



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SPECIAL SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **November 28, 2022** which reads as follows:*

“**G.R. No. 223595 (Sherwin T. Gatchalian v. Romeo V. Urrutia)**.— For the Court’s resolution are the Motion for Partial Reconsideration<sup>1</sup> filed by respondent Romeo V. Urrutia (Urrutia) and the Motion for Reconsideration and/or Clarificatory Relief<sup>2</sup> filed by petitioner Sherwin T. Gatchalian (Gatchalian) of the Court’s March 16, 2022 Decision,<sup>3</sup> the dispositive portion of which reads:

**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**.

**SO ORDERED.**

For reference, the salient facts of the case are reproduced below:

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 against Urrutia for Sexual Harassment committed on December 22, 2011. The complaint was addressed to Valenzuela

<sup>1</sup> *Rollo*, pp. 208-227.

<sup>2</sup> Temporary *rollo*, pp. 1-11.

<sup>3</sup> *Id.* at 195-207. Penned by Associate Justice Ramon Paul L. Hernando and concurred in by Senior Associate Justice Estela M. Perlas-Bernabe (now a retired Member of the Court) and Associate Justices Rodil V. Zalameda, Ricardo R. Rosario and Jose Midas P. Maquez.

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City's former Mayor, herein petitioner Gatchalian. Urrutia moved to dismiss the complaint on the grounds that the creation by Gatchalian of the Committee on Decorum and Investigation did not comply with the Rules on Sexual Harassment Cases. He 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 Urrutia pursuant to Civil Service Commission (CSC) Resolution No. 01-0940. However, the said motion to dismiss was denied by the Personnel Complaints and Ethics Board (PCEB) of Valenzuela City in its Resolution No. 2012-001.<sup>4</sup> The PCEB also denied Urrutia's motion for reconsideration therefrom.<sup>5</sup>

On February 15, 2012, Gatchalian created the City Committee on Decorum and Investigation (CODI) on Sexual Harassment Cases of the City Government of Valenzuela through Executive Order No. (EO) 2012-006. Thereafter, the CODI adopted Resolution No. 2012-001. After preliminary investigation, the CODI found that a *prima facie* case exists against Urrutia and accordingly recommended the filing of a Formal Charge against him. On March 23, 2012, the Office of the City Mayor issued a Formal Charge for Sexual Harassment and order of suspension against Urrutia.<sup>6</sup>

Urrutia filed an urgent motion questioning the creation of the new CODI. He also alleged that since he is an employee of the *Sangguniang Panlungsod*, only the vice mayor has the sole jurisdiction to discipline him in accordance with Republic Act No. (RA) 7160 or the Local Government Code of 1991 (LGC) and jurisprudence.<sup>7</sup> The CODI, however, denied Urrutia's omnibus motion.<sup>8</sup>

Meanwhile, on May 17, 2012, Urrutia appealed his order of suspension with the CSC.

On July 4, 2012, the CODI issued Resolution No. 2012-008, finding Urrutia liable for Sexual Harassment and consequently dismissed him from the service. The CODI likewise denied Urrutia's motion for reconsideration.<sup>9</sup>

Aggrieved, Urrutia filed an appeal before the CSC.

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

The *fallo* of the July 26, 2012 CSC Decision<sup>10</sup> reads:

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<sup>4</sup> *Rollo*, pp. 180-182.

<sup>5</sup> *Id.* at 196-197.

<sup>6</sup> *Id.* at 197.

<sup>7</sup> *Id.* at 198-199.

<sup>8</sup> *Id.* at 199.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 134-139.

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 the unlawful preventive suspension without awaiting the outcome of the main case.<sup>11</sup>

The CSC held that Gatchalian was not authorized to issue a formal charge against Urrutia, more so to preventively suspend him. Since Urrutia was appointed by the vice mayor being an employee of the *Sangguniang Panlungsod*, only the vice mayor had the power to discipline him.

Gatchalian's motion for reconsideration was likewise denied by the CSC in a Resolution<sup>12</sup> dated November 26, 2012.

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

On appeal, the CA affirmed the CSC ruling in its assailed Decision<sup>13</sup> dated December 11, 2015, the decretal portion thereof reads:

We DISMISS the Petition.

IT IS SO ORDERED.<sup>14</sup>

The CA agreed with the CSC that Gatchalian, as Mayor of Valenzuela City, had no power to issue the questioned formal charge and preventive suspension order against Urrutia. The appellate court noted that Urrutia was an employee of the *Sangguniang Panlungsod*, thus, an appointee of the vice mayor pursuant to Section 456(a)(2)<sup>15</sup> of the LGC. Since Urrutia was appointed by the vice mayor, only the vice mayor could validly remove and suspend Urrutia from office.<sup>16</sup> Consequently, the CA declared Urrutia's removal and suspension void. The CA also held that there is nothing in CSC Resolution No. 01-0940 that restricts the power to suspend or dismiss an employee to mayors alone.<sup>17</sup>

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<sup>11</sup> Id. at 139.

<sup>12</sup> Id. at 155-162.

<sup>13</sup> Id. at 44-52. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion.

<sup>14</sup> Id. at 52.

<sup>15</sup> SECTION. 456. *Powers, Duties and Compensation*. - (a) The city vice-mayor shall:

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(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;

<sup>16</sup> *Rollo*, p. 50.

<sup>17</sup> Id. at 51.

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### The Assailed Ruling of the Court

In the Decision<sup>18</sup> dated March 16, 2022, the Court granted Gatchalian's Petition for Review on *Certiorari* and declared the formal charge for Sexual Harassment as well as the order of preventive suspension against Urrutia, valid. While the Court recognized the doctrine of implication which intimates that the vice mayor's power to appoint officials and employees of the *Sangguniang Panlungsod* carries with it the power to discipline them, this is subject to an exception as expressed in the phrase "absent any contrary authority provision." In this case, the Court found a contrary statutory provision expressed in Sec. 8(b)(1)(jj) of RA 8526<sup>19</sup> or the Charter of Valenzuela City, which 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 Sec. 455(b)(1)(x)<sup>20</sup> of the LGC.<sup>21</sup>

Moreover, the Court noted that at the time of the commission of the sexual harassment incident, Urrutia was not only an employee of the *Sangguniang Panlungsod*, but he was also concurrently acting as the Chairman of the Board of Directors of the City Employees Cooperative where Laron was an on-the-job trainee/student. Thus, Gatchalian, as the City Mayor, had the express power to discipline Urrutia, in his capacity as Chairman of the Board of Directors of the City Employees Cooperative, in accordance with the LGC and the Charter of Valenzuela City.<sup>22</sup>

Finally, the Court stressed that Sec. 87<sup>23</sup> of the LGC empowers the local chief executive to impose the appropriate penalty on erring subordinate officials and employees under his or her jurisdiction.

Hence, these motions for reconsideration by both parties.

<sup>18</sup> Id. at 195-207.

<sup>19</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.

<sup>20</sup> SECTION. 455. *Chief Executive; Powers, Duties and Compensation.* - (a) The city mayor, as chief executive of the city government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.

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(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;

<sup>21</sup> *Rollo*, p. 203.

<sup>22</sup> Id. at 203-204.

<sup>23</sup> 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 not 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.

In his Motion for Partial Reconsideration,<sup>24</sup> Urrutia simply reiterates the same assertions and arguments in his Comment<sup>25</sup> to the petition before this Court. Urrutia maintains that the proper and real disciplining authority over appointive officers and employees of the *Sangguniang Panlungsod* like him is the vice mayor. The power of the local chief executive to impose penalty is confined only to subordinate officials and employees under his jurisdiction and not covering the legislative branch of the local government unit.

On the other hand, in his Motion for Reconsideration and/or Clarificatory Relief, Gatchalian seeks clarification of the March 16, 2022 Decision regarding the wages and other benefits paid by the City of Valenzuela to Urrutia. Invoking the principle of unjust enrichment, petitioner argues that Urrutia should be ordered to reimburse the full backwages paid to him considering the Court's disposition of the case, upholding the validity of the formal charge and order of suspension against Urrutia.

### Our Ruling

The Court resolves to **DENY** Urrutia's Motion for Partial Reconsideration considering that the basic issues have already been duly passed upon by the Court in the assailed Decision and there being no substantial argument raised; and to **GRANT** the Motion for Reconsideration and/or Clarificatory Relief filed by petitioner Gatchalian.

To recall, Urrutia's dismissal from service was overturned by the CSC in CSC Decision No. 120465 dated July 26, 2012. Accordingly, the CSC ordered Urrutia's reinstatement with payment of backwages. Petitioner filed an appeal before the CA. However, while the case was pending with the appellate court, Urrutia instituted a complaint for Indirect Contempt against petitioner for his failure to comply with CSC's order of reinstatement and payment of back salaries.

On June 30, 2013, then Mayor Rexlon Gatchalian (Mayor Rexlon) assumed as the new Mayor of Valenzuela City. On February 24, 2015, the CSC formally charged Mayor Rexlon with Indirect Contempt. To avoid being cited for Indirect Contempt, Mayor Rexlon promptly complied with the CSC's directive and reinstated Urrutia to his former position effective March 9, 2015. On January 27, 2016 and February 19, 2016, Mayor Rexlon paid Urrutia's full backwages in the total amount of ₱1,356,180.14 corresponding to his salary from the time of his dismissal to his actual reinstatement on March 9, 2015. In view of the said compliance, the complaint for Indirect Contempt against Mayor Rexlon was dismissed.<sup>26</sup>

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<sup>24</sup> *Rollo*, pp. 208-227.

<sup>25</sup> *Id.* at 69-93.

<sup>26</sup> Temporary *rollo*, p. 3.

Meanwhile, in a Decision<sup>27</sup> dated December 11, 2015, the CA dismissed petitioner's Petition for Review and affirmed CSC Decision No. 120465, ordering Urrutia's reinstatement. Petitioner, thus, filed before this Court a Petition for Review on *Certiorari*<sup>28</sup> under Rule 45 of the Rules of Court challenging the CA Decision.

On March 16, 2022, the Court issued the assailed Decision granting the petition. However, the said Decision was silent on the issue of Urrutia's receipt of back salaries covering the period of his dismissal from service pending appeal with the CSC.

Hence, this Motion for Reconsideration and/or Clarificatory Relief seeking clarification of the Court's March 16, 2022 Decision, regarding the wages and other benefits paid by the City of Valenzuela to Urrutia. Invoking the principle of unjust enrichment, petitioner argues that Urrutia should be ordered to reimburse the full backwages paid to him considering the Court's disposition of the case, upholding the validity of the formal charge and order of suspension against Urrutia.

We are in full accord with petitioner's position.

Based on the "no work-no pay" principle, public officials are only entitled to compensation if they render service. However, "We have excepted from this general principle and awarded back salaries even for unworked days to illegally dismissed or unjustly suspended employees based on the constitutional provision that 'no officer or employee in the civil service shall be removed or suspended except for cause provided by law.'"<sup>29</sup> Thus, a government employee who had been dismissed but was subsequently exonerated is entitled to back salaries for the period of suspension pending appeal.<sup>30</sup>

Sec. 88 of the LGC provides for the conditions under which a public servant who was suspended or dismissed by reason of an administrative charge, may be entitled to full backwages, thus:

**Sec. 88. Execution Pending Appeal.** — An appeal shall not prevent the execution of a decision of removal or suspension of a respondent-appellant. **In case the respondent-appellant is exonerated, he shall be reinstated to his position with all the rights and privileges appurtenant thereto from the time he had been deprived thereof.** (Emphasis supplied)

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<sup>27</sup> *Rollo*, pp. 44-52.

<sup>28</sup> *Id.* at 13-43.

<sup>29</sup> *Civil Service Commission v. Cruz*, 670 Phil. 638, 646 (2011).

<sup>30</sup> *Id.*

Moreover, in *Bangalisan v. Court of Appeals*,<sup>31</sup> the Court crafted two conditions before a government employee may be entitled to back salaries: (a) the employee must be found innocent of the charges, and (b) his suspension must be unjustified.

Applying the above-quoted provision and cited jurisprudence herein, Urrutia must be exonerated of the charge in order that he may be paid his back salaries. In this case, the first condition is evidently wanting since Urrutia was not cleared of the charge against him. In the assailed Decision dated March 16, 2022, the Court upheld the validity of the formal charge as well as the preventive suspension order, holding that petitioner was authorized by law to terminate Urrutia's employment. Simply stated, Urrutia was validly dismissed from service.

Considering that Urrutia was not exonerated, it follows that he is not entitled to receive back salaries covering the period from his dismissal up to his actual reinstatement. This gains more significance since Urrutia did not report for work at all during this period. The general proposition is that a public official is not entitled to any compensation if he or she has not rendered any service. As he or she works, so shall he or she earn. Compensation is paid only for service actually or constructively rendered.<sup>32</sup>

Here, in the absence of a showing that Urrutia rendered service to the government from the time he was dismissed by petitioner until his actual reinstatement, granting him backwages would in effect be unjustly enriching him at the expense of taxpayer's money.<sup>33</sup> Moreover, to allow Urrutia to receive back salaries would amount to rewarding him for his misdeeds and compensating him for services he did not render.<sup>34</sup>

However, since the local government of Valenzuela City has already paid in full the back salaries of Urrutia in compliance with CSC's directive, as evidenced by the disbursement vouchers<sup>35</sup> and acknowledgment receipt<sup>36</sup> attached to petitioner's motion, Urrutia is hereby ordered to refund the total amount of ₱1,356,180.14 paid to him by the City of Valenzuela.

Distinction must be made, however, with respect to the salaries and benefits received by Urrutia during the period of his reinstatement on March 9, 2015, until the finality of the Court's assailed Decision which upheld Gatchalian's authority to dismiss Urrutia from employment. Since Urrutia indeed reported for work and rendered actual service during the period that he

<sup>31</sup> 342 Phil. 586, 598 (1997).

<sup>32</sup> *Department of Transportation and Communications v. Cruz*, 581 Phil. 602, 607 (2008), citing *Mamaril v. Civil Service Commission*, 521 Phil. 211, 220 (2006).

<sup>33</sup> See *Bunsay v. Civil Service Commission*, 556 Phil. 720, 730 (2007).

<sup>34</sup> *City Mayor of Zamboanga v. Court of Appeals*, 261 Phil. 936, 942 (1990).

<sup>35</sup> Annexes "B" and "D" of the Motion for Reconsideration/Clarificatory Relief dated August 8, 2022. Temporary *rollo*.

<sup>36</sup> Annex "A" of the Motion for Reconsideration/Clarificatory Relief dated August 8, 2022. Id.

was reinstated, he is clearly entitled to be paid by the government for the services he rendered. To rule otherwise would result to grave injustice on the part of Urrutia.

It is worthy to point out that it was the CSC that ordered Mayor Rexlon to immediately reinstate Urrutia to his former position (despite the pendency of Gatchalian's appeal before the appellate court challenging the July 26, 2012 CSC Decision), under pain of contempt should he fail to do so. Thus, in compliance with CSC's directive, Mayor Rexlon reinstated Urrutia effective March 9, 2015. In turn, the CSC dismissed the Indirect Contempt case against him. Hence, Urrutia's resumption to office remained effective until the Court has reversed the CA ruling which affirmed the July 26, 2012 CSC Decision that ordered the reinstatement of Urrutia. Having rendered actual public service during this period, it is but proper that Urrutia be compensated therefor pursuant to the policy of "no work, no pay," which entitles public officials and employees to compensation if they render actual service.

**WHEREFORE**, respondent Romeo V. Urrutia's Motion for Partial Reconsideration is **DENIED**; petitioner Sherwin T. Gatchalian's Motion for Reconsideration and/or Clarificatory Relief is **GRANTED**. Respondent Romeo V. Urrutia is hereby ordered to refund the full backwages paid to him by the local government of Valenzuela City in the total amount of ₱1,356,180.14 representing his salary from the time of his dismissal until his reinstatement on March 9, 2015.

**SO ORDERED.**" (*Marquez, J., on official business; Singh, J., designated additional Member vice Perlas-Bernabe, J., [retired] pursuant to Sec. 8, Rule 2 of the IRSC, as amended*)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court <sup>mm</sup>

03 APR 2013

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