

**LBC EXPRESS-VIS, INC. vs. MONICA C. PALCO**  
**GR No. 217101, February 12, 2020<sup>4</sup>**

**FACTS:**

Monica C. Palco (Palco) started working for LBC Express-Vis Inc. (LBC) as a customer associate in its Gaisano Danao Branch (LBC Danao). The Branch's Team Leader and Officer-in-Charge, Arturo A. Batucan (Batucan), endorsed her application for the post and acted as her immediate superior.

While employed at LBC, Palco had initially noticed that Batucan would often flirt with her, which made her uncomfortable. Later, Batucan started sexually harassing her. Batucan's undisputed acts are detailed as follows:

1. As weeks passed, she noticed something in the way respondent- Arturo A. Batucan stared and smiled at her. She also sensed some meaning in the way he talked to her, though she initially ignored these and just tried to focus on her job.
2. At one time he offered to lend her money, which she refused, not wanting to be indebted to him.
3. There was likewise an instance when he secretly gave her chocolate, which she felt uncomfortable about, there being no special occasion then.
4. Respondent-Arturo A. Batucan's actions grew bolder everyday[sic]. Whenever he approached her while working, he found ways to hold her hand or put his hand on her lap, if not, on her shoulder.
5. Then, the time came when he started to kiss her on the cheek in a joking manner.
6. On certain occasions, he pulled the strap of her bra, which made her feel really uncomfortable. When she tried to rebuke him on such, he would just tell her that it was a joke.
7. There was also a time when he joked about making a baby with her. He told her that if she will get married someday, he wants to join with her husband in making the baby. She just laughed it off, but she knew there was something wrong with the joke.

The final straw happened at around 8:00 a.m. on May 1, 2010. Batucan sneaked in on Palco while she was in a corner counting money. Palco was caught by surprise and exclaimed, "*Kuyawa nako nimo sir, oy!*" (You scared me, sir!). Batucan

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<sup>4</sup> Full text available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66192>.

then held her on her hips and attempted to kiss her lips. However, Palco was able to shield herself.

Batucan then tried a second time and was able to kiss Palco's lips before she could react. Batucan told Palco that he was just happy that day and then proceeded to wipe her lips. Palco, however, could not stop him.

She reported the incident to the LBC Head Office in Lapu Lapu City. Sensing that management did not immediately act on her complaint, Palco resigned. She asserted that she was forced to quit since she no longer felt safe at work.

Palco filed a Complaint for Illegal Dismissal against the company.

The Labor Arbiter ruled in favor of Palco ordering respondents to pay complainant's backwages, separation pay, moral and exemplary damages and attorney's fees.

The NLRC affirmed with modification the Labor Arbiter's decision but reduced the amount of moral damages to P50,000.00.

The Court of Appeals affirmed the NLRC. It denied LBC's Motion for Reconsideration.

**ISSUE:**

Whether LBC should be held liable for constructive dismissal.

**RULING:**

**YES.** LBC is liable for constructive dismissal.

Constructive dismissal occurs when an employer makes an employee's continued employment impossible, unreasonable or unlikely, or has made an employee's working conditions or environment harsh, hostile and unfavorable, such that the employee feels obliged to resign from his or her employment. Common examples are when the employee is demoted, or when his or her pay or benefits are reduced. However, constructive dismissal is not limited to these instances. The gauge to determine whether there is constructive dismissal, is whether a reasonable person would feel constrained to resign from his or her employment because of the circumstances, conditions, and environment created by the employer for the employee.

One of the ways by which a hostile or offensive work environment is created is through the sexual harassment of an employee.

Workplace sexual harassment occurs when a supervisor, or agent of an employer, or any other person who has authority over another in a work environment,

imposes sexual favors on another, which creates in an intimidating, hostile, or offensive environment for the latter.

The Court held that "[t]he gravamen of the offense in sexual harassment is not the violation of the employee's sexuality but the abuse of power by the employer. In this case, Batucan's acts are undisputed. He filed no pleading in the labor tribunals to deny respondent's allegations. During the administrative hearing, he simply explained that his acts were misinterpreted and did not constitute sexual harassment.

However, it is clear that Batucan's acts were sexually suggestive. He held respondent's hand, put his hand on her lap and shoulder, pulled her bra strap, joked about making a baby with her, attempted to kiss her, and eventually scored one. These acts are not only inappropriate, but are offensive and invasive enough to result in an unsafe work environment for respondent.

Indifference to complaints of sexual harassment victims may no longer be tolerated. Recent social movements have raised awareness on the continued prevalence of sexual harassment, especially in the workplace, and has revealed that one of the causes of its pervasiveness is the lack of concern, empathy, and responsiveness to the situation. Many times, victims are blamed, hushed, and compelled to accept that it is just the way things are, and that they should either just leave or move on.

In recognizing the need to address these concerns, the State's policy against sexual harassment has been strengthened through Republic Act No. 11313, otherwise known as the Safe Spaces Act. This law has expanded the definition of gender-based sexual harassment in the workplace and has added to the duties of an employer as to its prevention, deterrence, and punishment. It explicitly requires that complaints be investigated and resolved *within 10 days or less* upon its reporting. It likewise expressly provides for the liability of employers and duties of co-workers as to sexual harassment. The law likewise specifies the confidentiality of proceedings, and the issuance of a restraining order for the offended person. Moreover, it allows local government units to impose heavier penalties on perpetrators.

While this law does not apply to this case as it was enacted after the commission of Batucan's acts, its principles emphasize the need to accord more importance to complaints of sexual harassment and recognize the severity of the offense.

Petitioner's insensibility to respondent's sexual harassment case is a ground for constructive dismissal. In this instance, it cannot be denied that respondent was compelled to leave her employment because of the hostile and offensive work environment created and reinforced by Batucan and petitioner. She was thus clearly constructively dismissed.