

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 certiorari^[2] of the April 25, 2005 decision^[3] and August 4, 2005 resolution^[4] 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 claimed^[5] 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 narrated^[6] 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 asserted^[8] 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