

SECOND DIVISION

G.R. No. 277020 – AUREL ANN CHUA-CHIBA, Petitioner, v. JIN CHIBA and MICHAEL LLONA, Respondents.

Promulgated:

MAY 19 2025

x

x

CONCURRING OPINION

LEONEN, S.A.J.:

I concur with the *ponencia*. I write to also emphasize that the prosecution of private crimes must be read strictly.

For the crime of adultery, the Revised Penal Code provides that “[it] shall not be prosecuted except upon a complaint filed by the offended spouse.”¹ Accordingly, the language of the law is clear that adultery may only be prosecuted upon a complaint filed by the offended spouse. The provision also highlights the private nature of the crime of adultery.

In *Isturis-Rebuelta v. Rebuelta*,² the Court further underscored the nature of adultery as a private crime and the rule on its prosecution:

In private crimes, the right to commence an action or refrain therefrom is at the sole power and option of the offended party, who must decide whether to expose in public, the vices, faults, and disgraceful acts within the family. Adultery, as a private crime, may only be prosecuted upon a complaint filed by the husband against the guilty parties. It is the husband who would exercise the option of commencing the action to seek judicial redress for the wrong committed by his wife. Worthy of emphasis here is that in all crimes, whether private or public, the term “offended party” refers to the private complainant to whom the offender will be civilly liable in view of Article 100 of the RPC.³ (Citations omitted)

Moreover, I have explained the private nature of marital infidelity in my dissenting opinion in *Valencia v. People of the Philippines*:⁴

It is a basic principle that the State is the offended party in criminal actions. This is so because the commission of crimes is considered “a breach of the

¹ REV. PEN. CODE, art. 344.

² 949 Phil. 1116 (2023) [Per C.J. Gesmundo, First Division].

³ *Id.* at 1123.

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

security and peace of the people at large, an outrage against the very sovereignty of the State.” Thus, “[c]rimes are punished as retribution so that society would understand that the act punished was wrong[.]”

....

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 offended spouse.” *The State, on its own, cannot initiate a criminal complaint for these crimes as it is not an offended party.*

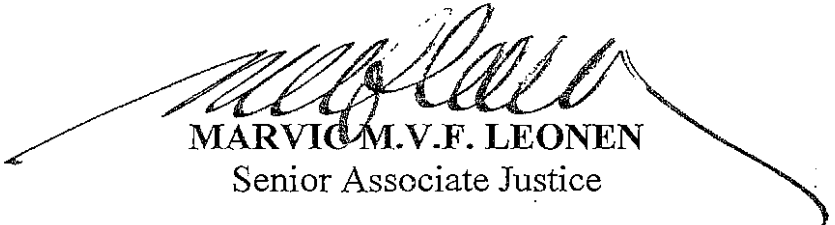
The reason is simple: Marital infidelity is not “a breach of the security and peace of the people at large, an outrage against the very sovereignty of the State.”

Adultery and concubinage are not “crimes” in the true sense of the word.

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.⁵ (Emphasis supplied, citations omitted)

Here, it appears on record that respondent Jin Chiba, the offended spouse, was not the one who initiated the complaint for adultery. It was merely his authorized representative, Marvin O. Ayende, who filed the complaint-affidavit charging Aurel Ann Chua-Chiba (Chua-Chiba) and Michael Llona (Llona) of the crime of adultery.⁶ Thus, it is evident that the rule on the prosecution of the crime of adultery was not complied with. Without a valid complaint, there is no case to begin with. Consequently, the complaint for the crime of adultery against Chua-Chiba and Llona must be dismissed.

ACCORDINGLY, I vote to GRANT the Petition.



MARVIC M.V.F. LEONEN
Senior Associate Justice

⁵ J. Leonen, Dissenting Opinion in *Valencia v. People*, 951 Phil. 163, 186–187 (2024) [Per J. Lazaro-Javier, Second Division].

⁶ *Ponencia*, p. 6.