

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. 169449 **March 26, 2010**

TERESITA G. NARVASA, Petitioner,
vs.
BENJAMIN A. SANCHEZ, JR.,¹ Respondent.

R E S O L U T I O N

Per Curiam:

This is a petition for review on certiorari² of the April 25, 2005 decision³ and August 4, 2005 resolution⁴ of the Court of Appeals (CA) in CA-G.R. SP No. 81107.

The parties to this case are employees of the Municipality of Diadi, Nueva Vizcaya (the LGU). Petitioner Teresita G. Narvasa is a senior bookkeeper while respondent Benjamin A. Sanchez, Jr. is the municipal assessor.

The instant case stemmed from three cases of sexual harassment filed separately against respondent by petitioner along with Mary Gay P. de la Cruz and Zenaida M. Gayaton, who are also employees of the LGU.

In her affidavit-complaint, De la Cruz claimed⁵ that, sometime in February 2000, respondent handed her a note saying, "Gay, I like you." Offended by respondent's inappropriate remark, de la Cruz admonished him for giving her such a note and told him that she would give the note to his wife. Respondent then grabbed the note from her and tore it into pieces. However, this first incident was followed by a message sent to De la Cruz sometime in March 2002 in which he said, "*Ka date ko si Mary Gay... ang tamis ng halik mo.*"

On the other hand, Gayaton narrated⁶ that, on April 5, 2002, respondent whispered to her during a retirement program, "*Oy flawless, pumanaw ka met ditan*"⁷ while twice pinching her upper left arm near the shoulder in a slow manner.

A few days later, Gayaton received a text message while she was passing respondent's car in front of the municipal hall. The message said, "*Pauwi ka na ba sexy?*" Gayaton later verified through respondent's clerk, Alona Agas, that the sender of the message was respondent.

On or about April 22 to 25, 2002, Gayaton received several messages from respondent stating: (1) "I like you"; (2) "Have a date with me"; (3) "Don't tell to (*sic*) others that I told that I like you because *nakakahiya*"; (4) "*Puso mo to pag bigay moto sakin*, I would be very happy" and (5) "I slept and dreamt nice things about you."

Finally, as far as petitioner's complaint was concerned, she asserted⁸ that, on November 18, 2000, during a field trip of officers and members of the St. Joseph Multi-Purpose Cooperative to the Grotto Vista Resort in Bulacan, respondent pulled her towards him and attempted to kiss her. Petitioner

resisted and was able to escape the clutches of respondent to rejoin the group that they were travelling with. Respondent apologized to petitioner thrice regarding that incident...

Based on the investigation conducted by the LGU's Committee on Decorum and Investigation (CODI), respondent was found guilty of all three charges by Municipal Mayor Marvic S. Padilla. For the offenses committed against De la Cruz and Gayaton, respondent was meted the penalties of reprimand for his first offense of light harassment and 30 days' suspension for his first offense of less grave sexual harassment. His transgression against petitioner, however, was deemed to be grave sexual harassment for which he was dismissed from the government service.

On appeal, the Civil Service Commission (CSC) passed only on the decision in the case filed by petitioner since, under the CSC rules, the penalty of reprimand and/or suspension of not more than 30 days cannot be appealed. The CSC dismissed the appeal but modified Mayor Padilla's order by holding respondent guilty of grave misconduct instead of grave sexual harassment.⁹ The same penalty of dismissal from the service, however, was meted out to respondent.

Respondent's next recourse was to the CA which partially granted his appeal. The CA modified the CSC resolution, finding respondent guilty only of simple misconduct.¹⁰ Accordingly, the penalty was lowered to suspension for one month and one day.

Petitioner comes to this Court to appeal the downgrading of respondent's offense to simple misconduct.

The core issue for our resolution is whether the acts committed by respondent against petitioner (since the CSC resolution only touched upon petitioner's complaint) constitute simple misconduct or grave misconduct.

Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior.¹¹ To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.¹² In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of an established rule must be manifest.¹³

Respondent's acts of grabbing petitioner and attempting to kiss her were, no doubt, intentional. Worse, the incident occurred months after he had made similar but subtler overtures to De la Cruz, who made it clear that his sexual advances were not welcome. Considering that the acts respondent committed against petitioner were much more aggressive, it was impossible that the offensive nature of his actions could have escaped him. It does not appear that petitioner and respondent were carrying on an amorous relationship that might have justified his attempt to kiss petitioner while they were separated from their companions. Worse, as petitioner and respondent were both married (to other persons), respondent not only took his marital status lightly, he also ignored petitioner's married state, and good character and reputation.

We disagree with the CA that neither corruption, clear intent to violate the law or flagrant disregard of an established rule attended the incident in question. RA¹⁴ 7877, the Anti-Sexual Harassment Act of 1995, took effect on March 5, 1995. Respondent was charged with knowledge of the existence of this law and its contents, more so because he was a public servant. His act of grabbing petitioner and attempting to kiss her without her consent was an unmistakable manifestation of his intention to violate laws that specifically prohibited sexual harassment in the work environment. Assuming *arguendo* that respondent never intended to violate RA 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.

The CA, however, interpreted respondent's repeated apologies to petitioner as an indication of the absence of intention on his part to commit so grave a wrong as that committed. On the contrary, such persistent attempts to make peace with petitioner indicated how well respondent was aware of the gravity of the transgression he had committed. Respondent certainly knew of the heavy penalty that awaited him if petitioner complained of his aggressive behavior, as she, in fact, did.

Section 53 of Rule IV of the Uniform Rules on Administrative Cases provides a list of the circumstances which may be considered in the determination of penalties to be imposed.¹⁵ The CA considered respondent's more than ten years of government service and claim of being awarded Most Outstanding Municipal Assessor of Region II for three years as mitigating circumstances. Again, we disagree.

Length of service as a factor in determining the imposable penalty in administrative cases is a double-edged sword.¹⁶ In fact, respondent's long years of government service should be seen as a factor which aggravated the wrong that he committed. Having been in the government service for so long, he, more than anyone else, should have known that public service is a public trust;¹⁷ that public service requires utmost integrity and strictest discipline, and, as such, a public servant must exhibit at all times the highest sense of honesty and integrity.¹⁸ Sadly, respondent's actions did not reflect the integrity and discipline that were expected of public servants. He failed to live up to the image of the outstanding and exemplary public official that he was. He sullied government service instead.

Furthermore, we note that this is the third time that respondent is being penalized for acts of sexual harassment. We are also alarmed by the increasing boldness in the way respondent displayed his unwelcome affection for the women of his fancy. He is a perverted predator preying on his female colleagues and subordinates. Respondent's continued misbehavior cannot, therefore, be allowed to go unchecked.

WHEREFORE, the petition is hereby **GRANTED**. Resolution No. 031176 issued by the Civil Service Commission finding respondent Benjamin A. Sanchez, Jr. guilty of grave misconduct is **REINSTATED**. Respondent Benjamin A. Sanchez, Jr. is ordered **DISMISSED** from the service with forfeiture of retirement benefits except accrued leave credits, if any, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations. This is without prejudice to any criminal complaints that may be filed against him.

No costs.

SO ORDERED.

(On Official Leave)
REYNATO S. PUNO*
Chief Justice

ANTONIO T. CARPIO**
Acting Chief Justice

RENATO C. CORONA
Associate Justice

CONCHITA CARPIO MORALES
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

ANTONIO EDUARDO B. NACHURA
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO J. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

ANTONIO T. CARPIO
Acting Chief Justice

Footnotes

* On official leave.

** Acting Chief Justice.

¹ The Court of Appeals was originally impleaded as public respondent; however, it was excluded pursuant to Rule 45, Section 4 of the Rules of Court.

² Under Rule 45 of the Rules of Court.

³ Penned by Associate Justice Delilah Vidallon-Magtolis (retired) and concurred in by Associate Justices Bienvenido L. Reyes and Rosalinda Asuncion-Vicente of the former Sixth Division of the Court of Appeals. *Rollo*, pp. 26-42.

⁴ *Id.*, p. 43.

⁵ *Rollo*, p. 46.

⁶ Affidavit-Complaint of Zenaida M. Gayaton. *Rollo*, p. 48.

⁷ "Hey, flawless, get away from there."

⁸ Affidavit-Complaint of Teresita G. Narvasa. *Rollo*, p. 44.

⁹ Respondent was held administratively liable under CSC Memorandum Circular No. 19 series of 1994 which cites sexual harassment as a ground for administrative disciplinary action under the offense of grave misconduct.

Sec. 3 of Memorandum Circular No. 19 states:

(a) Sexual harassment is one or a series of incidents involving unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of sexual nature, made directly, indirectly and impliedly when

1) Such conduct might reasonably be expected to cause insecurity, discomfort, offense or humiliation to another person or group; or

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¹⁰ Also under CSC Memorandum Circular No. 19 series of 1994.

¹¹ *Salazar v. Barriga*, A.M. No. P-05-2016, 19 April 2007, 521 SCRA 449, 453.

¹² *CSC v. Belagan*, 483 Phil. 601, 623 (2004).

¹³ *CSC v. Lucas*, 361 Phil. 486 (1999).

¹⁴ Republic Act.

¹⁵ Section 53. *Extenuating, Mitigating, Aggravating, or Alternative Circumstances*. — In the determination of the penalties imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

xxx

g. Habituality

xxx

j. Length of service in the government

¹⁶ *Mariano v. Nacional*, A.M. No. MTJ-07-1688, 10 February 2009, 578 SCRA 181, 188.

¹⁷ *Civil Service Commission v. Ledesma*, G.R. No. 154521, 30 September 2005, 471 SCRA 589, 611.

¹⁸ *Retazo v. Verdon*, A.M. Nos. P-04-1807 and P-02-1653, 23 December 2008, 575 SCRA 1, 7.