

CIVIL SERVICE COMMISSION, PETITIONER, VS. ALLYSON BELAGAN, RESPONDENT.

G.R. No. 132164. October 19, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

When the credibility of a witness is sought to be impeached by proof of his reputation, it is necessary that the reputation shown should be that which existed before the occurrence of the circumstances out of which the litigation arose,[1] or at the time of the trial and prior thereto, but not at a period remote from the commencement of the suit.[2] This is because a person of derogatory character or reputation can still change or reform himself.

For our resolution is the petition for review on certiorari of the Court of Appeals' Decision[3] dated January 8, 1998, in CA-G.R. SP. No. 44180, the dispositive portion of which reads:

“WHEREFORE, Resolution No. 966213 dated September 23, 1996 and Resolution No. 972423 dated April 11, 1997 of the respondent Civil Service Commission are hereby set aside. The complaint against petitioner Allyson Belagan filed by Magdalena Gapuz is hereby DISMISSED.

The dismissal of petitioner Belagan is lifted and he is hereby ordered to be immediately reinstated to his position without loss of seniority, retirement, backwages and other rights and benefits.

SO ORDERED.”

The instant case stemmed from two (2) separate complaints filed respectively by Magdalena Gapuz, founder/directress of the “Mother and Child Learning Center,” and Ligaya Annawi, a public school teacher at Fort Del Pilar Elementary School, against respondent Dr. Allyson Belagan, Superintendent of the Department of Education, Culture and Sports (DECS), all from Baguio City. Magdalena charged respondent with sexual indignities and harassment, while Ligaya accused him of sexual harassment and various malfeasances.

Magdalena's sworn complaint alleges that sometime in March 1994, she filed an application with the DECS Office in Baguio City for a permit to operate a pre-school. One of the requisites for the issuance of the permit was the inspection of the school premises by the DECS Division Office. Since the officer assigned to conduct the inspection was not present, respondent volunteered his services. Sometime in June 1994, respondent and complainant visited the school. In the course of the inspection, while both were descending the stairs of the second floor, respondent suddenly placed his arms around her shoulders and kissed her cheek. Dumbfounded, she muttered, “Sir, is this part of the inspection? Pati ba naman kayo sa DECS wala ng values?” Respondent merely sheepishly smiled. At that time, there were no other people in the area.

Fearful that her application might be jeopardized and that her husband might harm respondent, Magdalena just kept quiet.

Several days later, Magdalena went to the DECS Division Office and asked respondent, “Sir, kumusta yung application ko?” His reply was “Mag-date muna tayo.” She declined, explaining that she is married. She then left

and reported the matter to DECS Assistant Superintendent Peter Ngabit.

Magdalena never returned to the DECS Division Office to follow up her application. However, she was forced to reveal the incidents to her husband when he asked why the permit has not yet been released. Thereupon, they went to the office of the respondent. He merely denied having a personal relationship with Magdalena.

Thereafter, respondent forwarded to the DECS Regional Director his recommendation to approve Magdalena's application for a permit to operate a pre-school.

Sometime in September 1994, Magdalena read from a local newspaper that certain female employees of the DECS in Baguio City were charging a high-ranking DECS official with sexual harassment. Upon inquiry, she learned that the official being complained of was respondent. She then wrote a letter-complaint for sexual indignities and harassment to former DECS Secretary Ricardo Gloria.

On October 4, 1994, respondent was placed under suspension.

On the part of Ligaya Annawi, she alleged in her complaint that on four separate occasions, respondent touched her breasts, kissed her cheek, touched her groins, embraced her from behind and pulled her close to him, his organ pressing the lower part of her back.

Ligaya also charged respondent with: (1) delaying the payment of the teachers' salaries; (2) failing to release the pay differentials of substitute teachers; (3) willfully refusing to release the teachers' uniforms, proportionate allowances and productivity pay; and (4) failing to constitute the Selection and Promotion Board, as required by the DECS rules and regulations.

The DECS conducted a joint investigation of the complaints of Magdalena and Ligaya. In his defense, respondent denied their charge of sexual harassment. However, he presented evidence to disprove Ligaya's imputation of dereliction of duty.

On January 9, 1995, the DECS Secretary rendered a Joint Decision[4] finding respondent guilty of four (4) counts of sexual "indignities or harassments" committed against Ligaya; and two (2) counts of "sexual advances or indignities" against Magdalena. He was ordered dismissed from the service. The dispositive portion of the Joint Decision reads:

"WHEREFORE, foregoing disquisitions duly considered, decision is hereby rendered in the two above-entitled cases, finding:

a)

Respondent Dr. Allyson Belagan, Superintendent of the DECS Baguio City Schools Division GUILTY of the four counts of sexual indignities or harassments committed against the person and honor of complainant Miss Ligaya Annawi, a Baguio City public school teacher, while in the performance of his official duties and taking advantage of his office. He is, however, ABSOLVED of all the other charges of administrative malfeasance or dereliction of duty.

b)

Respondent Baguio City Superintendent Allyson Belagan likewise GUILTY of the two counts of sexual advances or indignities committed against the person and honor of complainant Mrs. Magdalena Gapuz, a private school teacher of Baguio City, while in the performance of his official duties and taking advantage of his office.

Consequently, respondent Allyson Belagan is HEREBY ORDERED DISMISSED from the government service, with prejudice to reinstatement and all his retirement benefits and other remunerations due him are

HEREBY DECLARED FORFEITED in favor of the government.

SO ORDERED.”[5]

Upon appeal, the Civil Service Commission (CSC), on September 23, 1996, promulgated Resolution No. 966213[6] affirming the Decision of the DECS Secretary in the case filed by Magdalena but dismissing the complaint of Ligaya. The CSC ruled that respondent’s transgression against Magdalena constitutes grave misconduct. Thus:

“The acts of Belagan are serious breach of good conduct since he was holding a position which requires the incumbent thereof to maintain a high degree of moral uprightness. As Division Superintendent, Belagan represents an institution tasked to mold the character of children. Furthermore, one of his duties is to ensure that teachers in his division conduct themselves properly and observe the proper discipline. Any improper behavior on his part will seriously impair his moral ascendancy over the teachers and students which can not be tolerated. Therefore, his misconduct towards an applicant for a permit to operate a private pre-school cannot be treated lightly and constitutes the offense of grave misconduct.

WHEREFORE, respondent Allyson Belagan is hereby found guilty of grave misconduct and imposed the penalty of DISMISSAL from the service with all the accessory penalties. The decision of the DECS Secretary is modified accordingly.”[7]

On October 29, 1996, respondent seasonably filed a motion for reconsideration, contending that he has never been charged of any offense in his thirty-seven (37) years of service. By contrast, Magdalena was charged with several offenses before the Municipal

Trial Court (MTC) of Baguio City, thus:

- “1. Criminal Case No. 43416 for LIGHT ORAL DEFAMATION (December 3, 1980)
2. Criminal Case No. 45629 for SLIGHT PHYSICAL INJURIES (May 13, 1982)
3. Criminal Case No. 45630 for GRAVE THREATS (May 13, 1982)
4. Criminal Case No. 45914 for GRAVE THREATS (June 24, 1982)
5. Criminal Case No. 51532 for MALICIOUS MISCHIEF (January 25, 1985)
6. Criminal Case No. 51533 for LIGHT THREATS (January 25, 1985)
7. Criminal Case No. 51556 for GRAVE ORAL DEFAMATION (January 30, 1985)
8. Criminal Case No. 51818 for LIGHT ORAL DEFAMATION (March 18, 1985)
9. Criminal Case No. 51819 for GRAVE ORAL DEFAMATION (March 18, 1985)
10. Criminal Case No. 51820 for MALICIOUS MISCHIEF (March 18, 1985)
11. Criminal Case No. 51821 for UNJUST VEXATION (March 18, 1985)
12. Criminal Case No. 62173 for UNJUST VEXATION (May 29, 1991)
13. Criminal Case No. 62172 for GRAVE ORAL DEFAMATION (May 29, 1991)
14. Criminal Case No. 62754 for GRAVE ORAL DEFAMATION (December 2, 1986)
15. Criminal Case No. 55642 for GRAVE ORAL DEFAMATION (December 2, 1986)
16. Criminal Case No. 55423 for GRAVE ORAL DEFAMATION (October 24, 1986)
17. Criminal Case No. 55846 for GRAVE ORAL DEFAMATION (November 4, 1986)
18. Criminal Case No. 55800 for GRAVE ORAL DEFAMATION (January 7, 1987)
19. Criminal Case No. 57312 for UNJUST VEXATION (November 29, 1987)
20. Criminal Case No. 55643 for SLIGHT PHYSICAL INJURIES (December 13, 1985)
21. Criminal Case No. 53404 for UNJUST VEXATION (December 13, 1985)
22. Criminal Case No. 55422 for UNJUST VEXATION (October 24, 1986)” [8]

In addition, the following complaints against Magdalena were filed with the Barangay Chairmen of Barangay Gabriela Silang and Barangay Hillside, both in Baguio City:

“1. Ordana vs. Gapuz (Brgy. Case No. 11-19-02-A) for GRAVE THREATS, UNJUST VEXATION, RUMOR MONGERING

2. Teresita De Los Santos vs. Gapuz (Brgy. Case No. 86-8-26-8) for GRAVE THREATS & ORAL DEFAMATION

3. Mrs. Conchita Ballesteros vs. Gapuz (Brgy. Case No. 029) for ORAL DEFAMATION and FALSE ACCUSATION

4. Mrs. Clara Baoas vs. Gapuz (Brgy. Case No. 030) for HARASSMENT and THREATS

5. GABRIELA SILANG TANOD FORCES vs. Gapuz (Case No. 031) for HABITUAL TROUBLE MAKER

6. Pablo Ortiz vs. Gapuz (November 1, 1979) for ORAL DEFAMATION

7. C. Ballesteros vs. Gapuz (September 11, 1978) for ORAL DEFAMATION

8. Mrs. Liza Ancheta vs. Gapuz (September 27, 1978) for RUMOR MONGERING

9. Mr. Pananin (Beneco Personnel) (October 8, 1978) for ORAL DEFAMATION

10. Mrs. Minda Valdez vs. Gapuz (November 6, 1978) for ORAL DEFAMATION

11. WOMEN’S CLUB vs. GAPUZ (February 9, 1979) for ORAL DEFAMATION

12. Vistro Salcedo case (May 8, 1979)

Where Mrs. Gapuz was spreading rumors against Barangay Captain and Police Chief

13. Demolition Scandal (May 10, 1979)

Where she called all the residents of their Barangay for an emergency meeting and where she shouted invectives against the residents

14. Incident of June 13, 1979

Mrs. Gapuz shouted invectives against the Barangay Sanitary Inspector

15. Incident of August 25, 1979

Mrs. Gapuz shouted invectives against the servants of Mr. De Leon

16. Incident of August 26, 1979

Mrs. Gapuz terrorized the council meeting

17. Incident of September 2, 1978

Mrs. Clara Baoas was harassed by Mrs. Gapuz

18. Incident of September 9, 1979

Mrs. Gapuz quarreled with Mrs. C. Ballesteros during the council meeting

19. Incident of September 10, 1979

Mrs. Gapuz was hurling invectives along her alley in the early morning

20. Incident of September 13, 1979

Mrs. Gapuz tapped electric wire from Mrs. Tessie de los Santos with the latter’s consent

21. Incident of September 21, 1979

Mrs. Gapuz was shouting and hurling invectives scandalously around her residence

22. Incident of September 21, 1979

Mrs. Gapuz was shouting, complaining about alleged poisoned sardines near the premises of her residence which killed her hen.

23. Incident of September 23, 1979

Mrs. Gapuz was shouting unpleasant words around the neighborhood. She did not like the actuations of a bayanihan group near the waiting shed.”[9]

Respondent claimed that the numerous cases filed against Magdalena cast doubt on her character, integrity, and credibility.

In its Resolution No. 972423[10] dated April 11, 1997, the CSC denied respondent’s motion for reconsideration, holding that:

“The character of a woman who was the subject of a sexual assault is of minor significance in the determination of the guilt or innocence of the person accused of having committed the offense. This is so because even a prostitute or a woman of ill repute may become a victim of said offense.

As such, the fact that complainant Magdalena Gapuz is shown to have had cases before the regular courts for various offenses and was condemned by her community for wrongful behavior does not discount the possibility that she was in fact telling the truth when she cried about the lecherous advances made to her by the respondent. x x x”

Respondent then filed with the Court of Appeals a petition for review. As stated earlier, it reversed the CSC Resolutions and dismissed Magdalena’s complaint.

The Appellate Court held that Magdalena is an unreliable witness, her character being questionable. Given her aggressiveness and propensity for trouble, “she is not one whom any male would attempt to steal a kiss.” In fact, her “record immediately raises an alarm in any one who may cross her path.”[11] In absolving respondent from the charges, the Appellate Court considered his “unblemished” service record for 37 years.

Unsatisfied, the CSC, through the Solicitor General, filed the instant petition raising the following assignments of error:

“I.

The Supreme Court may rule on factual issues raised on appeal where the Court of Appeals misappreciated the facts. Furthermore, where the findings of the Court of Appeals and the trial court are contrary to each other, the Supreme Court may review the record and evidence. The Court of Appeals erred in not giving credence to the testimony of complainant Magdalena Gapuz despite convincing and overwhelming signs of its truthfulness.

II.

The Court of Appeals committed reversible error when it failed to give due weight to the findings of the DECS, which conducted the administrative investigation, specifically with respect to the credibility of the witnesses presented.

III.

The Court of Appeals erred in ruling that respondent should be penalized under Sec. 22 (o) of the Omnibus Rules Implementing Book V and not Sec. 22 (e) of said rules.”[12]

In his comment, respondent maintains that Magdalena’s derogatory record undermines the verity of her charge and that the Court of Appeals is correct in dismissing it.

The petition is impressed with merit.

The pivotal issue before us is whether complaining witness, Magdalena Gapuz, is credible. This is a question of fact which, as a general rule, is not subject to this Court’s review.

It is a rule of long standing that factual findings of the Court of Appeals, if supported by substantial evidence, are conclusive and binding on the parties and are not reviewable by this Court.[13] This Court is, after all, not a trier of facts. One of the exceptions, however, is when the findings of the Court of Appeals are contrary to those of the trial court or a quasi-judicial body, like petitioner herein.[14]

Here, the Court of Appeals and the CSC are poles apart in their appreciation of Magdalena’s derogatory record. While the former considered it of “vital and paramount importance” in determining the truth of her charge, the latter dismissed it as of “minor significance.” This contrariety propels us to the elusive area of character and reputation evidence.

Generally, the character of a party is regarded as legally irrelevant in determining a controversy.[15] One statutory exception is that relied upon by respondent, i.e., Section 51 (a) 3, Rule 130 of the Revised Rules on Evidence,

which we quote here:

“SEC. 51. Character evidence not generally admissible; exceptions. –

(a) In Criminal Cases:

x x x x x

(3) The good or bad moral character of the offended party may be proved if it tends to establish in any reasonable degree the probability or improbability of the offense charged.”

It will be readily observed that the above provision pertains only to criminal cases, not to administrative offenses. And even assuming that this technical rule of evidence can be applied here, still, we cannot sustain respondent’s posture.

Not every good or bad moral character of the offended party may be proved under this provision. Only those which would establish the probability or improbability of the offense charged. This means that the character evidence must be limited to the traits and characteristics involved in the type of offense charged.[16] Thus, on a charge of rape - character for chastity, on a charge of assault - character for peaceableness or violence, and on a charge of embezzlement - character for honesty.[17] In one rape case, where it was established that the alleged victim was morally loose and apparently uncaring about her chastity, we found the conviction of the accused doubtful.[18]

In the present administrative case for sexual harassment, respondent did not offer evidence that has a bearing on Magdalena’s chastity. What he presented are charges for grave oral defamation, grave threats, unjust vexation, physical injuries, malicious mischief, etc. filed against her. Certainly, these pieces of evidence are inadmissible under the above provision because they do not establish the probability or improbability of the offense charged.

Obviously, in invoking the above provision, what respondent was trying to establish is Magdalena’s lack of credibility and not the probability or the improbability of the charge. In this regard, a different provision applies.

Credibility means the disposition and intention to tell the truth in the testimony given. It refers to a person’s integrity, and to the fact that he is worthy of belief.[19] A witness may be discredited by evidence attacking his general reputation for truth,[20] honesty[21] or integrity.[22] Section 11, Rule 132 of the same Revised Rules on Evidence reads:

“SEC. 11. Impeachment of adverse party’s witness. –A witness may be impeached by the party against whom he was called, by contradictory evidence, by evidence that his general reputation for truth, honesty, or integrity is bad, or by evidence that he has made at other times statements inconsistent with his present testimony, but not by evidence of particular wrongful acts, except that it may be shown by the examination of the witness, or the record of the judgment, that he has been convicted of an offense.”

Although she is the offended party, Magdalena, by testifying in her own behalf, opened herself to character or reputation attack pursuant to the principle that a party who becomes a witness in his own behalf places himself in the same position as any other witness, and may be impeached by an attack on his character or reputation.[23]

With the foregoing disquisition, the Court of Appeals is correct in holding that the character or reputation of a complaining witness in a sexual charge is a proper subject of inquiry. This leads us to the ultimate question – is Magdalena’s derogatory record sufficient to discredit her credibility?

A careful review of the record yields a negative answer.

First, most of the twenty-two (22) cases filed with the MTC of Baguio City relate to acts committed in the 80’s,

particularly, 1985 and 1986. With respect to the complaints filed with the Chairmen of Barangay Gabriela Silang and Barangay Hillside, the acts complained of took place in 1978 to 1979. In the instant administrative case, the offense was committed in 1994. Surely, those cases and complaints are no longer reliable proofs of Magdalena's character or reputation. The Court of Appeals, therefore, erred in according much weight to such evidence. Settled is the principle that evidence of one's character or reputation must be confined to a time not too remote from the time in question.[24] In other words, what is to be determined is the character or reputation of the person at the time of the trial and prior thereto, but not at a period remote from the commencement of the suit.[25] Hence, to say that Magdalena's credibility is diminished by proofs of tarnished reputation existing almost a decade ago is unreasonable. It is unfair to presume that a person who has wandered from the path of moral righteousness can never retrace his steps again. Certainly, every person is capable to change or reform.

Second, respondent failed to prove that Magdalena was convicted in any of the criminal cases specified by respondent. The general rule prevailing in a great majority of jurisdictions is that it is not permissible to show that a witness has been arrested or that he has been charged with or prosecuted for a criminal offense, or confined in jail for the purpose of impairing his credibility.[26] This view has usually been based upon one or more of the following grounds or theories: (a) that a mere unproven charge against the witness does not logically tend to affect his credibility, (b) that innocent persons are often arrested or accused of a crime, (c) that one accused of a crime is presumed to be innocent until his guilt is legally established, and (d) that a witness may not be impeached or discredited by evidence of particular acts of misconduct.[27] Significantly, the same Section 11, Rule 132 of our Revised Rules on Evidence provides that a witness may not be impeached by evidence of particular wrongful acts. Such evidence is rejected because of the confusion of issues and the waste of time that would be involved, and because the witness may not be prepared to expose the falsity of such wrongful acts.[28] As it happened in this case, Magdalena was not able to explain or rebut each of the charges against her listed by respondent.

But more than anything else, what convinces us to sustain the Resolution of the CSC is the fact that it is supported by substantial evidence. As aptly pointed out by the Solicitor General, Magdalena testified in a straightforward, candid and spontaneous manner. Her testimony is replete with details, such as the number of times she and respondent inspected the pre-school, the specific part of the stairs where respondent kissed her, and the matter about her transient boarders during summer. Magdalena would not have normally thought about these details if she were not telling the truth. We quote her testimony during the cross-examination conducted by DECS Assistant Secretary Romeo Capinpin and Undersecretary Antonio Nachura, thus:

“Q

Was there any conversation between you and Dr. Belagan during the inspection on the first floor and the second floor?

A

There was, sir. It was a casual conversation that we had with regard to my family, background, how the school came about, how I started with the project. That was all, sir.

Q

Nothing about any form of sexual harassment, in words or in deeds?

A

Sir, because he inspected the second floor twice, sir. We went up to the stairs twice, sir.

Q

Why?

A

I really don't know what was the reason behind, sir. But on the second inspection, sir, I told him that as of that time I had some transients with me. I was making use of the premises for transients because that was summer then, sir. And I already started paying the place so I said, 'Sir, I have some transients with me in the evening' and he said, You know Mrs. Gapuz, I am interested to stay in one of the rooms as one your boarders. But I respectfully declined saying, 'Sir, I think for delicadeza I cannot accept you. Not that I don't want you to be here but people might think that I am keeping you here and that would prejudice my permit, sir.'

ASEC R. CAPINPIN:

Q

When did the alleged kissing occur? Was it during the first time that you went up with him or the second time?

A

No, sir, on the second time, sir.

Q

Second time?

A

Yes, sir. We were going down, sir.

Q

And you were going down?

A

Yes, sir.

Q

Do you recall what portion of the stairs where you were during the alleged kissing?

A

Sir, on the topmost of the stairs.

Q

Before you went down?

A

Yes, sir. At the topmost because there is a base floor going up to the stairs and it has 16 steps.

Q

So, it was not on the 16th step but still on the topmost?

A

Yes sir.

Q

Part of the floor of the building?

A

Yes, sir. Topmost, sir?

ASEC R. CAPINPIN:

Q

Will you kindly tell us your relative position at that time?

A

Sir, on the second time that we went up and I mentioned about these transients that I had then and he wanted to stay in the place in one of the rooms and then I declined and I was still showing the rooms simultaneously. On the last, the biggest room that I had, he said, 'No. Never mind, I am not going to see that anymore.' So he waited for me there and upon reaching the place, as I was to step down on the first step going down, he placed his arm and held me tightly and planted the kiss on my cheek, sir.

Q

You said that he wanted to stay in one of the rooms?

A

Yes, sir, as a boarder.

Q

Is that room used for transients?

A

During that time, sir, during the summertime, I made use of the time to get some transients.

Q

And he was telling you that he wanted to occupy one of the rooms?

A

Yes, but I declined, sir for delicadeza.

Q

At that time, there were no transients yet.

A

When he came over for the inspection sir, nobody was there.”[29]

The above testimony does not stand in isolation. It is corroborated by Peter Ngabit, DECS Assistant Division Superintendent. Ngabit testified that Magdalena reported to him that respondent kissed her and asked her for a “date.”

"Q

I would like to call your attention to Exhibit 'A' which is the affidavit of Mrs. Magdalena B. Gapuz, particularly item no. 8, and may I read for your information – 'That the Monday after the incident, I went to the DECS Division Office expecting to get favorable recommendation from the DECS Regional Office for the issuance of my permit. That I proceeded to the Superintendent and asked him, 'Sir, kumusta 'yung application ko' and he said, 'mag date muna tayo' but I refused and explained that I am married, after which I proceeded to the Office of Asst. Superintendent Peter Ngabit to relate the incident and then left the Division Office.' Do you remember if Mrs. Gapuz went to your Office on the particular day?

A

Yes, sir.

Q

What time was that?

A

I cannot remember, sir.

Q

Was it morning, afternoon?

A

I think it was in the morning, sir.

Q

Morning.

A

Yes, sir.

Q

Early morning?

A

About noon, sir.

Q

What transpired between you and Mrs. Gapuz in your office?

When she came to my Office, she was relating about that and she was even insulting me saying among others that I was a useless fixture in that Office because I cannot do anything with the processing of her paper or application.

Q

It says here that she would relate the incident to you. Did she relate any incident?

A

Yes, she did sir.

Q

What was that incident all about?

A

She was saying that when Mr. Belagan went to visit her school, he stole a kiss from her and that she was saying that when she asked Supt. Belagan for her papers, she was asked for a date before the Indorsement. After that, she left.”[30]

With Magdalena’s positive testimony and that of Ngabit, how can we disregard the findings of the DECS and the CSC? Surely, we cannot debunk it simply because of the Court of Appeals’ outdated characterization of Magdalena as a woman of bad reputation. There are a number of cases where the triers of fact believe the testimony of a witness of bad character[31] and refuse to believe one of good character.[32] As a matter of fact, even a witness who has been convicted a number of times is worthy of belief, when he testified in a straightforward and convincing manner.[33]

At this juncture, it bears stressing that more than anybody else, it is the DECS investigating officials who are in a better position to determine whether Magdalena is telling the truth considering that they were able to hear and observe her deportment and manner of testifying.[34]

In reversing the CSC’s Resolutions, the Court of Appeals ruled that “there is ample evidence to show that Magdalena had a motive” in accusing respondent, i.e., to pressure him to issue a permit. This is unconvincing. The record shows that respondent had already issued the permit when Magdalena filed her letter-complaint. Indeed, she had no more reason to charge respondent administratively, except of course to vindicate her honor.

Petitioner prays that we sustain its ruling penalizing respondent for grave misconduct and not merely for disgraceful or immoral conduct which is punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense.[35] Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior, especially by a government official.[36] 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.[37] In grave misconduct as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule, must be manifest.[38] Corruption as an element of grave misconduct consists in the act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others.[39] This is apparently present in respondent’s case as it concerns not only a stolen kiss but also a demand for a “date,” an unlawful consideration for the issuance of a permit to operate a pre-school. Respondent’s act clearly constitutes grave misconduct, punishable by dismissal.[40]

We are, however, not inclined to impose the penalty of dismissal from the service. Respondent has served the government for a period of 37 years, during which, he made a steady ascent from an Elementary Grade School Teacher to Schools Division Superintendent. In devoting the best years of his life to the education department, he received numerous awards.[41] This is the first time he is being administratively charged. He is in the edge of retirement. In fact, he had filed his application for retirement when Magdalena filed her complaint. Section 16, Rule XIV, of the Rules Implementing Book V of Executive Order No. 292 provides:

“SEC. 16. In the determination of penalties to be imposed, mitigating and aggravating circumstances may be considered. x x x.”

The mitigating circumstances are enumerated in Section 53, Rule IV, of the Uniform Rules on Administrative Cases in the Civil Service,[42] which reads in part:

“SEC. 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. – In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

x x x x x x

j. length of service

x x x x x x

l. and other analogous cases.”

Conformably with our ruling in a similar case of sexual harassment,[43] and respondent’s length of service, unblemished record in the past and numerous awards,[44] the penalty of suspension from office without pay for one (1) year is in order.

While we will not condone the wrongdoing of public officers and employees, however, neither will we negate any move to recognize and remunerate their lengthy service in the government.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals dated January 8, 1998 in CA-G.R. SP No. 44180 is REVERSED. The CSC Resolution Nos. 966213 and 972423 are AFFIRMED, subject to the modification that respondent ALLYSON BELAGAN is SUSPENDED from office without pay for ONE (1) YEAR, with full credit of his preventive suspension.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Tinga, Chico-Nazario, and Garcia, JJ., concur.
Azcuna, J., on leave.

[1] 32 C.J.S. §434, citing *In re Darrow*, 92 N.E. 369, 175 Ind. 44.

[2] 81 Am Jur §897, citing *Carter vs. State*, 226 Ala 96, 145 So. 814; *State vs. Potts*, 78 Iowa 656, 43 NW 534; *State vs. Crockett*, 161 Wash 262, 296 P 1041.

[3] Rollo, pp. 42-56. Penned by former Associate Justice Demetrio G. Demetria and concurred in by Justices Minerva P. Gonzaga-Reyes (retired Justice of this Court), and Ramon A. Barcelona, retired.

[4] Rollo at 52-59.

[5] CA Rollo at 39.

[6] Id. at 61-71.

[7] Id. at 71.

[8] Id. at 79-80.

[9] Id. at 80-81.

[10] Id. at 73-75.

[11] Rollo at 53.

[12] Id. at 24.

[13] Bank of the Philippine Islands vs. Leobrera, G.R. No. 137147, January 29, 2002, 375 SCRA 81 and cases cited therein.

[14] Villanueva vs. Court of Appeals, 355 Phil. 520 (1998); Reyes vs. Court of Appeals, 328 Phil. 171 (1996).

[15] 29 Am Jur 2d § 363.

[16] Francisco, Basic Evidence, Second Edition, 1999 at 168, citing 22A C.J.S., Criminal Law, Sec. 667(5).

[17] Id. at 168, citing Wigmore on Evidence (Student Text), 62.

[18] People vs. Tempongko, Jr., G.R. No. 69668, October 2, 1986, 144 SCRA 583.

[19] Francisco, Basic Evidence, Second Edition, 1999 at 502.

[20] Truth means conformity to fact or reality, exact accordance with that which is, or has been or shall be.

[21] Honesty signifies the quality or state of being straight, forwardness of conduct, thought, speech etc.

[22] Integrity has been defined as moral soundness; honesty; freedom from corrupting influence or practice, especially strictness in the fulfillment of contracts, the discharge of agencies, trusts, and the like; uprightness, rectitude. (Francisco, Basic Evidence, Second Edition, 1999 at 471, citing Section 11, Rule 132, Rules of Court, as amended).

There is a distinction between evidence as to the character of a party to a litigation and evidence as to the character of a witness; in the former case character is a fact in issue or an evidentiary fact affecting a fact in issue, while the character of the witness is collateral matter which does not pertain to the fact in issue but merely to the weight of the evidence of such witness. (Francisco, Basic Evidence, Second Edition, 1999 at 474, citing 70 C.J.S. 821).

[23] 98 C.J.S. § 494.

[24] Francisco, Basic Evidence, Second Edition, 1999 at 170, citing 29 Am Jur 2d, Evidence, § 341; 22A C.J.S., Criminal Law, § 677 (2); 32 C.J.S., Evidence, § 434 (b).

[25] 81 Am Jur 2d § 897, supra FN 2.

Evidence of the reputation of a witness for truth and veracity twelve years prior to the trial will be excluded as too remote. (Hapton vs. State, 78 Tex. Crim. Rep. 639, 183 S.W. 887).

Section 41, Rule 130 reads:

“SEC. 41. Common reputation. – Common reputation existing previous to the controversy, respecting facts of public or general interest more than thirty years old, or respecting marriage or moral character, may be given in evidence. x x x.”

[26] 81 Am Jur 2d § 905, citing United States vs. Dilts, (CA7 Ill) 501 F2d 531; Stephens vs. State, 252 Ala 183, 40 So 2d 90; Woodard vs. State, (Ala App) 489 So 2d 1; State vs. Johnson, 106 Ariz 539, 479 P2d 424; Judy vs. Mcdaniel, 247 Ark 409, 445 SW2d 722.

[27] 81 Am Jur 2d § 905.

[28] 81 Am Jur 2d, § 901, citing Miller vs. Journal Co., 246 Mo 722, 152 SW 40; People vs. Brown, 72 NY 571.

[29] Rollo at 154-156.

[30] Id. at 161-162.

[31] 98 C.J.S. § 496, citing *People vs. Matson*, 158 P 335, 30 C.A. 288; *People vs. Strobe*, 272 N.Y. S. 268, 151 Misc. 580.

[32] Id., citing *State vs. Little*, 94 S.E. 1, 174 N.C. 800.

[33] *People vs. Strobe*, supra.

[34] *Chase vs. Buencamino, Sr.*, L-20395, May 13, 1985, 136 SCRA 365.

[35] Section 22 (o), Rule XIV of the Rules Implementing Book V of Executive Order No. 292.

[36] *Maguad vs. De Guzman*, A.M. No. P-94-1015, March 29, 1999, 305 SCRA 469.

[37] *Lacson vs. Roque*, 92 Phil. 456 (1953).

[38] *Civil Service Commission vs. Lucas*, 361 Phil. 486 (1999).

[39] *Black's Law Dictionary*, p. 345.

[40] Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 provides:

“SEC. 22. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effects of said acts on the government service.

The following are grave offenses with its corresponding penalties.

(c) Grave misconduct: 1st Offense – Dismissal.”

[41] CA Rollo at 78.

[42] Resolution No. 99-1936. This Resolution was published in the September 11, 1999 issue of the Manila Standard.

[43] *Vedaña vs. Judge Valencia*, 356 Phil. 317 (1998).

[44] *Judge Agcaoili vs. Judge Ramos*, 311 Phil. 238 (1995).

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