

Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

SHERWIN T. GATCHALIAN,  
*Petitioner,*

G.R. No. 223595

Present:

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
HERNANDO,  
ZALAMEDA,  
ROSARIO, and  
MARQUEZ, JJ.

- versus -

Promulgated:

ROMEO V. URRUTIA,  
*Respondent.*

MAR 16 2022

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DECISION

**HERNANDO, J.:**

This petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assails the December 11, 2015 Decision<sup>2</sup> and March 16, 2016 Resolution<sup>3</sup> of the Court of Appeals (CA) which affirmed the July 26, 2012 Decision<sup>4</sup> of the Civil Service Commission (CSC) in Case Number 120465,<sup>5</sup> and the November 26, 2012 Resolution<sup>6</sup> in Case Number 1202112.<sup>7</sup>

<sup>1</sup> *Rollo*, pp. 13-43.

<sup>2</sup> *Id.* at 44-54. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion.

<sup>3</sup> *Id.* at 10-11.

<sup>4</sup> *Id.* at 134-139.

<sup>5</sup> Entitled "*URRUTIA, Romeo V. Re: Sexual Harassment; Preventive Suspension (Appeal).*"

<sup>6</sup> *Id.* at 155-162.

<sup>7</sup> Entitled "*URRUTIA, Romeo V. Re: Sexual Harassment; Preventive Suspension (Motion for Reconsideration of CSC Decision No. 120465 dated July 26, 2012).*"

Both the CSC Decision and Resolution found the formal charge<sup>8</sup> for Sexual Harassment and order of preventive suspension<sup>9</sup> by petitioner Sherwin T. Gatchalian (Gatchalian), former Mayor of Valenzuela City, against respondent Romeo V. Urrutia (Urrutia), Records Officer IV in the Council Secretariat, *Sangguniang Panlungsod* of Valenzuela City and Chairman of the Board of Directors of the City Government of Valenzuela City Employees Cooperative, null and void.

### **The Antecedents:**

On January 3, 2012, Elizabeth B. Laron (Laron), an on-the-job trainee/student working in the City Government of Valenzuela Employees Cooperative, lodged a complaint<sup>10</sup> against Urrutia for Sexual Harassment committed on December 22, 2011. The complaint, addressed to Gatchalian, and filed before the Women's Desk of the Human Resources and Management Office (HRMO) of the City Government of Valenzuela, was indorsed<sup>11</sup> by the HRMO to the Personnel Complaints and Ethics Board (PCEB) of the City of Valenzuela.<sup>12</sup>

On January 10, 2012, Roberto Darilag (Darilag), Chairman of the PCEB, issued a memorandum<sup>13</sup> ordering Urrutia to submit his counter-affidavit/comment under oath. The memorandum likewise mentioned that Gatchalian had previously constituted the PCEB as the Committee on Decorum and Investigation.<sup>14</sup>

Before Urrutia could file his counter-affidavit/comment under oath, Darilag sent a letter<sup>15</sup> to Laron on January 11, 2012 advising her to amend her complaint to include the full name, address and position of Urrutia, in accordance with CSC Resolution No. 01-0940, otherwise known as Administrative Discipline Rules on Sexual Harassment Cases (Rules on Sexual Harassment Cases).<sup>16</sup> Thus, on January 12, 2012, Laron filed an amended complaint.<sup>17</sup>

On January 16, 2012, Urrutia filed a motion to dismiss,<sup>18</sup> instead of a counter-affidavit/comment under oath, questioning the constitution of the Committee on Decorum and Investigation, and its power and authority to hear the case, claiming that it did not comply with the Rules on Sexual Harassment

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<sup>8</sup> CA *rollo*, p. 135.

<sup>9</sup> Id. at 135-136.

<sup>10</sup> Id. at 63-65.

<sup>11</sup> *Rollo*, p. 45.

<sup>12</sup> Id.

<sup>13</sup> CA *rollo*, p. 67.

<sup>14</sup> Id.

<sup>15</sup> Id. at 68.

<sup>16</sup> Id.

<sup>17</sup> Id. at 69-70.

<sup>18</sup> Id. at 71-91.

Cases.<sup>19</sup> Urrutia also alleged that Laron's original complaint failed to comply with the standards set forth in the Rules on Sexual Harassment Cases for failing to state the required details of respondent.<sup>20</sup>

On January 26, 2012, the PCEB issued Resolution No. 2012-001,<sup>21</sup> denying Urrutia's motion to dismiss on the following grounds: (1) Gatchalian, in organizing the PCEB as the Committee on Decorum and Investigation, acted very well within the ambit of the law; and (2) Laron, in filing her amended complaint to comply with the requirements of the law, cured it of its defects. In the end, the PCEB advised Urrutia to submit his counter-affidavit/comment under oath on the amended complaint.<sup>22</sup>

On January 30, 2012, Urrutia filed a motion for reconsideration,<sup>23</sup> alleging that Resolution No. 2012-001 issued by PCEB was "a mockery and travesty of administrative due process and utter display of injustice"<sup>24</sup> because the PCEB ceased to function as an impartial body. Urrutia reiterated the allegations in his motion to dismiss, adding that the amended complaint "was a product of an afterthought,"<sup>25</sup> hence, failed to comply with the Rules on Sexual Harassment Cases as well.<sup>26</sup>

On February 13, 2012, the PCEB issued an Order,<sup>27</sup> denying Urrutia's motion for reconsideration for lack of merit and affirming Resolution No. 2012-001. The PCEB again advised Urrutia to submit a counter-affidavit/comment under oath on the amended complaint.<sup>28</sup>

On February 15, 2012, Gatchalian issued Executive Order No. (EO) 2012-006<sup>29</sup> creating the City Committee on Decorum and Investigation (CODI) on Sexual Harassment Cases of the City Government of Valenzuela, to implement the Anti-Sexual Harassment Act of 1995,<sup>30</sup> and the Rules on Sexual Harassment Cases.<sup>31</sup> The following day, the CODI adopted Resolution No. 2012-001<sup>32</sup> which in turn adopted the rules and procedures under the Rules on Sexual Harassment Cases, and promulgated other rules, including the division of CODI into two groups: (1) CODI-I, to conduct preliminary investigation; and (2) CODI-II, to conduct formal hearing.<sup>33</sup>

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<sup>19</sup> Id. at 74-77.

<sup>20</sup> Id. at 80-82.

<sup>21</sup> Id. at 92-93.

<sup>22</sup> Id. at 92.

<sup>23</sup> Id. at 94-113.

<sup>24</sup> Id. at 94.

<sup>25</sup> Id. at 105.

<sup>26</sup> Id. at 105-110.

<sup>27</sup> Id. at 114-117.

<sup>28</sup> Id. at 116.

<sup>29</sup> Id. at 118-119.

<sup>30</sup> Id.

<sup>31</sup> Civil Service Commission Resolution No. 01-0940 dated May 21, 2001.

<sup>32</sup> Id. at 120-122.

<sup>33</sup> Id.

On March 2, 2012, in Resolution No. 2012-003,<sup>34</sup> the CODI denied the February 24, 2012 motion to dismiss/terminate investigation of Urrutia for lack of merit. For Urrutia's continuous failure to file his counter-affidavit/comment under oath despite due notice, the CODI ruled that Urrutia waived his right to submit the same, hence, preliminary investigation was set three days from receipt of Resolution No. 2012-003.<sup>35</sup>

Preliminary investigation was set to begin on March 9, 2012.<sup>36</sup> However, since the time consumed for the preliminary investigation already exceeded the 15 working days prescribed by the Rules on Sexual Harassment Cases, the members of CODI-I concurred unanimously to terminate the preliminary investigation.<sup>37</sup> Thus, on March 21, 2012, the Secretariat of CODI-I drafted an Investigation Report and Recommendation,<sup>38</sup> the dispositive portion of which reads as follows:

IN VIEW OF THE FOREGOING, the Committee on Decorum and Investigation (CODI I) acting as the fact-finding body, that based on the supporting documents submitted to it, as well as the uncontroverted testimony of the complainant, this Committee is convinced that a prima facie case exists; hence, this Committee hereby recommends to the Honorable Mayor Sherwin T. Gatchalian, the filing of FORMAL CHARGE against MR. ROMEO V. URRUTIA for Sexual Harassment classified as GRAVE OFFENSE pursuant to Rule X Section 53 A.1 of Resolution No. 01-0940.

Further, this Committee also recommends that Mr. Urrutia be placed under Preventive Suspension immediately upon service of the formal charge.<sup>39</sup>

On March 23, 2012, both a formal charge for Sexual Harassment (grave offense)<sup>40</sup> and order of preventive suspension<sup>41</sup> in Adm. Case No. CODI-2012-01 was issued by the Office of the City Mayor. Urrutia was given 72 hours within which to file his answer under oath together with his witnesses' affidavits, and other documentary evidence, with a statement whether he elects to have a formal investigation or waives the same. He was likewise preventively suspended for a period of 60 days effective March 26, 2012,<sup>42</sup> pursuant to the Rules on Sexual Harassment Cases.

On March 26, 2012, Urrutia filed with the CODI an urgent omnibus motion<sup>43</sup> (a) for reconsideration; (b) to recall order of preventive suspension; and (c) to dissolve formal charge, in lieu of an answer under oath and other supplemental affidavits and documents.<sup>44</sup> Urrutia questioned the creation of the

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<sup>34</sup> Id. at 123-127.

<sup>35</sup> Id. at 126.

<sup>36</sup> Id. at 129.

<sup>37</sup> Id. at 130.

<sup>38</sup> Id. at 128-133.

<sup>39</sup> Id. at 133.

<sup>40</sup> Id. at 135.

<sup>41</sup> Id. at 136.

<sup>42</sup> Id.

<sup>43</sup> Id. at 137-146.

<sup>44</sup> Id.

new CODI and alleged that since only the vice-mayor, not the mayor, has the sole power to appoint officials and employees of the *sangguniang panlungsod*, thus, the vice-mayor has the sole power of removal, in accordance with Republic Act No. (RA) 7160<sup>45</sup> or the “Local Government Code of 1991” and jurisprudence.

The CODI denied<sup>46</sup> the omnibus motion filed by Urrutia.

Thereupon, the formal investigation on the case ensued. Several oral and written motions were filed by Urrutia to reset or hold in abeyance the proceedings, which were all resolved by the CODI by ordering Urrutia to file the necessary position papers.<sup>47</sup>

On May 17, 2012, while the administrative case was pending with the CODI, Urrutia filed a memorandum of appeal<sup>48</sup> with the CSC from the order of preventive suspension of the Office of the City Mayor dated March 23, 2012, questioning the creation and jurisdiction of the CODI.<sup>49</sup>

Finally, on July 4, 2012, the CODI issued Resolution No. 2012-008,<sup>50</sup> finding Urrutia liable for Sexual Harassment, which is classified as a grave offense under the Rules on Sexual Harassment Cases and dismissing Urrutia from service.<sup>51</sup> On August 15, 2012, the CODI issued an Order<sup>52</sup> denying Urrutia’s motion for reconsideration and affirming Resolution No. 2012-008.<sup>53</sup>

Aggrieved, Urrutia filed an appeal<sup>54</sup> before the CSC.

### **Ruling of the Civil Service Commission:**

On July 26, 2012, the CSC promulgated a Decision,<sup>55</sup> granting the appeal filed by Urrutia and finding the formal charge and order of suspension by Gatchalian null and void. The pertinent portions of the Decision read:

The Commission finds the appeal meritorious. Respondent-appellant is an employee of the Sangguniang Panlungsod as Records Officer.

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<sup>45</sup> Entitled “AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991.” Approved on October 10, 1991.

<sup>46</sup> *Rollo*, p. 46.

<sup>47</sup> *Id.* at 153-156.

<sup>48</sup> *Rollo*, p. 134.

<sup>49</sup> *Id.*

<sup>50</sup> *CA rollo*, pp. 147-165.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 182-185.

<sup>53</sup> *Id.* at 184.

<sup>54</sup> *Rollo*, p. 134.

<sup>55</sup> *Id.* at 134-139.

The power of the city mayor to impose administrative disciplinary action is limited to officials and employees appointed by him/her. x x x [I]n this case, Mayor Gatchalian issued the formal charge and preventively suspended respondent-appellant Urrutia for Sexual Harassment. It must be emphasized that respondent-appellant is an employee of the Sangguniang Panlungsod, thus, he is appointed by the City Vice Mayor pursuant to Section 456 of the Local Government Code of 1991 x x x. Clearly, Mayor Gatchalian is not authorized under the law to issue a formal charge against respondent-appellant, more so to preventively suspend him, as such act obviously violate (sic) the aforementioned provision of the Local Government Code of 1991. Such act of Mayor Gatchalian clearly constituted an encroachment on the appointment power of the Valenzuela City Vice Mayor.

x x x x

WHEREFORE, the appeal of Romeo V. Urrutia, is hereby GRANTED. The Commission finds the formal charge and order of preventive suspension issued by Valenzuela City Mayor Sherwin T. Gatchalian NULL and VOID. Accordingly, Urrutia is immediately reinstated to his former position with payment of back salaries corresponding to the period of unlawful preventive suspension without awaiting the outcome of the case.<sup>56</sup>

On August 31, 2012, the City Government of Valenzuela, through Gatchalian and his counsel, moved for the reconsideration<sup>57</sup> of CSC Decision No. 120465.<sup>58</sup>

On November 26, 2012, the CSC issued Resolution No. 12-02112,<sup>59</sup> denying Gatchalian's Motion for Reconsideration and affirming its July 26, 2012 Decision, reinstating Urrutia to his former position with payment of back salaries. The dispositive portion of the Resolution reads:

WHEREFORE, the Motion for Reconsideration of the City Government of Valenzuela is DENIED for lack of merit. Accordingly, the Decision dated July 26, 2012 granting the appeal of Romeo V. Urrutia, finding the formal charge and order of preventive suspension null and void and immediately reinstating Urrutia to his former position with payment of back salaries corresponding to the period of the unlawful preventive suspension without awaiting the outcome of the main case, STANDS.<sup>60</sup>

On January 3, 2013, Gatchalian filed a petition for review<sup>61</sup> of Resolution No. 12-02112 before the CA. A month later, or on February 8, 2013, Gatchalian sent a letter<sup>62</sup> to Eric Martinez (Martinez), former Vice-Mayor of Valenzuela City, requesting the Office of the Vice Mayor to "confirm, adopt, and subscribe to the administrative proceedings conducted by the Committee on Decorum and [Investigation] (CODI) and any [and] and all actions undertaken on the

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<sup>56</sup> Id. at 137-139.

<sup>57</sup> CA *rollo*, pp. 186-199.

<sup>58</sup> Id.

<sup>59</sup> *Rollo*, pp. 155-162.

<sup>60</sup> Id. at 160.

<sup>61</sup> CA *rollo*, pp. 11-40.

<sup>62</sup> *Rollo*, pp. 65-66.

matter against Mr. Urrutia.”<sup>63</sup> Gatchalian deemed Martinez to have acquiesced to the mayor’s actions because the vice-mayor did not intervene, take action or object to the acts.<sup>64</sup>

### **Ruling of the Court of Appeals:**

In its Decision<sup>65</sup> dated December 11, 2015, the CA ruled that the CSC did not err when it ruled that Gatchalian’s formal charge and preventive suspension order issued against Urrutia were null and void. The CA found that Gatchalian, as the Mayor of Valenzuela City, had no power to issue the formal charge and the preventive suspension order.

In its Resolution<sup>66</sup> dated March 16, 2016, the CA denied Gatchalian’s motion for reconsideration<sup>67</sup> absent valid ground to reverse, modify or set aside the December 11, 2015 Decision.

Hence, this petition for review on *certiorari*<sup>68</sup> filed before the Court.

### **Issues**

I. Whether or not the CA committed reversible error on a question of law in dismissing the petition on the basis that Gatchalian, the City Mayor, has no power to issue a formal charge and preventive suspension order against Urrutia, a city council employee, despite the express grant of plenary disciplining authority to the city mayor over all officials and employees of the city by the Local Government Code.

II. Whether or not the CA committed reversible error on a question of law in holding that it is only Martinez, the vice-mayor, who has the sole jurisdiction to discipline the *sanggunian panlungsod* employee, following the principle that the power to remove is inherent in the power to appoint.

III. Whether or not the CA committed reversible error on a question of law when it ruled out Gatchalian as a proper disciplining authority referred to in CSC Resolution No. 01-0940 otherwise known as the Administrative Discipline Rules on Sexual Harassment Cases, when in fact Gatchalian is granted plenary disciplining authority over all officials and employees of the city by the Local Government Code.

IV. Whether or not the CA committed reversible error on a question of law when it failed to resolve the issue that there is no more legal basis to reinstate Urrutia to his former position since the alleged lack of disciplining

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<sup>63</sup> Id. at 66.

<sup>64</sup> Id. at 65-66.

<sup>65</sup> Id. at 44-54.

<sup>66</sup> Id. at 10-11.

<sup>67</sup> CA *rollo*, pp. 818-823.

<sup>68</sup> *Rollo*, pp. 13-43.

authority of Gatchalian over Urrutia has been negated by Urrutia and his counsels' active and voluntary participation in the entire CODI proceedings, and is now estopped from assailing said lack of jurisdiction.<sup>69</sup>

The four above issues can be summarized into a singular issue: Whether or not the local chief executive has the power to issue a formal charge and a preventive suspension order against an employee of the *sangguniang panlungsod* for Sexual Harassment acts.

### **Our Ruling**

The Court finds the petition meritorious. Gatchalian, as the former mayor of Valenzuela City, has the power to issue a formal charge and a preventive suspension order against Urrutia, an employee of the *sangguniang panlungsod*, for committing Sexual Harassment acts.

### **The doctrine of implication and the Local Government Code.**

Urrutia invokes the doctrine of implication in relation to Section 456(a)(2) of the Local Government Code of 1991,<sup>70</sup> stating that the vice-mayor's power to appoint officials and employees of the *sangguniang panlungsod* carries with it the power to discipline the same officials and employees, absent any contrary statutory provision. This doctrine was also used as basis by the CSC and CA for its rulings. Section 456(a)(2) reads:

Section 456. *Powers, Duties and Compensation.*

(a) The city vice-mayor shall:

x x x x

(2) Subject to civil service law, rules and regulations, appoint all officials and employees of the *sangguniang panlungsod*, except those whose manner of appointment is specifically provided in this Code;

x x x x

First, the Court notes that when Urrutia committed the Sexual Harassment acts against Laron, he was concurrently acting as the Chairman of the Board of Directors of the City Employees Cooperative where Laron was an on-the-job trainee/student, and as a staff of the Council Secretariat of the *sangguniang panlungsod*, which is the position contemplated by Article 456(a)(2). These two positions, Chairman of the City Employees Cooperative and staff of the *sangguniang panlungsod*, are separate and distinct from each other.

<sup>69</sup> Id. at 21-22.

<sup>70</sup> Republic Act No. 7160 entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991," approved on October 10, 1991.

Second, the Court highlights that there is an exception to the doctrine of implication expressed in the phrase “absent any contrary statutory provision.” The power to remove is impliedly included in the power to appoint except when such power to remove is expressly vested by law in an office or authority other than the appointing power.<sup>71</sup> In short, the general rule is that power to appoint carries with it the power to discipline. The exception is when the power to discipline or to remove is expressly vested in another office or authority. The exception applies to the case at bar.

There is a clear contrary statutory provision expressed in Section 8(b)(1)(jj) of RA 8526<sup>72</sup> or the Charter of Valenzuela City. The section specifically provides that the city mayor has the duty to ensure that the city’s executive officials and employees faithfully discharge their duties and functions, and cause to be instituted administrative or judicial proceedings against any city official or employee who may have committed an offense in the performance of his official duties. This provision is directly lifted from Section 455 (b)(1)(x) of the Local Government Code of 1991 which provides, to wit:

Section 455. *Chief Executive; Powers, Duties and Compensation.*

x x x x

(b) For efficient, effective and economical governance, the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the city government and in this connection, shall:

x x x x

(x) Ensure that **all** executive officials and employees of the city faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against **any** official or employee of the city who may have committed **an offense in the performance of his official duties**;

x x x x (Emphasis supplied)

The law is clear and explicit.

In this case, Gatchalian, as the city mayor, had the express power to discipline Urrutia, the Chairman of the Board of Directors of the City

<sup>71</sup> See *Gonzales III v. Office the President*, 694 Phil. 52, 91 (2012).

<sup>72</sup> Entitled “AN ACT CONVERTING THE MUNICIPALITY OF VALENZUELA INTO A HIGHLY URBANIZED CITY TO BE KNOWN AS THE CITY OF VALENZUELA.” Approved on February 14, 1998.

Employees Cooperative, when he committed Sexual Harassment acts against Laron, in accordance with the Local Government Code and the Charter of Valenzuela City.

Furthermore, Section 87 of the Local Government Code of 1991 empowers the local chief executive to impose the appropriate penalty on erring subordinate officials and employees under his or her jurisdiction, to wit:

Section 87. *Disciplinary Jurisdiction.* – Except as otherwise provided by law, the local chief executive may impose the penalty of removal from service, demotion in rank, suspension for not more than one (1) year without pay, fine in an amount not exceeding six (6) months' salary, or reprimand and otherwise discipline subordinate officials and employees under his jurisdiction. If the penalty imposed is suspension without pay for more than thirty (30) days, his decision shall be final. If the penalty imposed is heavier than suspension of thirty (30) days, the decision shall be appealable to the Civil Service Commission, which shall decide the appeal within thirty (30) days from receipt thereof.

### **The Rules on Sexual Harassment Cases.**

The Local Government Code of 1991 generally applies to the case at bar. However, the more specific law that applies to the Sexual Harassment violations committed by a government employee like Urrutia is CSC Resolution No. 01-0940 or the Rules on Sexual Harassment Cases.<sup>73</sup>

Section 7, Rule VI of the Rules on Sexual Harassment Cases specifically provides that a Committee on Decorum and Investigation (CODI) must be constituted in all national or local agencies of the government, state colleges and universities, including government-owned or controlled corporations with the original charter.<sup>74</sup> In the absence of a CODI, the head office or agency shall

<sup>73</sup> Entitled "ADMINISTRATIVE DISCIPLINARY RULES ON SEXUAL HARASSMENT," dated May 21, 2001.

<sup>74</sup> Section 7 of the Administrative Disciplinary Rules on Sexual Harassment Cases reads:

Section 7. A Committee on Decorum and Investigation shall be created in all national or local agencies of the government, state colleges and universities, including government-owned or controlled corporations with original charter. The Committee shall perform the following functions:

- (a) Receive complaints of sexual harassment;
- (b) Investigate sexual harassment complaints in accordance with the prescribed procedure;
- (c) Submit a report of its findings with the corresponding recommendation to the disciplining authority for decision;
- (d) Lead in the conduct of discussions about sexual harassment within the agency or institution to increase understanding and prevent incidents of sexual harassment.

Localized Committees on Decorum and Investigation established in the regional or field offices, as the case may be, of the agency or institution shall have the same functions as stated above and shall submit the report of investigation with its recommendation directly to the disciplining authority.

When a member of the Committee is the complainant or person complained of in a sexual harassment case, he/she shall be disqualified from being a member of the Committee.

immediately cause the creation of the CODI in accordance with law and rules.<sup>75</sup>

The Rules on Sexual Harassment Cases is categorical. The head office or agency is the entity tasked to create the CODI when none is existing or has been constituted. In this case, the head office or agency responsible for creating a CODI is the office of the city mayor, headed by the mayor himself, Gatchalian, which he did. Gatchalian issued EO 2012-006<sup>76</sup> creating the City Committee on Decorum and Investigation on Sexual Harassment Cases of the City Government of Valenzuela. The following day, the CODI adopted Resolution No. 2012-001<sup>77</sup> which, among others, divided the CODI into two groups: (1) CODI-I, to conduct preliminary investigation; and (2) CODI-II, to conduct formal hearing. Both CODI-I and CODI-II found Urrutia liable for sexual harassment classified as a grave offense under the Rules on Sexual Harassment Cases. They issued a formal charge and preventive suspension order against Urrutia.

In fine, the CA committed reversible error in dismissing Gatchalian's petition on the basis that the city mayor had no power to discipline Urrutia and that only the vice-mayor has the sole jurisdiction to discipline Urrutia. There is legal basis for not reinstating Urrutia to his former position since Gatchalian, through the CODI, had jurisdiction and authority to try the Sexual Harassment case against Urrutia.

**WHEREFORE**, the petition is **GRANTED**. The December 11, 2015 Decision and March 16, 2016 Resolution of the Court of Appeals, which affirmed the July 26, 2012 Decision of the Civil Service Commission in Case Number 120465, and the November 26, 2012 Resolution in Case Number 1202112, are hereby **REVERSED**. The formal charge for Sexual Harassment and order of preventive suspension by petitioner Sherwin T. Gatchalian, former City Mayor of Valenzuela City, against respondent Romeo V. Urrutia, Records Officer IV in the Council Secretariat, *Sangguniang Panlungsod* of Valenzuela City and Chairman of the Board of Directors of the City Government of Valenzuela City Employees Cooperative, are **VALID**.

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<sup>75</sup> Section 12 (a) of the Administrative Disciplinary Rules on Sexual Harassment Cases reads:

Section 12. Complaint.

- a) The complaint may be filed at any time with the disciplining authority of the office or agency, or with the Committee on Decorum and Investigation. Upon receipt of the complaint by the disciplining authority of the office or agency, the same shall be transmitted to the Committee on Decorum and Investigation, if there is any. In the absence of a Committee on Decorum and Investigation, the head office or agency shall immediately cause the creation of Committee on Decorum and Investigation in accordance with the law and rules, and transmit the complaint to the Committee.

x x x x

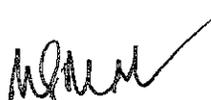
<sup>76</sup> CA *rollo*, pp. 118-119.

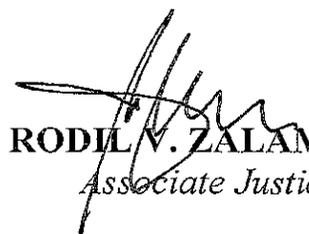
<sup>77</sup> Id. at 120-122.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*  
*Chairperson*

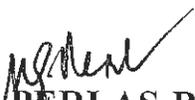
  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

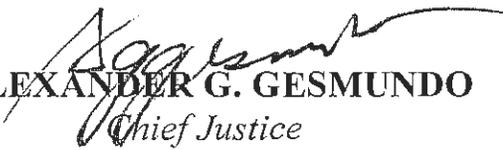
## ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

