

THIRD DIVISION

[G.R. No. 155831, February 18, 2008]

MA. LOURDES T. DOMINGO, Petitioner, vs. ROGELIO I. RAYALA, Respondent.

G.R. No. 155840

ROGELIO I. RAYALA, Petitioner, vs. OFFICE OF THE PRESIDENT; RONALDO V. ZAMORA, in his capacity as Executive Secretary; ROY V. SENERES, in his capacity as Chairman of the National Labor Relations Commission (in lieu of RAUL T. AQUINO, in his capacity as Acting Chairman of the National Labor Relations Commission); and MA. LOURDES T. DOMINGO, Respondents.

G.R. No. 158700

The REPUBLIC OF THE PHILIPPINES, represented by the OFFICE OF THE PRESIDENT; and ALBERTO G. ROMULO, in his capacity as Executive Secretary, Petitioners, vs. ROGELIO I. RAYALA, Respondent.

DECISION

NACHURA, J.:

Sexual harassment is an imposition of misplaced "superiority" which is enough to dampen an employee's spirit and her capacity for advancement. It affects her sense of judgment; it changes her life.^[1]

Before this Court are three Petitions for Review on *Certiorari* assailing the October 18, 2002 Resolution of the CA's Former Ninth Division^[2] in CA-G.R. SP No. 61026. The Resolution modified the December 14, 2001 Decision^[3] of the Court of Appeals' Eleventh Division, which had affirmed the Decision of the Office of the President (OP) dismissing from the service then National Labor Relations Commission (NLRC) Chairman Rogelio I. Rayala (Rayala) for disgraceful and immoral conduct.

All three petitions stem from the same factual antecedents.

On November 16, 1998, Ma. Lourdes T. Domingo (Domingo), then Stenographic Reporter III at the NLRC, filed a Complaint for sexual harassment against Rayala before Secretary Bienvenido Laguesma of the Department of Labor and Employment (DOLE).

To support the Complaint, Domingo executed an Affidavit narrating the incidences of sexual harassment complained of, thus:

4. Sa simula ay pabulong na sinasabihan lang ako ni Chairman Rayala ng mga salitang "Lot, gumaganda ka yata?"
5. Sa ibang mga pagkakataon nilalapitan na ako ni Chairman at hahawakan ang aking balikat sabay pisil sa mga ito habang ako ay nagta-type at habang nagbibigay siya ng diktasyon. Sa mga pagkakataong ito, kinakabahan ako. Natatakot na baka mangyari sa akin ang mga napapabalitang insidente na nangyari na noon tungkol sa mga sekretarya niyang nagbitiw gawa ng mga mahahalay na panghihipo ni Chairman.
6. Noong ika-10 ng Setyembre, 1998, nang ako ay nasa 8th Floor, may nagsabi sa akin na kailangan akong bumaba sa 7th Floor kung nasaan ang aming opisina dahil sa may koreksyon daw na gagawin sa mga papel na tinayp ko. Bumaba naman ako para gawin ito. Habang ginagawa ko ito, lumabas si Chairman Rayala sa silid ni Mr. Alex Lopez. Inutusan ako ni Chairman na sumunod sa kaniyang silid. Nang nasa silid na kami, sinabi niya sa akin:

Chairman: Lot, I like you a lot. Naiiba ka sa lahat.

At pagkatapos ako ay kaniyang inusisa tungkol sa mga personal na bagay sa aking buhay. Ang ilan dito ay tungkol sa aking mga magulang, kapatid, pag-aaral at kung may boyfriend na raw ba ako.

Chairman: May boyfriend ka na ba?

Lourdes: Dati nagkaroon po.

Chairman: Nasaan na siya?

Lourdes: Nag-asawa na ho.

Chairman: Bakit hindi kayo nagkatuluyan?

Lourdes: Nainip po.

Chairman: Pagkatapos mo ng kurso mo ay kumuha ka ng Law at ako ang bahala sa iyo, hanggang ako pa ang Chairman dito.

Pagkatapos ay kumuha siya ng pera sa kaniyang amerikana at inaabot sa akin.

Chairman: Kuhanin mo ito.

Lourdes: Huwag na ho hindi ko kailangan.

Chairman: Hindi sige, kuhanin mo. Ayusin mo ang dapat ayusin.

Tinanggap ko po ang pera ng may pag-aalinlangan. Natatakot at kinakabahan na kapag hindi ko tinanggap ang pera ay baka siya magagalit kasabay na rito ang pagtapon sa akin kung saan-saan opisina o kaya ay tanggalin ako sa posisyon.

Chairman: Paglabas mo itago mo ang pera. Ayaw ko ng may makaka-alam nito. Just the two of us.

Lourdes: Bakit naman, Sir?

Chairman: Basta. Maraming tsismosa diyan sa labas. But I don't give them a damn. Hindi ako

mamatay sa kanila.

Tumayo na ako at lumabas. Pumanhik na ako ng 8th Floor at pumunta ako sa officemate ko na si Agnes Magdaet. Ikinwento ko ang nangyari sa akin sa opisina ni Chairman. Habang kinikwento ko ito kay Agnes ay binilang namin ang pera na nagkakahalaga ng tatlong libong piso (PHP 3,000). Sinabi ni Agnes na isauli ko raw ang pera, pero ang sabi ko ay natatakot ako baka magalit si Sir. Nagsabi agad kami kay EC Perlita Velasco at sinalaysay ko ang nangyari. Sinabi niya na isauli ko ang pera at noong araw ding iyon ay nagpasiya akong isauli na nga ito ngunit hindi ako nagkaroon ng pagkakataon dahil marami siyang naging bisita. Isinauli ko nga ang pera noong Lunes, Setyembre 14, 1998.

7. Noong huling linggo ng Setyembre, 1998, ay may tinanong din sa akin si Chairman Rayala na hindi ko masikmura, at sa aking palagay at tahasang pambabastos sa akin.

Chairman: Lot, may ka live-in ka ba?

Lourdes: Sir, wala po.

Chairman: Bakit malaki ang balakang mo?

Lourdes: Kayo, Sir ha! Masama sa amin ang may ka live-in.

Chairman: Bakit, ano ba ang relihiyon ninyo?

Lourdes: Catholic, Sir. Kailangan ikasal muna.

Chairman: Bakit ako, hindi kasal.

Lourdes: Sir, di magpakasal kayo.

Chairman: Huh. Ibahin na nga natin ang usapan.

8. Noong Oktubre 29, 1998, ako ay pumasok sa kwarto ni Chairman Rayala. Ito ay sa kadahilanang ang fax machine ay nasa loob ng kaniyang kwarto. Ang nag-aasikaso nito, si Riza Ocampo, ay naka-leave kaya ako ang nag-asikaso nito noong araw na iyon. Nang mabigyan ko na ng fax tone yung kausap ko, pagharap ko sa kanan ay nakaharang sa dadaanan ko si Chairman Rayala. Tinitingnan ako sa mata at ang titig niya ay umuusad mula ulo hanggang dibdib tapos ay ngumiti na may mahalay na pakahulugan.

9. Noong hapon naman ng pareho pa ring petsa, may nag-aapply na sekretarya sa opisina, sinabi ko ito kay Chairman Rayala:

Lourdes: Sir, si Pinky po yung applicant, mag-papainterview po yata sa inyo.

Chairman: Sabihin mo magpa-pap smear muna siya

Chairman: O sige, i-refer mo kay Alex. (Alex Lopez, Chief of Staff).

10. Noong Nobyembre 9, 1998, ako ay tinawag ni Chairman Rayala sa kaniyang opisina upang kuhanin ko ang diktasyon niya para kay ELA Oscar Uy. Hindi pa kami nakakatapos ng unang talata, may pumasok na bisita si Chairman, si Baby Pangilinan na sinamahan ni Riza Ocampo. Pinalabas muna ako ni Chairman. Nang maka-alis na si Ms. Pangilinan, pinapasok na niya ako ulit. Umupo ako. Lumapit sa likuran ko si Chairman, hinawakan ang kaliwang balikat ko na pinipisil ng kanang kamay niya at sinabi:

Chairman: Saan na ba tayo natapos?

Palakad-lakad siya sa aking likuran habang nag-didikta. Huminto siya pagkatapos, at nilagay niya ang kanang kamay niya sa aking kanang balikat at pinisil-pisil ito pagkatapos ay pinagapang niya ito sa kanang bahagi ng aking leeg, at pinagapang hanggang kanang tenga at saka kiniliti. Dito ko inalis ang kaniyang kamay sa pamamagitan ng aking kaliwang kamay. At saka ko sinabi:

Lourdes: Sir, yung kamay ninyo alisin niyo!

Natapos ko rin ang liham na pinagagawa niya pero halos hindi ko na maintindihan ang na-isulat ko dahil sa takot at inis na nararamdaman ko.

[4]

After the last incident narrated, Domingo filed for leave of absence and asked to be immediately transferred. Thereafter, she filed the Complaint for sexual harassment on the basis of Administrative Order No. 250, the *Rules and Regulations Implementing RA 7877 in the Department of Labor and Employment*.

Upon receipt of the Complaint, the DOLE Secretary referred the Complaint to the OP, Rayala being a presidential appointee. The OP, through then Executive Secretary Ronaldo Zamora, ordered Secretary Laguesma to investigate the allegations in the Complaint and create a committee for such purpose. On December 4, 1998, Secretary Laguesma issued Administrative Order (AO) No. 280, Series of 1998,^[5] constituting a Committee on Decorum and Investigation (Committee) in accordance with Republic Act (RA) 7877, the *Anti-Sexual Harassment Act of 1995*.^[6]

The Committee heard the parties and received their respective evidence. On March 2, 2000, the Committee submitted its report and recommendation to Secretary Laguesma. It found Rayala guilty of the offense charged and recommended the imposition of the minimum penalty provided under AO 250, which it erroneously stated as suspension for six (6) months.

The following day, Secretary Laguesma submitted a copy of the Committee Report and Recommendation to the OP, but with the recommendation that the penalty should be suspension for six (6) months and one (1) day, in accordance with AO 250.

On May 8, 2000, the OP, through Executive Secretary Zamora, issued AO 119,^[7] the pertinent portions of which read:

Upon a careful scrutiny of the evidence on record, I concur with the findings of the Committee as to the culpability of the respondent [Rayala], the same having been established by clear and convincing evidence. However, I disagree with the recommendation that respondent be meted only the penalty of suspension for six (6) months and one (1) day considering the circumstances of the case.

What aggravates respondent's situation is the undeniable circumstance that he took advantage of his position as the superior of the complainant. Respondent occupies the highest position in the NLRC, being its Chairman. As head of said office, it was incumbent upon respondent to

set an example to the others as to how they should conduct themselves in public office, to see to it that his subordinates work efficiently in accordance with Civil Service Rules and Regulations, and to provide them with healthy working atmosphere wherein co-workers treat each other with respect, courtesy and cooperation, so that in the end the public interest will be benefited (City Mayor of Zamboanga vs. Court of Appeals, 182 SCRA 785 [1990]).

What is more, public service requires the utmost integrity and strictest discipline (Gano vs. Leonen, 232 SCRA 99 [1994]). Thus, a public servant must exhibit at all times the highest sense of honesty and integrity, and "utmost devotion and dedication to duty" (Sec. 4 (g), RA 6713), respect the rights of others and shall refrain from doing acts contrary to law, and good morals (Sec. 4(c)). No less than the Constitution sanctifies the principle that a public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency (Section 1, Article XI, 1987 Constitution).

Given these established standards, I see respondent's acts not just [as] a failure to give due courtesy and respect to his co-employees (subordinates) or to maintain good conduct and behavior but defiance of the basic norms or virtues which a government official must at all times uphold, one that is contrary to law and "public sense of morality." Otherwise stated, respondent – to whom stricter standards must apply being the highest official [of] the NLRC – had shown an attitude, a frame of mind, a disgraceful conduct, which renders him unfit to remain in the service.

WHEREFORE, in view of the foregoing, respondent Rogelio I. Rayala, Chairman, National Labor Relations Commission, is found guilty of the grave offense of disgraceful and immoral conduct and is hereby **DISMISSED** from the service effective upon receipt of this Order.

SO ORDER[ED].

Rayala filed a Motion for Reconsideration, which the OP denied in a Resolution^[8] dated May 24, 2000. He then filed a Petition for *Certiorari* and Prohibition with Prayer for Temporary Restraining Order under Rule 65 of the Revised Rules on Civil Procedure before this Court on June 14, 2000.^[9] However, the same was dismissed in a Resolution dated June 26, 2000 for disregarding the hierarchy of courts.^[10] Rayala filed a Motion for

Reconsideration^[11] on August 15, 2000. In its Resolution^[12] dated September 4, 2000, the Court recalled its June 26 Resolution and referred the petition to the Court of Appeals (CA) for appropriate action.

The CA rendered its Decision^[13] on December 14, 2001. It held that there was sufficient evidence on record to create moral certainty that Rayala committed the acts he was charged with. It said: