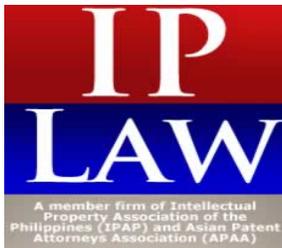
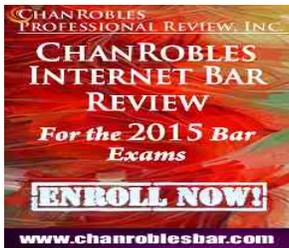


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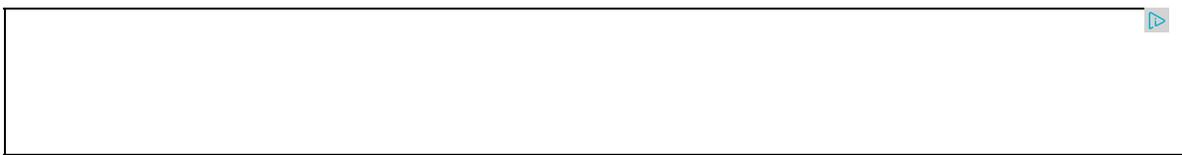


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Republic of the Philippines  
**SUPREME COURT**  
 Manila

## EN BANC

[G.R. No. 123048. August 8, 2000]

**YOLANDA FLORALDE, NIDA VELASCO and NORMELITA ALAMBRA, Petitioners, v. COURT OF APPEALS, CIVIL SERVICE COMMISSION and PAULINO W. RESMA, Respondents.**

**DECISION****PARDO, J.:**

The case is a petition for review on *certiorari* of the decision of the Court of Appeals<sup>1</sup> which reversed and set aside the decision of the Civil Service Commission<sup>2</sup> dismissing respondent Paulino W. Resma from the service as Division Chief of Specialist Services Division (SSD) and Officer-In-Charge of Agricultural Training Institute (ATI), Department of Agriculture.

On April 23, 1994, petitioners employees of the ATI charged respondent Paulino W. Resma with grave misconduct in office (sexual harassment) in three separate complaints filed directly with the Civil Service Commission.

On August 30, 1994, the Commission gave due course to the complaints and formally charged respondent with grave misconduct requiring him to submit his answer with the affidavits of his witnesses, and placed him under preventive suspension for ninety (90) days effective upon notice.

On September 9, 1994, respondent filed his answer to the complaints. He specifically denied all the accusations against him and asked for the dismissal of the complaints.

On September 20, 1994, the Commission resolved to conduct a formal investigation of the case.

At the hearing, petitioners affirmed the contents of their affidavits and gave the specific dates during which the sexual harassment took place. Petitioners categorically narrated the various incidents of sexual harassment, and they were subjected to extensive cross-examination. On the other hand, five witnesses testified for the respondent including himself. In essence, they testified that the sexual harassment could not have occurred.

On February 17, 1995, the Commission convinced that the complainants had proven the guilt of the respondent with substantial evidence, issued a resolution finding respondent guilty of grave misconduct and meted out the penalty of dismissal from the service with all its accessory penalties.<sup>3</sup>

On March 6, 1995, respondent filed a motion for reconsideration, alleging that the Commission erred because the decision was not supported by evidence.<sup>4</sup>

On April 18, 1995, the Commission denied the motion for reconsideration.<sup>5</sup>

On June 16, 1995, respondent elevated the case to the Court of Appeals via petition for review.<sup>6</sup>

After due hearing, on September 22, 1995, the Court of Appeals promulgated its decision which **REVERSED** and **SET ASIDE** the resolutions of the Civil Service Commission.

Hence, this appeal.<sup>7</sup>

The issue raised is whether the Court of Appeals erred in reversing the resolutions of the Civil Service Commission on the ground that the same were not supported by substantial evidence.

The sexual harassment charges against Resma were filed by three (3) rank and file employees of the Agricultural Training Institute, where respondent Paulino Resma is OIC. Being rank and file employees, they were all reporting to their superior, Paulino Resma. Their time records were signed by the latter. Sexual harassment in the workplace is not about a man taking advantage of a woman by reason of sexual desire; it is about power being exercised by a superior officer over his women subordinates. The power emanates from the fact that the superior can remove the subordinate from his workplace if the latter would refuse his amorous advances.

This is the situation at bar. Yolanda Floralde, Nida Velasco and Normelita Alambra were all rank and file employees reporting to respondent Paulino Resma, and their Daily Time Records (DTRs) were signed by him.

Respondent Resma alleged that the Civil Service Commission erred in its resolutions since the petitioners were unable to prove his guilt by the quantum of substantial evidence required in administrative proceedings.

We do not agree. The evidence adduced before the Commission consists of the positive testimonies of petitioners. On the other hand, respondent claimed that it was impossible for him to be at the office on the days that the sexual harassment occurred. In other words, respondent presented an *alibi*.

Yolanda Floralde testified that it was around four in the afternoon at the anteroom of the directors office that Paulino Resma approached her and ask her " *Ano yan, pagkatapos ako'y pinalapit sa kanyang kinaroroonan x x x nanatili akong nakatayo ngunit maya-maya ay bigla na lang siyang tumayo at dinakma ang puwit ko ng papisilpisil.*"<sup>8</sup>

Floralde testified that this was not the only incident that respondent sexually harassed her. Respondent would oftentimes tell her that "*nakakagigil ang batok mo,* " and "*masuwerte ka type kita, yung iba may gusto sa akin di ko type.*"<sup>9</sup> Respondent would also pinch her at her side close to her bust and when they met at the corridors respondent would make a motion as though he would embrace her.

Nida Velasco on the other hand testified that in 1990 Paulino Resma first made his sexual advances toward her. According to Velsaco "*habang binubuksan ko po ang pinto ng refrigerator sa Orosa Hall, bigla po niya akong niyakap at hinawakan niya ang maselang parte ng aking dibdib at bigla po akong hinalikan sa bibig. Binantaan po niya ako na kapag nagsumbong ako ay hindi niya irenew ang aking appointment dahil casual lang po ako.*" Nida further testified that respondent would often comment that "*mamula-mula na ang iyong pag-aari at fresh na fresh ka pa*" and that she would answer back "*lolo ka na eh, gago ka pa.*"<sup>10</sup> At one time she was watching a volleyball game when she felt someone touch her buttocks, when she looked back it was respondent Resma, and the latter said "*nakakagigil ka*"<sup>11</sup>

Normelita Alhambra on her part testified that in 1990 at around 7:00 in the morning that after putting down her bag, respondent Resma suddenly approached her and embraced her. She was able to escape from his embrace. In other instances, Normelita testified that "*tuwing maglalagay ako ng tubig sa baso sa loob ng CR biglang sumusulpot si Mr. Resma at dinadakma ang puwit ko at sinasabing gustong-gusto niya ang malalaking puwit.*"<sup>12</sup> Also at one time Normelita testified that "*nakasuot ako ng long*

*sleeve na red at white maong pants galing ako sa CR ng bigla akong binangga ni Mr. Resma at dinakma ang aking dibdib.*<sup>13</sup>

Respondent's defense is that the complaints were instigated by a certain Atty. Ola, who was his rival for promotion. The defense alleged that the three complaining petitioners were all convinced by Atty. Ola to file charges against respondent Resma so that he would be out of contention for promotion.

We are not convinced that all three women would prevaricate at the mere urging of Atty. Ola. Filing a charge for sexual harassment is not a trivial matter. It entails having to go public with an incident that one is trying to forget. It means opening oneself to public ridicule and scrutiny. We, therefore, can not believe the version of the defense that the charges were all fabricated.

As to the issue of whether the resolution of the Civil Service Commission is supported by substantial evidence, we find that, in fact, preponderant evidence supported its findings.

"In determining where the preponderance or the superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts on which they are testifying, the nature of such facts, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility as far as the same may legitimately appear at the trial. The Court may also consider the number of witnesses, although the preponderance is not necessarily with the greatest number."<sup>14</sup> "By preponderance of evidence, is meant that the evidence as a whole adduced by one side is superior to that of the other."<sup>15</sup>

"The concept of preponderance of evidence refers to evidence which is of greater weight, or more convincing, than that which is offered in opposition to it; at bottom, it means probability of truth."<sup>16</sup>

Consequently, the Court of Appeals erred in reversing the resolutions of the Civil Service Commission. "Well-settled is the rule in our jurisdiction that the findings of fact of an administrative agency must be respected, as long as such findings are supported by substantial evidence, even if such evidence might not be overwhelming or preponderant. It is not the task of an appellate court to weigh once more the evidence submitted before the administrative body and to substitute its own judgment for that of the administrative agency in respect of sufficiency of evidence."<sup>17</sup>

WHEREFORE , the Court REVERSES and SETS ASIDE the decision of the Court of Appeals. In lieu thereof, the Court REVIVES and AFFIRMS the resolutions of the Civil Service Commission dismissing respondent Paulino W. Resma from office for grave misconduct. No costs.

SO ORDERED.

*Davide, Jr., C.J., Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.*

*Melo, J., see separate opinion.*

*Bellosillo, J., abroad on official business.*

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**Endnotes:**

- <sup>1</sup> In CA-G.R. SP No. 37480, promulgated September 22, 1995, Mabutas, Jr., J., ponente, Torres and de la Rama, JJ., concurring, Petition, Annex "A", *Rollo*, pp. 18-39.
- <sup>2</sup> Resolution No. 95-0968, adopted on February 17, 1995, Patricia A. Sto. Tomas, Chairman, Ramon P. Ereneta, Jr. and Thelma P. Gaminde, Commissioners, Petition, Annex "D", *Rollo*, pp. 46-51.
- <sup>3</sup> Petition, Annex "D", *Rollo*, pp. 46-51.
- <sup>4</sup> Petition, Annex "E", pp. 52-57.
- <sup>5</sup> Petition, Annex "C", pp. 41-45.
- <sup>6</sup> Docketed as CA-G.R. SP No. 37480.
- <sup>7</sup> Filed on January 2, 1996; *Rollo*, pp. 3-17. On September 28, 1999, we gave due course to the petition (*Rollo*, pp. 179-180)
- <sup>8</sup> Record, Affidavit-Complaint, p. 509.
- <sup>9</sup> *Ibid.*
- <sup>10</sup> Record, Affidavit Complaint, p. 500.
- <sup>11</sup> Record, Affidavit Complaint, p. 500.
- <sup>12</sup> Record, Affidavit Complaint, p. 502.
- <sup>13</sup> Record, Affidavit Complaint, pp. 501-502.
- <sup>14</sup> *Sapu-an v. Court of Appeals*, 214 SCRA 701, 706 (1992)
- <sup>15</sup> *Ibid.*
- <sup>16</sup> *Jison v. Court of Appeals*, 286 SCRA 495, 532 (1998)
- <sup>17</sup> *Ynson v. Court of Appeals*, 257 SCRA 411, 423 (1996), citing *Rubenechia v. Civil Service Commission*, 244 SCRA 640 (1995)



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