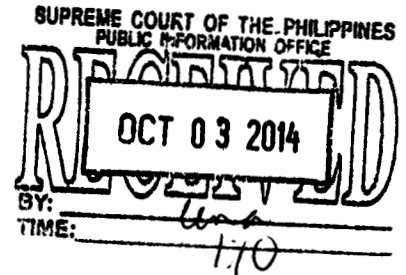




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 10, 2014** which reads as follows:*

**“G.R. No. 194657 – NORWAY T. AGCAOILI, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.**

Petitioner Norway T. Agcaoili appeals the decision promulgated on September 30, 2010,<sup>1</sup> whereby the Court of Appeals (CA) affirmed his conviction for simple seduction as defined and penalized by Article 338 of the *Revised Penal Code* by the Regional Trial Court (RTC), Branch 52, in Tayug, Pangasinan.

The information charged the petitioner with simple seduction,<sup>2</sup> to wit:

That sometime on January 27, 1999 inside the house of the victim located at x x x, in the Municipality of Tayug, Province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then the boyfriend of the victim and by means of deceit, did then and there wilfully, unlawfully and criminally seduce and have carnal knowledge [of] the herein victim, AAA,<sup>3</sup> who is only seventeen (17) years of age, single and with good reputation in the community, to the damage and prejudice of the latter.

Contrary to Art. 338 of the Revised Penal Code.

- over – seven (7) pages .....

187

<sup>1</sup> *Rollo*, pp. 59-72; penned by Presiding Justice Andres B. Reyes, Jr., and concurred in by Associate Justice Ramon R. Garcia and Associate Justice Jane A. Lantion.

<sup>2</sup> Records, p. 34.

<sup>3</sup> Pursuant to Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, and its implementing rules, the real names of the victims, as well as those of their immediate family or household members, are withheld and fictitious initial instead are used to represent

In its decision rendered after trial on October 30, 2001, the RTC disposed as follows:

WHEREFORE, premises considered, the Court finds the accused GUILTY beyond reasonable doubt of the crime of Simple Seduction defined and penalized under Article 338 of the Revised Penal Code and is hereby sentenced to suffer an imprisonment of from One (1) month and One (1) day to Six (6) months of *arresto mayor*, and to indemnify the private complainant the amount of ₱50,000.00 as moral damages and ₱50,000.00 as exemplary damages pursuant to Article 2217 and 2229 of the New Civil Code.

SO ORDERED.<sup>4</sup>

On appeal, the CA affirmed the conviction through the decision promulgated on September 30, 2010.<sup>5</sup>

In his present appeal, therefore, the petitioner insists that his conviction was devoid of factual and concrete evidentiary foundation, particularly as to the element of deceit; and urges a careful re-examination of the conclusions of the lower courts on the presence of all the elements of simple seduction, and to review the weight the lower courts had accorded to the People's evidence against him.

A thorough review confirms that the CA correctly decided the appeal against the petitioner.

Article 338 of the *Revised Penal Code* defines and punishes simple seduction as follows:

Article 338. *Simple seduction*. – The seduction of a woman who is single or a widow of good reputation, over twelve but under eighteen years of age, committed by means of deceit, shall be punished by *arresto mayor*.

The elements of simple seduction are, *firstly*, that the accused has carnal knowledge of a woman who is above 12 years but under 18 years of age; *secondly*, the woman is of chaste life and good reputation; and, *thirdly*, the carnal knowledge is accomplished by means of deceit. The usual form of deceit is an unfulfilled promise of marriage.<sup>6</sup>

---

them, to protect their privacy. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 422.

<sup>4</sup> *Rollo*, pp. 38-45.

<sup>5</sup> *Supra* note 1.

<sup>6</sup> *People v. Iman*, 62 Phil. 92, 94 (1935); *United States v. Salud*, 10 Phil. 206, 208 (1908); *United States v. Limcangco*, 9 Phil. 77, 80 (1907); *United States v. Dulay*, 10 Phil. 302, 305 (1908); *United States v. Lopez*, 14 Phil. 593, 594 (1908).

In its assailed decision, the CA found and observed as follows:

Upon perusal of the records, We are fully convinced that the trial court committed no error in finding accused-appellant guilty beyond reasonable doubt of the crime charged against him. It is undisputed that private complainant and accused-appellant were indeed sweethearts. Private complainant was 17 years old then, being born on 24 August 1981. They first met on 18 October 1998 during the wedding celebration of her cousin Rene Jacinto, in Bayombong, Nueva Viscaya. It was during that time also where accused-appellant courted private complainant which, private complainant reciprocated two (2) days later at the house of Rene Jacinto. Likewise not disputed is the fact that on 27 January 1999, accused-appellant sought the blessings of private complainant's parents regarding their marriage which the latter acceded. And on the night of the said date, accused-appellant had sexual intercourse with the private complainant. Added likewise, is the fact that no marriage took place between accused-appellant and private complainant despite the latter's promise to marry the former (*sic*). More telling, however, is herein accused-appellant's own admission stated at the outset, pertaining to the presence of the first three elements of the crime of seduction under Article 338 of the Revised Penal Code to wit: 1) that the offended party is over 12 and under 18 years of age; 2) that she must be of good reputation, single or widow and; 3) that the offender has sexual intercourse with her. Surprisingly, these issues were never contested by the accused-appellant even in the trial court.

Going now to the core issue of whether the trial court erred in convicting the accused-appellant despite the alleged absence of the element of deceit, accused-appellant cited several instances to prove that he was not deceiving the private complainant. These were as follows: 1) that he entered a plea of not guilty before the trial court during arraignment, even elevating the adverse judgment of the trial court to this Court for review; 2) his promise to marry herein private complainant was placed into writing and was sworn to before the Brgy. Captain of Magallanes, Tayug, Pangasinan, in the person of Liberato Cabigas; 3) they were apprised by Judge Pedro Habon that he cannot marry private complainant because the latter was still a minor, hence, the marriage did not push through because of private complainant's minority. Adding, that the complaint against him was filed by private complainant's parents "*soon enough*" that they were too advance and aggressive in lodging the criminal complaint; 4) the parties are in *pari delicto* considering that private complainant's side was also presumptuous or negligent as regards moral values; 5) the trial court itself was not fully or thoroughly certain that he has committed the crime; 6) accused-appellant did not apply for probation after the promulgation of the sentence even if the sentence was one (1) month to six (6) months and; 7) it was private complainant's parents, specifically BBB, who hindered their marriage.

We are not convinced.

To Our mind, however, the afore-quoted instances hold no water and do not in any manner dispel the existence of deceit.

In the landmark case of *People vs. Iman, 62 Phil. 92 (1935)* the High Court had the occasion to rule that “*in order to establish the existence of seduction, a positive and direct statement of the offended party that she yielded to the accused because she was induced and deceived by his promise of marriage, and not for the mere satisfaction of carnal desires, is not necessary, it being sufficient that the conduct of the offended person and the accused and the circumstances of the case, taken as a whole, show that her consent was secured by means of said promise, as in the instant case*”. (Emphasis supplied)

In the case at bar, it was established that private complainant was persuaded to have sexual intercourse with the accused-appellant because of the latter’s promise to marry her. Had it not been because of the said promise, private complainant would have not veered from the path of virtue. The promise of marriage, so to speak, served as the catalyst, which eventually led private complainant to give in to accused-appellant’s carnal desire. Stated differently, her submission to have sexual intimacies with the accused-appellant was on account of the latter’s offer of marriage. Evident it is from the testimony of private complainant during trial. From the transcript of stenographic notes, We quote:

Q: When you lay (*sic*) together at the house of your auntie Adelaida, what happened?

A: On the 27<sup>th</sup> something happened to us and then on the following morning we went to have a document prepared, sir.

Q: What happened to you on the night of 27<sup>th</sup>?

A: He touched me, sir.

Q: What do you mean by touch?

A: We had sex, sir.

Q: Before you had sex what did you tell him, if any?

A: He told me ‘why don’t you give up I have already talked to your parents’ that is the reason why I give (*sic*) myself up because he intended to marry me, sir.

COURT –

Q: Before he touched you what are the exact words that he told you in order for you to give in?

A: He said don’t worry I already made a promise to your parents that I will marry you and we will make papers for that.

Q: And after that you made love?

A: Yes, sir” (Orig. Rec., pp. 8-9, February 2, 2000).

And while it may be true, that in the assailed decision the trial court had stated that the element of deceit in the instant case is debatable, “it appearing that the accused had no apparent intention of deceiving the private complainant”, nevertheless, the ruling in the Iman Case has guided Us in resolving said issue against the accused-appellant. Granting for the sake of argument that accused-appellant’s actuations prior to the sexual intercourse can be interpreted as sincere, still, his arguments can not absolve him from liability on the mere fact that his promise of marriage had caused herein private complainant to submit herself to have sexual congress with him, more so, that accused-appellant failed to fulfill his promise when she reached the age of majority. To quote the portion of the trial court’s decision to which We give Our full accord:

“Be that as it may, facts and circumstances of the case indicates (sic) that the accused never actually decided to cling on his promise. Considering that AAA reaches the age of majority by August, 1999, barely six (6) months from the date of the supposed marriage, Norway could have easily waited for that time to make good his promise. Why did he prefer Sonie over AAA while in fact the legal impediment will be over in just six (6) months, if he does not have the intention to deceive AAA in the first place. The acts of the accused, though bearing some badges of sincerity to fulfill his promise were still constructive of deceit. He may not have conceived of it while he was seducing AAA to give in to his sexual desire but he made it manifest after discovering the existence of a legal impediment to their intended marriage during the consultation with Judge Pedro Habon. With it, he found a way to evade responsibility, to the damage and prejudice of the private complainant, AAA and her family. He abandoned AAA and opted to share his real love with Sonie.

**In fine, AAA submitted to the carnal desire of Norway because of his solemn promise to marry her”**  
(Emphasis supplied) (Rollo, p. 28).

Given the foregoing, it is quite enlightening to note the jurisprudence laid down in the Iman Case citing the case of State vs. Smith (145 S.E., 287):

“The statute making seduction a crime is not to punish illicit intercourse, but to punish the seducer who by means of a promise of marriage, destroys the chastity of an unmarried female of previous chaste character, and who thus draws her aside from the path of virtue and rectitude, and then fails and refuses to fulfill his promise,” a character despicable in the eyes of every decent, honorable man.”<sup>7</sup>

Based on the findings and conclusions by the CA, the State proved the elements of simple seduction. Indeed, it was clear and undisputed that the victim was then only 17 years, five months and three days in age at the time of the sexual intercourse committed by the petitioner on January 27,

---

<sup>7</sup> Rollo, pp. 65-72.

1999, she being born on August 24, 1981; and that she yielded to having the sexual intercourse with him because of his promise to marry, not for the satisfaction of her carnal desires. With these facts and circumstances having been proved, it becomes clear that he deliberately violated the letter and the spirit of the law on simple seduction. As such, his guilt for simple seduction was established beyond reasonable doubt.

Nonetheless, the indeterminate penalty of imprisonment from one month and one day to six months of *arresto mayor* imposed on the petitioner was glaringly improper because an indeterminate sentence could not be imposed when the maximum of the penalty did not exceed one year.<sup>8</sup> The duration of *arresto mayor* is one month and one day to six months.<sup>9</sup> We should now correct the penalty, and in its place fix the straight penalty of three months of *arresto mayor* in its medium period because of the absence of any modifying circumstances.

In order to conform to current judicial policy,<sup>10</sup> the Court prescribes interest of 6% *per annum* on the civil liability consisting of moral damages of ₱50,000.00 and exemplary damages of ₱50,000.00, to be computed from the finality of this decision until full payment. In this connection, we state that we cannot review and modify the amounts and the factual and legal bases for the civil liability because the awards became final and executory due to the petitioner's failure to appeal them.

**WHEREFORE**, the Court **AFFIRMS** the decision promulgated on September 30, 2010 finding Norway T. Agcaoili **GUILTY** beyond reasonable doubt of the crime of simple seduction subject to the **MODIFICATION** that: (a) his penalty is the straight penalty of three months of *arresto mayor* in its medium period; (b) the civil liability consisting of moral damages of ₱50,000.00 and exemplary damages of ₱50,000.00 shall be charged interest of 6% *per annum*, to be computed from the finality of this decision until full payment; and (c) the petitioner shall pay the costs of suit.

- over -

187

<sup>8</sup> Section 2 of the *Indeterminate Sentence Law* provides:

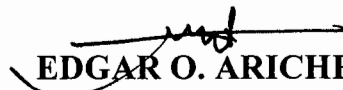
Section 2. **This Act shall not apply** to persons convicted of offenses punished with death penalty or life imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who shall have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; **to those whose maximum term of imprisonment does not exceed one year**; nor to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof. (As amended by Act No. 4225, Aug. 8, 1935)

<sup>9</sup> Article 27, *Revised Penal Code*.

<sup>10</sup> *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

**SO ORDERED.”** *SERENO, C.J.*, on leave; *VELASCO, JR., J.*, acting member per S.O. No. 1772 dated August 28, 2014.

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court  
187

PUBLIC ATTORNEY’S OFFICE  
Counsel for Petitioner  
DOJ Agencies Bldg.  
1128 Diliman, Quezon City

Court of Appeals (x)  
Manila  
(CA-G.R. CR No. 25955)

The Solicitor General (x)  
Makati City

The Hon. Presiding Judge  
Regional Trial Court, Br. 52  
2445 Tayug, Pangasinan  
(Crim. Case No. T-2327)

Judgment Division (x)  
Supreme Court

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

SR

