NORLIE S. SILVANIA AND MAY ANN CALLEJO, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 271594, June 02, 2026

Ponente: KHO, JR., J.

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KHO, JR., J.:

Assailed in this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court are the Decision[2] dated March 14, 2023 and Resolution[3] dated December 13, 2023 of the Court of Appeals (CA), which affirmed the Decision[4] dated May 30, 2019 of Branch 24, Regional Trial Court, Cabugao, Ilocos Sur (RTC), which in tum, upheld the Judgment[5] of the Municipal Trial Court, Cabugao, Ilocos Sur (MTC). The courts a quo uniformly. found petitioners Norlie S. Silvania (Norlie) and May Ann Callejo[6] (May Ann; collectively, petitioners) guilty beyond reasonable doubt of concubinage, defined and penalized under Article 334 of the Revised Penal Code, as amended (RPC).

The Facts

An Information[7] was filed before the MTC charging petitioners with concubinage. The accusatory portion of the Information reads:

> That sometime in September, 2015 up to the present, in the municipality of Cabugao, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Norlie S. Silvania, being then legally married to Jenalyn Silvania, did then and there willfully, unlawfully and feloniously at aforesaid date and place cohabited and had sexual intercourse, under scandalous circumstances with above-named accused, May-Ann Callejo, a woman not his wife, and the said May-Ann Callejo, knowing Norlie S. Silva to be legally married, willfully, unlawfully and feloniously cohabited and had sexual intercourse, under scandalous circumstances with said Norlie S. Silvania, both accused living as husband and wife, to the damage and prejudice of said Jenalyn Silvania.[8]

The prosecution presented the testimonies of Jenalyn Silvania (Jenalyn) and Melinda S. Repollo (Melinda).[9]

According to Jenalyn, she married Norlie on April 18, 2012 as evidenced by a Certificate of Marriage. Their marriage bore them a son. Jenalyn testified that while they were living as husband and wife, Norlie was sweet and thoughtful. However, their relationship changed when Norlie was elected as the top barangay kagawad of Dardarat, Cabugao, Ilocos Sur. Upon Norlie's election as kagawad, Jenalyn claimed that Norlie began arriving home late at night. This allegedly led to arguments between them, resulting in Norlie leaving the family home in March 2015 and allegedly starting an affair with May Ann, the barangay secretary.[10]

Jenalyn then alleged that Norlie returned to their family home sometime in July 2015. However, Jenalyn observed that Norlie became distant and would still come home late at night. Moreover, Norlie allegedly had a second mobile phone which he kept in his family's home.[11]

A month later, Norlie was appointed as the barangay captain. Jenalyn alleged that Norlie dissuaded her to attend

his oath taking ceremony. Afterwards, Jenalyn allegedly learned from other barangay officials that May Ann accompanied Norlie instead. This prompted Norlie and Jenalyn to argue again.[12]

Norlie finally abandoned Jenalyn and their son in September 2015. Jenalyn also discovered that Norlie did not stay with his mother and lived in May Ann's house, which was similarly located in Dardarat, Cabugao, Ilocos Sur. Worse, Norlie and May Ann allegedly flaunted their relationship in social media by posting photos with their son while not providing support for the medical expenses of Norlie's son with Jenalyn.[13]

Jenalyn further testified that she would see Norlie in May Ann's house whenever she would pass by May Ann's house to go to her sibling's house. In particular, she said Norlie would be at May Ann's house during lunch time and at nighttime, between 8:30 p.m. to 9:00 p.m.[14]

In support of Jenalyn's testimony, Melinda testified that she knew Jenalyn, Norlie, and May Ann because they were residents of the same barangay. She alleged that Norlie and May Ann are now living at May Ann's residence. In support of her allegation, she testified that (a) she saw Norlie cleaning May Ann's farm with May Ann bringing snacks for Norlie; (b) she always noticed Norlie and May Ann passing by her house going to the "peryaan" and May Ann allegedly paying Norlie's debts; (c) she also saw Norlie going to May Ann's house at night; and (d) she likewise saw Norlie at May Ann's house at times when she passed by their house whenever she bought fish at the market.[15]

In turn, the defense presented Norlie and Narlo Silvania (Narlo), Norlie's brother, as witnesses. Narlo testified that Norlie had stayed in their family home since leaving Jenalyn's house. He also stated that Norlie visited his son with May Ann and Norlie would sometimes bring his son to their house or it was May Ann herself who would bring the child to their family home.[16]

For his part, Norlie admitted his marriage to Jenalyn. Norlie alleged that he stayed at his parents' home after he left Jenalyn and their son. According to Norlie, his role as barangay captain made him close to May Ann and their relationship 'became deeper which eventually led to .May Ann's pregnancy. Norlie stated that he did not regret having a child with May Ann. He argued that there was nothing scandalous with him having a child with May Ann despite not being married to May Ann.[17]

The MTC Ruling

In a Judgment[18] dated December 5, 2018, the MTC found Norlie and May Ann guilty of concubinage and respectively sentenced: (a) Norlie with a penalty of imprisonment of four months and one day of arresto mayor, as minimum, to three years of prision correccional, as maximum; and (b) May Ann with a penalty of destierro for a period of eight months.[19]

According to the MTC, the prosecution proved the elements of concubinage beyond reasonable doubt. It ruled that while the prosecution failed to present direct evidence proving the existence of concubinage, the collective testimonies of the prosecution's witnesses, together with Norlie's testimony, constituted as circumstantial evidence to prove concubinage. Anent May Ann's participation, the MTC held that she had knowledge of Norlie's marriage considering Norlie and Jenalyn and the witnesses lived in the same barangay, as such, May Ann knew that Norlie is married because of his position as the barangay chairperson and it was her function to keep the records and files of the barangay which included Norlie's files. Moreover, May Ann's association with Norlie in the barangay hall made it impossible for her to not know his marital status. Finally, the MTC observed that it was beyond credence for May Ann to not ascertain whether Norlie was married or not before being involved with a romantic relationship with him.[20]

Aggrieved, petitioners appealed to the RTC.

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The RTC Ruling

In a Decision[21] dated May 30, 2019, the RTC affirmed the MTC ruling in toto. Concurring with MTC's observations, the RTC held that records showed that petitioners were guilty of concubinage, particularly with regard to petitioners cohabiting in May Ann's house. May Ann had knowledge of Norlie's marital status considering how petitioners flaunted their relationship over social media that they are happy together with their child. Moreover, the RTC took note that Norlie's presence in May Ann's house was undisputed nor explained by the defense. The RTC took particular attention into Norlie's declaration that he never regretted having a child with May Ann, regardless of whether he is married to May Ann or not.[22]

Dissatisfied, Norlie and May Ann appealed to the CA.

The CA Ruling

In a Decision[23] dated March 14, 2023, the CA affirmed Norlie and May Ann's conviction for concubinage and their respective penalties. Similar to the MTC and RTC's ruling, the CA held that the prosecution proved the existence of concubinage through circumstantial evidence.[24] In particular, the CA took note of the following circumstances: (a) Norlie and May Ann were seen together in May Ann's house for more than five times; (b) Norlie was going home to May Ann's house at night based on Melinda's testimony; and (c) Norlie lacked empathy for Jenalyn while professing his love to May Ann. Moreover, Norlie's declaration of love for May Ann and having a son in open court, together with the existence of the social media posts, were clear sign of Norlie's intention to cohabit with May Ann.[25]

Norlie and May Ann moved for reconsideration but was denied in a Resolution[26] dated December 13, 2023.

Hence, this Petition.

The Issue Before the Court

The issue for the Court's resolution is whether the CA erred in finding petitioners Norlie S. Silvania and May Ann Callejo guilty of the crime of concubinage beyond reasonable doubt.

Petitioners maintain that the Prosecution failed to establish the elements of concubinage beyond reasonable doubt in relation to Norlie, while May Ann did not have knowledge that Norlie was married. According to them, the courts a quo erred in relying on circumstantial evidence to determine the existence of proof beyond reasonable doubt in convicting them of concubinage.[27]

In its Comment,[28] the Office of the Solicitor General maintains that the courts a quo did not err in convicting petitioners of concubinage. It argues that the prosecution presented circumstantial evidence sufficient to prove the existence of the elements of concubinage beyond reasonable doubt.[29]

The Court's Ruling

The Petition is meritorious.

Preliminarily, it must be emphasized that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.[30]

Relatedly, under Rule 133, Section 2 of the Rules on Evidence, "[p]roof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is

required, or that degree of proof which produces conviction in an unprejudiced mind."

In Macayan, Jr. v. People,[31] the Court reiterated that the requirement of proving an accused's guilt by proof beyond reasonable doubt in criminal cases is rooted on the presumption of innocence accorded to all by no less than the Constitution:

> An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as, excluding the possibility of error, produce absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.[32]

Relatedly, in People v. Claro,[33] the Court clarified on what constitutes "reasonable doubt," as follows:

> [Reasonable doubt] is not mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in such a condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge. The burden of proof is upon the prosecutor. All the presumptions of law independent of evidence are in favor of innocence; and every person is presumed to be innocent until he is proved guilty. If upon such proof there is reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. For it is not sufficient to establish a probability, though a strong one arising from the doctrine of chances, that the fact charged is more likely to be true than the contrary; but the evidence must establish the truth of the fact to a reasonable and moral certainty; a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. This we take to be proof beyond reasonable doubt; because if the law, which mostly depends upon considerations of a moral nature, should go further than this, and require absolute certainty, it would exclude circumstantial evidence altogether.[34] (Emphasis in the original, citations omitted)

Guided by this consideration, the Court is constrained to acquit petitioners of concubinage on the ground of reasonable doubt.

Article 334 of the RPC reads:

> ARTICLE 334. Concubinage. — Any husband who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place, shall be punished by prisión correccional in its minimum and medium periods.
>
> The concubine shall suffer the penalty of destierro.

In Singgit v. People,[35] the Court enumerated the elements that the prosecution must prove to convict a man and a woman of concubinage:

- That the man must be married;
- That he committed any of the following:
- Keeping mistress in a conjugal abode;
- Having sexual intercourse under scandalous circumstances with a woman who is not his wife;
- Cohabiting with her in any other place.

- That as regards the woman, she must know him to be married.[36]

In the present case, the first element (i.e., that the man must be married) is undisputed by both the prosecution and the defense. However, petitioners argue that Norlie is cohabiting with May Ann and that May Ann has knowledge of Norlie's marital status have not been proven by the prosecution beyond reasonable doubt.

The evidentiary standard of proof beyond reasonable doubt only requires that of moral certainty or that degree of proof which produces conviction in an unprejudiced mind.[37] Thus, the prosecution is tasked to present evidence to show the guilt of the accused and not rely on the weakness of the defense of the accused.[38]

In the present case, the courts a quo held that the prosecution proved the elements of the crime of concubinage beyond reasonable doubt through circumstantial evidence. To uphold a conviction of an accused based on circumstantial evidence, it is required that "(a) [t]here is more than one circumstance; (b) [t]he facts from which the inferences are derived are proven; and (c) [t]he combination of all the circumstances is such as to produce a conviction beyond reasonable doubt."[39] Hence, "it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused... as the guilty person."[40]

Thus, the Court finds it essential to determine whether the evidence presented by the prosecution presents an unbroken chain leading to a fair and reasonable conclusion showing that (a) Norlie is cohabiting with May Ann; and (b) May Ann had knowledge that Norlie is married.

In Ocampo v. People,[41] the Court defined cohabitation in the context of concubinage as the act of dwelling together "[in] the manner of husband and wife, for some period of time, as distinguished from occasional, transient interviews for unlawful intercourse."[42] There, petitioner was found to have cohabited with his co-accused, and thus guilty of concubinage, based on the following facts:

> In the instant case, petitioner's conduct with his [co-accused] was not confined to isolated interviews for unlawful intercourse. He and his [co-accused] dwelt together as husband and wife in the same house in Naga, Camarines Sur, where they were seen attending shows and dances; again, in Tiwi, Albay, they dwelt together as husband and wife in the same house for seven days and nights where they slept together and alone in one room. We are of the opinion and so hold that such association is sufficient to constitute a cohabitation within the meaning of the, law even disregarding proofs of actual sexual intercourse.[43]

Considering the foregoing, the Court finds that the circumstantial evidence considered cannot reasonably lead to the conclusion that Norlie cohabited with May Ann.

According to the courts a quo, the circumstantial evidence which led to the conclusion that Norlie was cohabiting with May Ann were as follows: (a) petitioners were seen together in May Ann's house for more than five times; (b) Norlie was going home to May Ann's house at night based on Melinda's testimony; (c) Norlie lacked empathy for Jenalyn while professing his admission of love to May Ann; (d) Norlie's declaration of love for May Ann and having a son in open court; and (e) the existence of the social media posts of Norlie together with May Ann and their son.

When contrasted with the factual circumstance of the petitioner's conviction in Ocampo, the circumstances considered by the courts a quo do not amount to the existence of cohabitation as understood in the context of concubinage. That petitioners were seen in May Ann's house for more than five times or the testimony that Norlie would be seen going to May Ann's house at night does not necessarily create an inference that Norlie dwells with May Ann together as husband and wife. Neither does Norlie lack of empathy towards Jenalyn amount to the existence of cohabitation, at best, such callousness may be used by Jenalyn as proof for other forms of remedies

under the law. Moreover, the fact that petitioners have a child together similarly does not equate to Norlie being required to live with May Ann insofar as the defense has presented testimony that May Ann and the child would instead visit Norlie in his house.

Based on the foregoing, the Court holds that the prosecution failed to prove beyond reasonable doubt the existence of concubinage on the part of Norlie, thereby his acquittal from the crime of concubinage is warranted. Consequently, the failure to prove the existence of cohabitation necessitates that May Ann should also be acquitted for concubinage because Norlie was not found to have committed any of other enumerated acts under Article 334 of the RPC.

ACCORDINGLY, the Petition for Review on Certiorari is GRANTED. The Decision dated March 14, 2023 and Resolution dated December 13, 2023 of the Court of Appeals in CA-G.R. CR No. 44164 are REVERSED and SET ASIDE. Accordingly, petitioners Norlie S. Silvania and May Ann Callejo are ACQUITTED of the crime of concubinage for failure of the prosecution to prove their guilt beyond reasonable doubt.

Let entry of final judgment be issued immediately.

SO ORDERED."

Lazaro-Javier and Villanueva, JJ., concur.
Leonen, SAJ. (Chairperson), see concurring opinion.
Lopez,[*] J., on leave.

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[*] On leave.

[1] Rollo, pp. 12-25.

[2] Id. at 85-96. The March 14, 2023 Decision in CA-G.R. CR No. 44164 was penned by Associate Justice Jose Lorenzo R. Dela Rosa and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Emily R. Aliño-Geluz, of the Twelfth Division, Court of Appeals, Manila.

[3] Id. at 98-99. The December 13, 2023 Resolution in CA-G.R. CR No. 44164 was penned by Associate Justice Jose Lorenzo R. Dela Rosa and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Emily R. Aliño-Geluz, of the Former Twelfth Division, Court of Appeals, Manila.

[4] Id. at 56-63. Penned by Presiding Judge Marita Bernales Balloguing.

[5] Id. at 34-54. Penned by Presiding Judge Homer Jay D. Ragonjan.

[6] Also referred to as "May-Ann Callejo" in some parts of the rollo.

[7] Rollo, pp. 29-30.

[8] Id. at 29.

[9] Id. at 35.

[10] Id. at 31.

[11] Id.

[12] Id.

[13] Id.

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[14] Id. at 48.

[15] Id. at 49-50.

[16] Id. at 39.

[17] Id. at 43.

[18] Id. at 34-54.

[19] Id. at 54.

[20] Id. at 44-53.

[21] Id. at 56-63.

[22] Id. at 61-63.

[23] Id. at 85-96.

[24] Id. at 95-96.

[25] Id. at 95.

[26] Id. at 98-99.

[27] Id. at 19-22.

[28] Id. at 141-160.

[29] Id. at 155-157.

[30] People v. Bernardo, 890 Phil. 97, 110 (2020) [Per J. Perlas-Bernabe, Second Division], citing Arambulo v. People, 857 Phil. 828, 836 (2019) [Per J. Perlas-Bernabe, Second Division].

[31] 756 Phil. 202 (2015) [Per J. Leonen, Second Division].

[32] Id. at 214, citing Boac v. People, 591 Phil. 508, 521-522 (2008) [Per J. Velasco, Jr., Second Division].

[33] 808 Phil. 455 (2017) [Per J. Bersamin, Third Division].

[34] Id. at 464-465.

[35] 936 Phil. 1098 (2023) [Per J. Gaerlan, Third Division].

[36] Id. at 1108-1109.

[37] See Revised Rules of Evidence, Rule 133, sec. 2.

[38] See Macayan v. People, 756 Phil. 202, 228 (2015) [Per J. Leonen, Second Division].

[39] See Revised Rules of Evidence, Rule 133, sec. 4.

[40] People v. Macabare, 613 Phil. 474, 482 (2009) [Per J. Velasco, Jr., Third Division].

[41] 72 Phil. 268 (1941) [Per J. Moran, En Banc].

[42] Id. at 269.

[43] Id. at 270.

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CONCURRING OPINION

LEONEN, SAJ.:

I concur with the ponencia. The prosecution was unable to prove beyond reasonable doubt the existence of concubinage on the part of petitioner Norlie S. Silvania, warranting his acquittal.

Article 334 of the Revised Penal Code provides for the crime of concubinage:

> ARTICLE 334. Concubinage. — Any husband who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place, shall be punished by prision correccional in its minimum and medium periods.
>
> The concubine shall suffer the penalty of destierro.[1]

Ocampo v. People[2] explained that concubinage may be committed by a man in three ways: (1) by keeping a mistress in the conjugal dwelling; (2) by having sexual intercourse, under scandalous circumstances, with a woman who is not his wife; and (3) by cohabiting with such woman in any other place.[3] It further expounded on the term "cohabit:"

> The term "cohabit" means to dwell together, in the manner of husband and wife, for some period of time, as distinguished from occasional, transient interviews for unlawful intercourse. And, whether an association, for illicit intercourse, has been such as to constitute an unlawful assumption of the conjugal relation, is, in every case a question of fact, and the extent of such association as to constitute a cohabitation within the meaning of the law, is a matter of court's appreciation.[4] (Citations omitted)

In this case, the ponencia was correct in stating that "the circumstances considered by the courts a quo do not amount to the existence of cohabitation as understood in the context of concubinage."[5] As it aptly explained:

> That petitioners were seen in May Ann's house for more than five times or the testimony that Norlie would be seen going to May Ann's house at night does not necessarily create an inference that Norlie dwells with May Ann together as husband and wife. Neither does Norlie's lack of empathy towards Jenalyn amount to the existence of cohabitation, at best, such callousness may be used by Jenalyn as proof for other forms of remedies under the law. Moreover, the fact that Norlie and May Ann have a child together similarly does not equate to Norlie being required to live with May Ann insofar as the defense has presented testimony that May Ann and the child would instead visit Norlie in his house.[6]

People v. Jaen[7] explained that to uphold a conviction based on circumstantial evidence, it is essential that:

> ... the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of the others, as the guilty person. The test to determine whether or not the circumstantial evidence on record is sufficient to convict the accused is that the series of circumstances duly proved must be consistent with one other and that each and every circumstance must be consistent with accused's guilt and inconsistent with his innocence. The circumstances must be proved, and not themselves presumed. The circumstantial evidence must exclude the possibility that some other person has committed the offense.[8] (Emphasis supplied, citations omitted)

In this case, the circumstances were not proven beyond reasonable doubt by the prosecution, and rather than proved were themselves presumed. The circumstantial evidence—such as the husband being seen in the barangay secretary's house for more than five times, the husband being seen going to the barangay secretary's house at night, and the husband having a child with the barangay secretary—cannot reasonably lead to the conclusion that there was cohabitation as understood in the context of concubinage.

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Again, I take this opportunity to echo my dissent in Valencia v. People,[9] where I observed that concubinage, along with adultery, "are not 'crimes' in the true sense of the word:"[10]

> Considering the underlying reason for the existence of criminal actions, it is difficult to reconcile how acts that constitute adultery and concubinage fall within their scope. Issues of marital infidelity are, at its core, private matters between two married individuals. When one engages in marital infidelity, it is only the family unit that is directly affected. In fact, such transgressions are rarely made known to the public, much less to the State.
>
> The private nature of marital infidelity is emphasized in the Revised Penal Code, as "crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the off ended spouse." The State, on its own, cannot initiate a criminal complaint for these crimes as it is not an offended party.
>
> The reason is simple: Marital infidelity is not "a breach of the security and peace of the people at large, an outrage against the very sovereignty of the State."
>
> Adultery and concubinage are not "crimes" in the true sense of the word.[11] (Citations omitted)

To reiterate, there should not be three parties in a relationship involving two married individuals; it should only be between those two individuals alone. Their relationship is a private matter which the government should not needlessly intrude into.

In this case, the seeming scandal of the second. union is manufactured by the State's refusal to allow a dignified exit to failed formal relationships, i.e., marriage. To my mind, once a relationship has floundered and a loveless marriage subsists, the two parties should not be forced to stay with each other. They should be allowed to cut—and cut cleanly—the marital bond, without any opposition from the State.

As I opined in my ponencia in Boado v. Galvez-Boado:[12]

> Loving one's spouse is an important, if not the most important, essential marital obligation. Petitioner already asserted that he no longer loved private respondent. He also proved that his inability to love private respondent back is rooted in a durable part of his personality, caused by a potentially emotionally immature parent. For these reasons, petitioner must not be forced to stay in a loveless marriage, and his marriage to private respondent must be voided.[13] (Citation omitted)

As I also pointed out in my dissent in Valencia:

> The relationship between two married individuals, including deviations from the marriage contract, is a private matter that does not require any government interference. There is no public interest to protect or act that requires penal sanctions. Thus, to allow private citizens to utilize the strong arm of the law to punish those who commit marital infidelity is a disproportionate remedy for the nature of the action.[14]

The State's obstinate refusal to allow the severing of loveless marriages fails to fully consider the extent of an individual's humanity and how freedom in intimate relationships is paramount in order to build a life of true happiness and meaning. Withholding the State's imprimatur to allow a dignified exit to failed formal relationships contributes to the very problem it seeks to solve.

As I stressed in my dissent in XXX v. People,[15] "[o]ur laws should be interpreted to have a more mature understanding of the complexities of intimate relationships[:]"[16]

> To restore the humanity of our laws in relation to intimate relationships, I dissent.
>
> Infidelity is painful. It can be the most difficult challenge in any relationship. Many of us have gone through it. We know its reality.
>
> Some of our relationships have survived. Some have had to be terminated giving the partners another chance to

be in a better place. Some have forgiven. Many have not forgotten.

If we are to be truly human as judges, we have to accept that the acts that constitute fidelity can vary among couples. We need to accept that the causes of infidelity are varied. While none may be justifiable, we also need to be true to our hope that freedom in intimate relationships are the bedrock upon which happiness, meaning, and society are built. We need to read the law as one that provides openings for those who survive their relationships despite infidelities.

With utmost respect, the reading of the law by the slim majority of this Court does not reflect this aspect of our humanity. Regretfully, it misunderstands what intimate relationships often go through.

Reading marital infidelity as criminal per se is unjust.

I acknowledge the existence of patriarchy and the possibility of physical abuse and psychological coercion that can happen in intimate relationships. I acknowledge that in these cases, having the state intervene by making the acts criminal is essentially justifiable. In such cases, it is clear that the relationship has significantly deteriorated to one of power: where the dominant abuses.

In Garcia v. Drilon, I acknowledged that this is generally in heterosexual relationships but I called attention to the possibility that the protection of the State is absent in intimate relationships between men. In Agacid v. People, the Court unanimously applied the provision of this law in an intimate relationship between women.

I cannot, however, in conscience, convict now on the basis of a phrase in the law—marital infidelity—that is vague, infringes on the autonomy of couples to resolve their differences, and stereotypes all women as always victims. Neither can I accept that we criminally punish undefined marital infidelity in the context of our legal order that does not recognize divorce between Filipinos. It is cruel for all those in a relationship. Infidelity in monogamous relationships is a phenomenon that has a lot of causes. It cannot automatically be attributed to an intent to abuse or coerce one of the partners.

Our laws should be interpreted to have a more mature understanding of the complexities of intimate relationships. We should avoid a doctrinal interpretation of morality of only one dominant religion.

There is no dispute that petitioner XXX strayed from the marital relationship. Neither is there doubt that his wife AAA experienced excruciating pain upon learning of his indiscretion. But there being no evidence that he did so precisely to inflict mental or emotional anguish on his wife, I am of the view that petitioner's infidelity is not psychological violence within the meaning of the law.

My vote is for XXX's acquittal.[17] (Citations omitted)

ACCORDINGLY, I vote to GRANT the Petition.

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[1] REV. PEN. CODE, art. 334.

[2] 72 Phil. 268 (1941) [Per J. Moran, First Division].

[3] Id. at 269.

[4] Id.

[5] Ponencia, p. 9.

[6] Id.

[7] 858 Phil. 447 (2019) [Per J. Perlas-Bernabe, Second Division].

[8] Id. at 470.

[9] 951 Phil. 163 (2024) [Per J. Lazaro-Javier, Second Division].

[10] J. Leonen, Dissenting Opinion in Valencia v. People, 951 Phil. 163, 187 (2024) [Per J. Lazaro-Javier, Second Division].

[11] Id. at 187.

[12] 960 Phil. 24 (2024) [Per SAJ Leonen, Second Division].

[13] Id.

[14] J. Leonen, Dissenting Opinion in Valencia v. People, 951 Phil. 163, 187 (2024) [Per J. Lazaro-Javier, Second Division].

[15] 953 Phil. 462 (2024) [Per J. Hernando, En Banc].

[16] J. Leonen, Dissenting Opinion in XXX v. People, 953 Phil. 462, 579 (2024) [Per J. Hernando, En Banc].

[17] Id. at 578-579.

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