights Act prohibited acts of discrimination on the basis of sex, among others.⁶⁹ American jurisprudence subsequently recognized two (2) categories of sexual harassment: first, *quid pro quo*; and second, hostile environment sexual harassment.⁷⁰ *Quid pro quo* harassment conditions employment or job benefits on sexual favors;⁷¹ while hostile environment sexual harassment results from sexual advances which make the working environment hostile or abusive to the employee.⁷²

The two types of sexual harassment recognized in American jurisprudence are akin to sexual harassment as defined under Republic Act No. 7877. Section 3 (a) (1)⁷³ similarly recognizes

⁶⁷ STAGY L. MALLICOAT, *Women and Victimization: Stalking and Sexual Harassment in WOMEN AND CRIME: A TEXT/READER* 199 (2011).

⁶⁸ REVA B. SIEGEL, *A Short History of Sexual Harassment*, in *DIRECTIONS IN SEXUAL HARASSMENT LAW* 10 (2004).

⁶⁹ *Philippine Telegraph and Telephone Co. v. National Labor Relations Commission*, 338 Phil. 1093, 1110 (1997) [Per J. Regalado, Second Division].

⁷⁰ Scalia, Eugene, *The Strange Career of Quid Pro Quo Sexual Harassment*, 21 HARV. J. L. & PUB. POL’Y 307, 308 (1998).

⁷¹ *Id.* citing *Bryson v. Chicago State University*, 96 F.3d 912, 915 (7th Cir. 1996).

⁷² *Harris v. Forklift Systems, Inc.*, 510 US 17, 21(1993).

⁷³ Republic Act No. 7877 (1995), Sec. 3 (a) (1) provides:

(1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual,

that sexual harassment is committed when a sexual favor is made a condition for employment or for the grant of certain benefits. Likewise, Section 3(a) (3)⁷⁴ recognizes sexual harassment as committed when the offender's advances result in an intimidating, hostile, or offensive environment for the employee.

In the Philippines, the Anti-Sexual Harassment Act of 1995 is a relatively new law. Although the Revised Penal Code, enacted in 1930, already penalized offenses relating to violations of chastity, Congress saw it fit to enact a new law specifically punishing sexual harassment committed in an "employment, education, or training environment."⁷⁵

The original provisions of the Revised Penal Code on Rape (prior to its amendment in 1997) already punished a man who has carnal knowledge of a woman under specified circumstances.⁷⁶

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.

⁷⁴ Republic Act No. 7877 (1995), Sec. 3 (a) (3) provides:

(3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

⁷⁵ By its own title, Republic Act No. 7877 is, "An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and for Other Purposes." Furthermore, Section 2 states that "The State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education."

⁷⁶ REV. PEN. CODE, Art. 335 states:

ARTICLE 335. When and how rape is committed. — Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.

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That the crime is committed in an employment, school, or training environment was not an element. This is also true for other crimes centering on a perpetrator's lascivious, harassing or otherwise vexatious conduct, such as Acts of Lasciviousness,⁷⁷ Seduction,⁷⁸ and Unjust vexation.⁷⁹ These offenses pertain to

The crime of rape shall be punished by *reclusion perpetua*.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death. When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be likewise death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

⁷⁷ *Olivarez v. Court of Appeals*, 503 Phil. 421, 442-443 (2005) [Per J. Ynares Santiago, First Division].

The essential elements of acts of lasciviousness under the Revised Penal Code, Art. 336 in relation to Art. 335 are as follows:

1. That the offender commits any act of lasciviousness or lewdness;
2. That the act of lasciviousness is committed against a person of either sex;
3. That it is done under any of the following circumstances:
 - a. By using force or intimidation; or
 - b. When the offended party is deprived of reason or otherwise unconscious; or
 - c. By means of fraudulent machination or grave abuse of authority; or
 - d. When the offended party is under 12 years of age or is demented.

⁷⁸ *Gonzales v. Court of Appeals*, 302 Phil. 706, 712 (1994) [Per J. Vitug, Third Division].

The elements of qualified seduction are:

- (1) that the offended party is a virgin, which is presumed if she is unmarried and of good reputation;
- (2) that she must be over twelve (12) and under eighteen (18) years of age;
- (3) that the offender has sexual intercourse with her; and
- (4) that there is abuse of authority, confidence or relationship on the part of the offender.

⁷⁹ *Baleros, Jr. v. People*, 518 Phil. 175, 195 (2006) [Per J. Garcia, Second Division] citing III AQUINO, REVISED PENAL CODE, 1997 ed., Vol. III, p. 81 (1997).

Unjust vexation is "any human conduct which, although not productive of some physical or material harm, would unjustly annoy or irritate [or] distress or disturb[] . . . the mind of the person to whom it is directed."

acts which are not necessarily committed in an employment, training, or school environment.

Under Republic Act No. 7877, an act of sexual harassment may result in three distinct liabilities: criminal, civil, and administrative.⁸⁰ An action for each can proceed independently of the others.⁸¹ In a criminal action, the accused is prosecuted for a wrong committed against society itself or the State whose law he or she violated.⁸² In a civil action, a defendant is sued by the plaintiff in an effort to correct a private wrong.⁸³ The purpose of an administrative action, on the other hand, is to protect the public service by imposing administrative sanctions to an erring public officer.⁸⁴

Sexual harassment as defined and penalized under Republic Act No. 7877 requires three elements for an accused to be convicted: (1) that the employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person has *authority, influence, or moral-ascendancy* over another; (2) the authority, influence, or moral ascendancy exists in a *work-related, training-related, or education-related environment*, and (3) the employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who has authority, influence, or moral-ascendancy over another *makes a demand, request, or requirement of a sexual favor*.⁸⁵

⁸⁰ *Domingo v. Rayala*, 569 Phil. 423, 447 (2008) [Per *J. Nachura*, Third Division].

⁸¹ *Id.*

⁸² *Rodriguez v. Ponferrada*, 503 Phil. 306, 314 (2005) [Per *J. Panganiban*, Third Division].

⁸³ *Tecson v. Sandiganbayan*, 376 Phil. 191, 198-199 (1999) [Per *J. Quisumbing*, Second Division].

⁸⁴ *Office of the President v. Cataquiz*, 673 Phil. 318, 344-345 (2011) [Per *J. Mendoza*, Third Division].

⁸⁵ *Aquino v. Acosta*, 429 Phil. 498, 509 (2002) [Per *J. Sandoval-Gutierrez*, *En Banc*].

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The key elements which distinguish sexual harassment, as penalized by Republic Act 7877, from other chastity-related and vexatious offenses are: first, its setting; and second, the person who may commit it. As to its setting, the offense may only be committed in a work-related, training-related, or education-related environment. As to the perpetrator, it may be committed by a person who exercises authority, influence, or moral ascendancy over another.⁸⁶

Since Republic Act No. 7877 is a special criminal statute, the offense of sexual harassment is *malum prohibitum*. Thus, in prosecuting an offender for sexual harassment, intent is immaterial. Mere commission is sufficient to warrant a conviction.⁸⁷ The Court explained in *Narvasa v. Sanchez*⁸⁸ the reason why, even without intent, sexual harassment is penalized:

Assuming *arguendo* that respondent never intended to violate [Republic Act No.] 7877, his attempt to kiss petitioner was *a flagrant disregard of a customary rule that had existed since time immemorial — that intimate physical contact between individuals must be consensual. Respondent’s defiance of custom and lack of respect for the opposite sex were more appalling because he was a married man.* Respondent’s act showed a low regard for women and disrespect for petitioner’s honor and dignity.⁸⁹ (Emphasis supplied)

This is in contrast with crimes *mala in se*, which are so serious in their effects on society as to call for almost unanimous

⁸⁶ Republic Act No. 7877 (1995), Sec. 3.

⁸⁷ The Court has long upheld the general rule that “acts punished under a special law are *malum prohibitum*.” (*ABS-CBN Corp. v. Gozon*, 755 Phil. 709, 763 (2015) [Per J. Leonen, Second Division] citing *Ho Wai Pang v. People*, 675 Phil. 692 (2011) [Per J. Del Castillo, First Division]; and *People v. Chua*, 695 Phil. 16 (2012) [Per J. Villarama, First Division.]) Also, for “[a]n act which is declared *malum prohibitum*, malice or criminal intent is completely immaterial.” (*ABS-CBN Corp. v. Gozon*, 755 Phil. 709, 763 (2015) [Per J. Leonen, Second Division] citing *Go v. The Fifth Division of Sandiganbayan*, 558 Phil. 736, 744 (2007) [Per J. Ynares-Santiago, Third Division].)

⁸⁸ *Narvasa v. Sanchez, Jr.*, 630 Phil. 577 (2010) [*Per Curiam, En Banc*].

⁸⁹ *Id.* at 582.

condemnation of its members. In crimes *mala in se*, the intent governs; but in *mala prohibita*, the only inquiry is whether the law has been violated.⁹⁰

*Vedana v. Judge Valencia*⁹¹ explained that the criminalization of sexual harassment was in keeping with “humanity’s march towards a more refined sense of civilization”:

In the community of nations, there was a time when discrimination was institutionalized through the legalization of now prohibited practices. Indeed, even within this century, persons were discriminated against merely because of gender, creed or the color of their skin, to the extent that the validity of human beings being treated as mere chattel was judicially upheld in other jurisdictions. But in humanity’s march towards a more refined sense of civilization, the law has stepped in and seen it fit to condemn this type of conduct for, at bottom, history reveals that the moving force of civilization has been to realize and secure a more humane existence. Ultimately, this is what humanity as a whole seeks to attain as we strive for a better quality of life or higher standard of living. *Thus, in our nations very recent history, the people have spoken, through Congress, to deem conduct constitutive of sexual harassment or hazing, acts previously considered harmless by custom, as criminal.*⁹²

Conviction under Republic Act No. 7877 subjects the offender to criminal penalties.⁹³ Under Section 7, any person who violates the law shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than ₱10,000.00 nor more than ₱20,000.00, or both such fine and imprisonment at the discretion of the court. Since in a criminal action, the State prosecutes the accused for an act or omission punishable by law,⁹⁴ the action is

⁹⁰ *Tan v. Ballena*, 579 Phil. 503, 527-528 (2008) [Per *J. Chico-Nazario*, Third Division].

⁹¹ *Vedana v. Valencia*, 356 Phil. 317 (1998) [Per *J. Davide Jr.*, First Division].

⁹² *Id.* at 332.

⁹³ Republic Act No. 7877 (1995), Sec. 7.

⁹⁴ RULES OF COURT, Rule 1, Sec. 3.

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commenced by filing the complaint with the regular courts or the office of prosecutor.⁹⁵ The criminal action arising from violation of the provisions of Republic Act No. 7877 prescribes in three (3) years.⁹⁶

Criminal liability for sexual harassment notwithstanding, the offended party may pursue a separate civil action. As stated in Section 6 of Republic Act No. 7877:

SECTION 6. *Independent Action for Damages.* — Nothing in this Act shall preclude the victim of work, education, or training-related sexual harassment from instituting a separate and independent action for damages and other affirmative relief.

Section 6 is consistent with Article 100 of the Revised Penal Code, which states that, “Every man criminally liable is also civilly liable.” The rationale for this was explained in *Rodriguez v. Ponferrada*:⁹⁷

Underlying this legal principle is the traditional theory that when a person commits a crime he offends two entities namely (1) the society in which he lives in or the political entity called the State whose law he had violated; and (2) *the individual member of that society whose person, right, honor, chastity or property was actually or directly injured or damaged by the same punishable act or omission*.⁹⁸ (Emphasis supplied)

Civil liability arises from the damage or injury caused by the felonious act.⁹⁹ Thus, in a civil action, the real party plaintiff is the offended party, while in a criminal action, the plaintiff is the “People of the Philippines.” Furthermore, the quantum of evidence required in a civil action is mere “preponderance

⁹⁵ RULES OF COURT, Rule 110, Sec. 1.

⁹⁶ Republic Act No. 7877 (1995), Sec. 7.

⁹⁷ *Rodriguez v. Ponferrada*, 503 Phil. 306 (2005) [Per J. Panganiban, Third Division].

⁹⁸ *Id.* at 314.

⁹⁹ *Id.* at 315.

of evidence,” in contrast to “proof beyond reasonable doubt” which is required for conviction in a criminal action.¹⁰⁰

Being independent from criminal action, the conviction or acquittal of the accused is not a bar to an independent suit for damages in a civil action.¹⁰¹ Accordingly, in *London v. Baguio Country Club*,¹⁰² this Court allowed an independent action for damages against the accused despite the existence of an ongoing criminal case.

Aside from the actual perpetrator, the employer, or the head of office or institution may also be impleaded in an independent action for damages.¹⁰³ They would be solidarily liable for damages if they did not take immediate action on a sexual harassment complaint.¹⁰⁴

Section 4 of Republic Act No. 7877 requires the employer or head of office to promulgate appropriate rules and regulations to prevent the commission of acts of sexual harassment and to provide procedures for the resolution, settlement or prosecution of acts of sexual harassment.¹⁰⁵

In the government, the Civil Service Commission promulgated CSC Resolution No. 01-0940, otherwise known as the Administrative Disciplinary Rules on Sexual Harassment Cases, which apply to all government officials and employees.¹⁰⁶ For

¹⁰⁰ “While the guilt of the accused in a criminal prosecution must be established beyond reasonable doubt, only a preponderance of evidence is required in a civil action for damages.” (*People v. Ligon y Trias*, 236 Phil. 450, 460 (1987) [Per J. Yap, *En Banc*] citing CIVIL CODE, Art. 29.)

¹⁰¹ *Vedaña v. Valencia*, 356 Phil. 317 (1998) [Per J. Davide Jr., First Division].

¹⁰² *London v. Baguio Country Club Corp.*, 439 Phil. 487 (2002) [Per J. Vitug, First Division].

¹⁰³ Republic Act No. 7877 (1995), Sec. 5.

¹⁰⁴ Republic Act No. 7877 (1995), Sec. 5.

¹⁰⁵ Republic Act No. 7877 (1995), Sec. 4.

¹⁰⁶ CSC Resolution No. 01-0940, Sec. 2 provides:

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the private sector, each organization's rules promulgated in accordance with Section 4 shall apply.

Section 4 (b) of Republic Act No. 7877 further requires employers and heads of offices to create a "committee on decorum and investigation of cases on sexual harassment." Pursuant to this, all national or local agencies of the government, state colleges and universities, including government-owned or controlled corporations, were required to create their own Committee on Decorum and Investigation.¹⁰⁷

Unlike in criminal and civil actions which are brought before regular courts, an administrative action is commenced by filing a complaint with the disciplining authority or agency, or with the Committee on Decorum and Investigation, which shall receive and investigate sexual harassment complaints.¹⁰⁸

CSC Resolution No. 01-0940, Section 3 defines sexual harassment as follows:

SECTION 3. For the purpose of these Rules, the administrative offense of sexual harassment is an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by a government employee or official in a work-related, training or education related environment of the person complained of.

(a) Work-related sexual harassment is committed under the following circumstances:

- (1) submission to or rejection of the act or series of acts is used as a basis for any employment decision (including, but not limited to, matters related to hiring, promotion, raise in salary, job security,

SECTION 2. These Rules shall apply to all officials and employees in government, whether in the Career or Non-Career service and holding any level of position, including Presidential appointees and elective officials regardless of status, in the national or local government, state colleges and universities, including government-owned or controlled corporations, with original charters.

¹⁰⁷ CSC Resolution No. 01-0940 (2001), Sec. 7.

¹⁰⁸ Republic Act No. 7877 (1995), Sec. 7.

benefits and any other personnel action) affecting the applicant/employee; or

(2) the act or series of acts have the purpose or effect of interfering with the complainant's work performance, or creating an intimidating, hostile or offensive work environment; or

(3) the act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a co-employee, applicant, customer, or ward of the person complained of.

(b) Education or training-related sexual harassment is committed against one who is under the actual or constructive care, custody or supervision of the offender, or against one whose education, training, apprenticeship, internship or tutorship is directly or constructively entrusted to, or is provided by, the offender, when:

(1) submission to or rejection of the act or series of acts as a basis for any decision affecting the complainant, including, but not limited to, the giving of a grade, the granting of honors or a scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege or consideration.

(2) the act or series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive academic environment of the complainant; or

(3) the act or series of acts might reasonably expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a trainee, apprentice, intern, tutee or ward of the person complained of.

CSC Resolution No. 01-0940, Section 4 further gives examples on where and how sexual harassment may take place:

1. in the premises of the workplace or office or of the school or training institution;
2. in any place where the parties were found as a result of work or education or training responsibilities or relations;
3. at work or education or training-related social functions;
4. while on official business outside the office or school or training institution or during work or school or training-related travel;

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5. at official conferences, fora, symposia or training sessions;
or
6. by telephone, cellular phone, fax machine or electronic mail.

CSC Resolution No. 01-0940, Section 5 enumerates illustrative forms of sexual harassment:

- a) Physical
 - i. Malicious Touching;
 - ii. Overt sexual advances;
 - iii. Gestures with lewd insinuation.
- b) Verbal, such as but not limited to, requests or demands for sexual favors, and lurid remarks;
- c) Use of objects, pictures or graphics, letters or writing notes with sexual underpinnings;
- d) Other forms analogous to the foregoing.

Casual gestures of friendship and camaraderie, done during festive or special occasions and with other people present, do not constitute sexual harassment.¹⁰⁹ Accordingly, in *Aquino v. Acosta*,¹¹⁰ the Court agreed with the report of the investigating Justice that the complainant failed to show by convincing evidence that the acts of Judge Acosta in greeting her with a kiss on the cheek, in a ‘beso-beso’ fashion, were carried out with lustful and lascivious desires or were motivated by malice or ill motive. The Court explained:

In all the incidents complained of, the respondent’s pecks on the cheeks of the complainant should be understood in the context of having been done on the occasion of some festivities, and not the assertion of the latter that she was singled out by Judge Acosta in his kissing escapades. The busses on her cheeks were simply friendly and innocent, bereft of malice and lewd design.¹¹¹

Unlike in a criminal action where the penalty is a fine, imprisonment, or both, the penalty in an administrative action

¹⁰⁹ See *Aquino vs. Judge Acosta*, 429 Phil. 498 (2002).

¹¹⁰ *Aquino v. Judge Acosta*, 429 Phil. 498 (2002).

¹¹¹ *Id.* at 506.

is, at most, dismissal, from the service.¹¹² This is because an administrative action seeks to protect the public service by imposing administrative sanctions to the erring public officer.¹¹³ As has been explained:

Public service requires the utmost integrity and strictest discipline; thus, a public servant must exhibit at all times the highest sense of honesty and integrity, and utmost devotion and dedication to duty, respect the rights of others and shall refrain from doing acts contrary to law, and good.¹¹⁴

In addition to Republic Act No. 7877, Congress has since enacted Republic Act No. 11313, otherwise known as the Safe Spaces Act. Signed into law on July 15, 2019, it penalizes gender-based sexual harassment, and is founded on, among others, the recognition that “both men and women must have equality, security and safety not only in private, but also on the streets, public spaces, online, workplaces and educational and training institutions.”¹¹⁵ It addresses four (4) categories of gender-based sexual harassment: gender-based streets and public spaces sexual harassment; gender-based online sexual harassment; gender-

¹¹² On one hand, Republic Act No. 7877 (1995), Sec. 7 provides for the criminal penalties:

SECTION 7. *Penalties.* — Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Ten thousand pesos (P10,000) nor more than Twenty thousand pesos (P20,000), or both such fine and imprisonment at the discretion of the court.

On the other hand, 2017 RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Sec. 51 (A) concerns administrative liability by a public officer or employee for sexual harassment. Depending on precise nature of the acts committed and other attendant circumstances, an act of sexual harassment may be deemed a grave, less grave, or light offense.

¹¹³ *Office of the President v. Cataquiz*, 673 Phil. 318, 345 (2011) [Per J. Mendoza, Third Division].

¹¹⁴ Office of the President, Administrative Order No. 119, May 8, 2000, as quoted in *Domingo v. Rayala*, 569 Phil. 423, 436 (2008) [Per J. Nachura, Third Division].

¹¹⁵ Rep. Act. No. 11313 (2019), Sec. 2.

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based sexual harassment in the workplace; and, gender-based sexual harassment in educational and training institutions.

In line with fundamental constitutional provisions regarding human dignity and human rights, the Safe Spaces Act expands the concept of discrimination and protects persons of diverse sexual orientation, gender identity and/or expression. It thus recognizes gender-based sexual-harassment as including, among others, “misogynistic, transphobic, homophobic and sexist slurs.”

The Safe Spaces Act does not undo or abandon the definition of sexual harassment under the Anti-Sexual Harassment Law of 1995. The gravamen of the offenses punished under the Safe Spaces Act is the act of sexually harassing a person on the basis of the his/her sexual orientation, gender identity and/or expression, while that of the offense punished under the Anti-Sexual Harassment Act of 1995 is abuse of one’s authority, influence or moral ascendancy so as to enable the sexual harassment of a subordinate.

I (B)

All the elements of sexual harassment, as penalized by Republic Act No. 7877, are present in this case.

Gamallo had earlier filed an administrative complaint with the National Economic Development Authority Central.¹¹⁶ The present case, however, is exclusively concerned with Escandor’s criminal liability and will be decided exclusively of and without prejudice to his administrative liability. On this, we find all the requisites for criminal liability present, and sustain Escandor’s conviction.

On the first requisite, it is clear that Escandor had authority over Gamallo. He was the Regional Director of the National Economic and Development Authority Region 7, while Gamallo was a contractual employee in that office.¹¹⁷ Escandor’s authority

¹¹⁶ *Rollo*, at p. 68.

¹¹⁷ *Id.* at 61.

also existed in a work-related environment; thereby satisfying the second requisite for sexual harassment.

While the third requisite calls for a “demand, request, or requirement of a sexual favor,” this Court has held in *Domingo v. Rayala*¹¹⁸ that it is not necessary that these be articulated in a categorical oral or written statement. It may be discerned from the acts of the offender.¹¹⁹ Thus, the Court found in that case that the accused’s acts of “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”¹²⁰ satisfy the third requisite.

Here, Gamallo testified to several acts of sexual harassment committed by Escandor. Among these were grabbing her hand,¹²¹ kissing,¹²² engaging in improper conversations,¹²³ touching her thigh,¹²⁴ giving her gifts,¹²⁵ telling her that “she was the kind of girl he really wants,” asking her out on dates,¹²⁶ and sending her text and Winpop messages telling her that he missed her, that she looked beautiful, and that he loved her.¹²⁷ All these acts undoubtedly amount to a request for sexual favors.

At the core of sexual harassment in the workplace is power exercised by a superior over a subordinate. The power emanates

¹¹⁸ *Domingo v. Rayala*, 569 Phil. 423 (2008) [Per J. Nachura, Third Division].

¹¹⁹ *Id.* at 450.

¹²⁰ *Id.*

¹²¹ *Rollo*, p. 268.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.* at 272.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

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from how the superior can remove or disadvantage the subordinate should the latter refuse the superior's sexual advances.¹²⁸ Thus, sexual harassment is committed when the sexual favor is made as a condition in the hiring of the victim or the grant of benefits thereto; or when the sexual act results in an intimidating, hostile, or offensive environment for the employee.¹²⁹

In this case, Gamallo stated that the acts of Escandor made her feel "disrespected,"¹³⁰ "humiliated and cheap,"¹³¹ "uneasy,"¹³² and "frightened."¹³³ She could also not concentrate on work,¹³⁴ could not sleep¹³⁵ and found herself "staring into empty space."¹³⁶ When she disabled her Winpop messaging because of Escandor's inappropriate messages, she was threatened that she will be deleted from the National Economic and Development Authority meeting list. Villamor, Tagalog and Manuel, who all testified for Gamallo, tried to protect her from Escandor. Villamor and Tagalog made sure that whenever Escandor called for Gamallo, either of them would go with her.¹³⁷ Manuel even had to relay the incidents to the National Economic and Development Authority Deputy Director General. Undoubtedly, Escandor's acts resulted in an intimidating, hostile, and offensive environment for Gamallo.

¹²⁸ *Floralde v. Court of Appeals*, 392 Phil. 146, 150 (2000) [Per J. Pardo, *En Banc*].

¹²⁹ Republic Act No. 7877 (1995), Sec. 3.

¹³⁰ *Rollo*, p. 268.

¹³¹ *Id.* at 269.

¹³² *Id.* at 271.

¹³³ *Id.*

¹³⁴ *Id.* at 268.

¹³⁵ *Id.* at 269.

¹³⁶ *Id.* at 272.

¹³⁷ *Id.* at 270.

I (C)

Escandor counters that, “[t]he evidence proffered . . . is totally repugnant to human standard[s], common experience and observation.”¹³⁸ He claims that the credibility of Gamallo is “zero not only because of unreasonable delay, but also because of the inherent improbability of her story, her propensity to resort to falsehood and her strong motive to falsely accuse and get back at the accused.”¹³⁹

Contrary to Escandor’s assertions, the Sandiganbayan found Gamallo’s testimony credible.¹⁴⁰ We sustain this conclusion.

Factual findings of the trial court on the credibility of witnesses and their testimonies are entitled to great respect. These findings will not be disturbed in the absence of any clear showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances.¹⁴¹ This is because trial provides judges with the “opportunity to detect, consciously or unconsciously, observable cues and micro expressions that could, more than the words said and taken as a whole, suggest sincerity or betray lies and ill will.”¹⁴²

The matters raised by Escandor have been more than adequately addressed by the Sandiganbayan:

In the present case, there is nothing in the records that would indicate that Gamallo is dishonest or untruthful. She was able to give her testimony in Court and answer the questions put to her on cross-examination. Her former supervisor, Tagalog, attests that he had never heard of any act of immorality committed by Gamallo.¹⁴³

¹³⁸ *Id.* at 45.

¹³⁹ *Id.*

¹⁴⁰ *Id.* at 46.

¹⁴¹ *People v. Quintos*, 746 Phil. 809, 819-820 (2014) [Per *J. Leonen*, Second Division].

¹⁴² *Id.* at 820.

¹⁴³ *Rollo*, p. 91.

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The Sandiganbayan, being the court which conducted trial, “is in the best position to determine the truthfulness of witnesses.”¹⁴⁴ Indeed, this court must “give the highest respect to [its] of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand.”¹⁴⁵

In *Batistis v. People of the Philippines*,¹⁴⁶ this Court held that only questions of law may be entertained in petitions for review on *certiorari* filed with this court from decisions of the Sandiganbayan:

The factual findings of the [trial court], its calibration of the testimonies of the witnesses, and its assessment of their probative weight are given high respect, if not conclusive effect, unless cogent facts and circumstances of substance, which if considered, would alter the outcome of the case, were ignored, misconstrued or misinterpreted.¹⁴⁷

When the victim’s testimony is straightforward, convincing, consistent with human nature, and unflawed by any material or significant controversy, it passes the test of credibility and the accused may be convicted solely on the basis thereof.¹⁴⁸

Escandor’s claims fail to cast such degree of doubt on the Sandiganbayan’s findings as to justify absolving him of liability. On the other hand, Gamallo has adequately testified to the acts attributed to Escandor. Moreover, her account is supported by the testimonies of three colleagues: Villamor, Tagalog and Manuel. As against these, Escandor only had his own testimony and bare denials.

¹⁴⁴ *People v. Sanchez*, 681 Phil. 631, 635 (2012) [Per J. Reyes, Second Division] citing *People v. Laog*, 674 Phil. 444 (2011) [Per J. Villarama, Jr., First Division].

¹⁴⁵ *Id.*

¹⁴⁶ 623 Phil. 246 (2009) [Per J. Bersamin, First Division].

¹⁴⁷ *Id.* at 256 citing *Pelonia v. People*, 549 Phil. 717 (2007) [Per J. Callejo, Sr., Third Division].

¹⁴⁸ *People v. Quintos*, 746 Phil. 809, 825-826 (2014) [Per J. Leonen, Second Division].

II (A)

Escandor further argues that his constitutional right to be informed of the nature and the cause of the accusation against him was violated when the Sandiganbayan convicted him of sexual harassment committed during their 2000 Christmas party despite the Information pertaining to acts of sexual harassment committed on another date, *i.e.*, their 2002 Christmas party.¹⁴⁹

This contention fails to impress.

The Information detailed Escandor's acts of sexual harassment as follows:

... 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[.]¹⁵⁰

The recital lists several distinct acts (or sets of acts) of sexual harassment; the incident in the "Christmas party of 2002" being just one. That each act was distinct is manifested in how they were recited in the information: separated by a semicolon for each act, or set of acts, making them distinct items in a list.¹⁵¹ Each of these acts or sets of acts, if proven, is sufficient to convict Escandor. Thus, even if the Court does not appreciate the allegations relating to events that transpired during the Christmas party — whether it was in 2002, as alleged in the

¹⁴⁹ *Rollo*, p. 30.

¹⁵⁰ *Id.* at 104-105.

¹⁵¹ See *Agcaoili v. Suguitan*, 48 Phil. 676 (1926) [Per J. Johnson, *En Banc*] where the court stated that a semicolon, like a comma, indicates separation or division, but in a degree greater than that expressed by comma.

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Information, or in 2000, as testified to by Gamallo — this does not absolve Escandor of liability.

II (B)

Escandor also argues that his constitutional right to be informed of the nature and the cause of the accusation against him was violated when the Sandiganbayan convicted him of acts of sexual harassment based on the Information which alleges an indefinite time when the offense charged was committed.¹⁵²

It is now too late for Escandor to assail the validity of the information.

Rule 110, Section 11 of the Rules of Court requires that the time of the commission of the offense must be alleged as near to the actual date as the information will permit; otherwise, the right of the accused to be informed would be violated. The accused must raise the issue of defective information in a motion to quash or bill of particulars, which may only be filed before arraignment.¹⁵³

Petitioner failed to assail the Information within the permitted period. Thus, it is now too late for him to claim that the information was defective. When the accused fails, before arraignment, to move for the quashal of such information and goes to trial thereunder, he thereby waives the objection and may be found guilty of as many offenses as those charged in the information and proved during trial.¹⁵⁴

Assuming he is permitted to assail the Information, it is still not defective. Rule 110, Section 11 of the Revised Rules of Criminal Procedure specifically provides that it is not necessary to state in the information the precise date that the offense was committed except when it is a material ingredient of the

¹⁵² *Rollo*, p. 33.

¹⁵³ *People v. Razonable*, 386 Phil. 771, 780 (2000) [Per *J. Puno*, First Division].

¹⁵⁴ *People v. Manalili*, 355 Phil. 652, 689 (1998) [Per *J. Panganiban*, First Division].

offense. In this case, the time of the commission of the offense is not an essential element under Republic Act No. 7877. Thus, the phrase “on or about” in the information does not require the prosecution to prove any precise date.¹⁵⁵

III (A)

Escandor assails his conviction citing “unreasonable delay and silence”¹⁵⁶ as it was only initiated five years after the alleged incidents. He argues that the belated filing of the Complaint renders Gamallo’s actuations doubtful.¹⁵⁷ He notes that Gamallo is a college graduate, a National Economic and Development Authority Project Staff, and has a lawyer for a husband.¹⁵⁸ Citing *Digitel Communications v. Mariquit*,¹⁵⁹ he argues that it was simply against the natural order of events and against human nature that she would not complain about the sexual incidents immediately.¹⁶⁰

Escandor is mistaken. There is no time period within which a victim is expected to complain about sexual harassment.¹⁶¹ The time to do so may vary depending upon the needs, circumstances, and more importantly, the emotional threshold of the employee. Thus, in *Philippine Aeolus v. NLRC*,¹⁶² this Court emphasized that filing after four years does not invalidate sexual harassment:

Private respondent admittedly allowed four (4) years to pass before finally coming out with her employer’s sexual impositions. Not many

¹⁵⁵ *People v. Bugayong*, 359 Phil. 870, 881-882 (1998) [Per J. Panganiban, First Division].

¹⁵⁶ *Rollo*, p. 36.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 37.

¹⁵⁹ 525 Phil. 765 (2006) [Per J. Carpio Morales, Third Division].

¹⁶⁰ *Id.*

¹⁶¹ *Phil. Aeolus Auto-Motive United Corp. v. National Labor Relations Commission*, 387 Phil. 250, 264 (2000) [Per J. Bellosillo, Second Division].

¹⁶² 387 Phil. 250 (2000) [Per J. Bellosillo, Second Division].

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women, especially in this country, are made of the stuff that can endure the agony and trauma of a public, even corporate, scandal. If petitioner corporation had not issued the third memorandum that terminated the services of private respondent, we could only speculate how much longer she would keep her silence. Moreover, few persons are privileged indeed to transfer from one employer to another. The dearth of quality employment has become a daily “monster” roaming the streets that one may not be expected to give up one’s employment easily but to hang on to it, so to speak, by all tolerable means. Perhaps, to private respondent’s mind, for as long as she could outwit her employer’s ploys she would continue on her job and consider them as mere occupational hazards. This uneasiness in her place of work thrived in an atmosphere of tolerance for four (4) years, and one could only imagine the prevailing anxiety and resentment, if not bitterness, that beset her all that time. But William Chua faced reality soon enough. Since he had no place in private respondent’s heart, so must she have no place in his office. So, he provoked her, harassed her, and finally dislodged her; and for finally venting her pent-up anger for years, he “found” the perfect reason to terminate her.¹⁶³

As aptly observed by the Sandiganbayan, Escandor is mistaken in his interpretation of *Digitel*.¹⁶⁴ *Digitel* stemmed from a Complaint for constructive dismissal due to professional and sexual harassment. In that case, this Court stated that “there is, strictly speaking, no fixed period within which an alleged victim of sexual harassment may file a complaint, [although] it does not mean that he or she is at liberty to file one anytime she or he wants to. Surely, any delay in filing a complaint must be justifiable or reasonable as not to cast doubt on its merits.”¹⁶⁵

Neither has prescription set in by the time Gamallo filed her Complaint Affidavit on September 4, 2004. Escandor’s acts of sexual harassment persisted until December 2003, the end of Gamallo’s employment with the National Economic and Development Authority Region 7. By the time she filed her Complaint-Affidavit, only about nine (9) months had lapsed.

¹⁶³ *Id.* at 264-265.

¹⁶⁴ 525 Phil. 765 (2006) [Per J. Carpio Morales, Third Division].

¹⁶⁵ *Id.* at 794.

This is well-within the three (3) years permitted by Section 7 of Republic Act No. 7877 within which an action under the same statute may be pursued.

III (B)

Escandor further imputes ill-motive to Gamallo in filing the charges. He submits that the charges were in retaliation to Escandor's administrative complaints against Gamallo's husband who also worked at the National Economic and Development Authority. He also emphasized Gamallo's act of signing the petition in support of his retention as Regional Director.

These fail to discredit Gamallo. She already explained the circumstances surrounding her participation in the petition against Escandor:

ATTY. MARONILLA:

Q: Around the same date, Madam Witness, September 2000, do you not recall having signed a memorandum in support of the accused against the effort of then Senator Osmeña to remove him from NEDA Legislative?

PROS. RAFAEL:

The question, Your Honor, has no basis.

JUSTICE DE LA CRUZ:

Answer.

WITNESS:

A: I signed that document.

ATTY. MARONILLA:

Q: Madam Witness, the question is, do you recall?

A: Yes, Sir.

Q: Can you recall the tenor of that document?

A: It was depending (sic) NEDA as an institution. It did not depend (sic) the integrity of Director Escandor as a person. It was on the NEDA extreme political pressure, and also Director Escandor was not guilty of the wrongdoing that the Senator was accusing him of. We were really depending (sic) the integrity of NEDA, not the integrity of Director Escandor.¹⁶⁶

¹⁶⁶ *Rollo*, pp. 91-92.

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The memorandum sought to “uphold the image of NEDA as a government institution that has resisted undue political pressures.”¹⁶⁷ Such image, according to the “[National Economic and Development Authority] Region 7 Staff,” will be tainted “should transfers or reshuffle of regional directors be made because of political pressure.”¹⁶⁸ The mere happenstance of Gamallo’s participation in an effort to protect the National Economic and Development Authority as an institution is not itself a disavowal of and, in no way, precludes Escandor’s harassment of Gamallo.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The assailed Decision of the Sandiganbayan, finding petitioner Jose Romeo Escandor guilty of the offense of sexual harassment as defined and punished under Sections 3 and 7 of Republic Act No. 7877, and penalizing him with imprisonment of six (6) months and a fine of Twenty Thousand Pesos (P20,000.00), with subsidiary imprisonment in case of insolvency, is **AFFIRMED**.

SO ORDERED.

Hernando, Carandang, Zalameda, and Gaerlan, JJ., concur.*

THIRD DIVISION

[G.R. No. 214326. July 6, 2020]

ALASTAIR JOHN KANE, *petitioner*, vs. **PATRICIA ROGGENKAMP**, *respondent*.

¹⁶⁷ *Id.* at 381.

¹⁶⁸ *Id.* at 381.

* Designated additional Member per Raffle dated July 1, 2020.