

## FIRST DIVISION

[ G.R. No. 165569, July 29, 2010 ]

**UNIVERSITY OF SANTO TOMAS, GLENDA A. VARGAS, MA.  
SOCORRO S. GUANHING, IN THEIR CAPACITIES AS DEAN AND  
ASSISTANT DEAN, RESPECTIVELY, OF THE COLLEGE OF NURSING  
OF THE UNIVERSITY OF SANTO TOMAS, AND RODOLFO N.  
CLAVIO, IN HIS CAPACITY AS REGISTRAR OF THE UNIVERSITY  
OF SANTO TOMAS, PETITIONERS, VS. DANES B. SANCHEZ,  
RESPONDENT.**

### D E C I S I O N

#### **DEL CASTILLO, J.:**

Where a valid cause of action exists, parties may not simply bypass litigation by the simple expediency of a Motion to Dismiss. Instead of abbreviating the proceedings, it has had the opposite effect: unnecessary litigation for almost seven years. Here, in particular, where any resolution of the case will depend on the appreciation of evidence, a full-blown trial is necessary to unearth all relevant facts and circumstances.

This petition for review on *certiorari* assails the Decision<sup>[1]</sup> dated July 20, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 79404 which affirmed the denial of petitioners' motion to dismiss and directed the Regional Trial Court (RTC) of Dinalupihan, Bataan, Branch 5, to proceed with trial. Also assailed is the Resolution<sup>[2]</sup> dated September 22, 2004 denying the motion for reconsideration.

#### ***Factual Antecedents***

This case began with a Complaint<sup>[3]</sup> for Damages filed by respondent Danes B. Sanchez (respondent) against the University of Santo Tomas (UST) and its Board of Directors, the Dean and the Assistant Dean of the UST College of Nursing, and the University Registrar for their alleged unjustified refusal to release the respondent's Transcript of Records (ToR). The case was raffled to Branch 5 of the RTC of Dinalupihan, Bataan, and docketed as Civil Case No. DH-788-02.

In his Complaint, respondent alleged that he graduated from UST on April 2, 2002 with a Bachelor's Degree of Science in Nursing. He was included in the list of candidates for graduation and attended graduation ceremonies. On April 18, 2002, respondent sought to secure a copy of his ToR with the UST Registrar's Office, paid the required fees, but was only given a Certificate of Graduation by the Registrar. Despite repeated attempts by the respondent to secure a copy of his ToR, and submission of his class cards as proof of his enrolment, UST refused to release his records, making it impossible for him to take the nursing board examinations, and depriving him of the opportunity to make a living. The respondent prayed that the RTC order UST to release his ToR and hold UST liable for actual, moral, and

exemplary damages, attorney's fees, and the costs of suit.

Instead of filing an Answer, petitioners filed a Motion to Dismiss<sup>[4]</sup> where they claimed that they refused to release respondent's ToR because he was not a registered student, since he had not been enrolled in the university for the last three semesters. They claimed that the respondent's graduation, attendance in classes, and taking/passing of examinations were immaterial because he ceased to be a student when he failed to enroll during the second semester of school year 2000-2001. They also sought the dismissal of the case on the ground that the complaint failed to state a cause of action, as paragraph 10 of the complaint admitted that:

10. On several occasions, [respondent] went to see the [petitioners] to get his ToR, but all of these were futile for he was not even entertained at the Office of the Dean. Worst, he was treated like a criminal forcing him to admit the fact that he did not enroll for the last three (3) semesters of his schooling. [Petitioner] Dean tried to persuade the [respondent] to give the original copies of the Class Cards which he has in his possession. These are the only [bits of] evidence on hand to prove that he was in fact officially enrolled. [Respondent] did not give the said class cards and instead gave photo copies to the [Petitioner] Dean. The Office of the Dean of Nursing of [petitioner] UST became very strict in receiving documents from the [respondent]. [They have] to be scrutinized first before the same are received. Receiving, as [respondent] believes, is merely a ministerial function [of] the [petitioners] and the documents presented for receiving need not be scrutinized especially so when x x x they are not illegal. Copies of the class cards are hereto attached as "F" hereof.<sup>[5]</sup>

After the parties filed their responsive pleadings,<sup>[6]</sup> petitioners filed a Supplement to their Motion to Dismiss,<sup>[7]</sup> alleging that respondent sought administrative recourse before the Commission on Higher Education (CHED) through a letter-complaint dated January 21, 2003. Thus, petitioners claimed that the CHED had primary jurisdiction to resolve matters pertaining to school controversies, and the filing of the instant case was premature.

### ***Ruling of the Regional Trial Court***

After another exchange of pleadings,<sup>[8]</sup> the RTC issued an Order<sup>[9]</sup> dated April 1, 2003 denying the Motion to Dismiss on the ground that the issues involved required an examination of the evidence, which should be threshed out during trial. Petitioners' Motion for Reconsideration<sup>[10]</sup> was denied in an Order<sup>[11]</sup> dated August 1, 2003, so petitioners sought recourse before the CA.

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

The CA affirmed the denial of petitioners' Motion to Dismiss, and directed the RTC to proceed with trial.

## **Issues**

Petitioners seek recourse before us raising the following issues:

- 1) The CHED exercises quasi-judicial power over controversies involving school matters and has primary jurisdiction over respondent's demand for the release of his ToR. Thus, respondent failed to exhaust administrative remedies;
- 2) Since respondent sought recourse with both the CHED and the RTC, respondent violated the rule against forum-shopping; and
- 3) The Complaint failed to state a cause of action, since respondent admitted that he was not enrolled in UST in the last three semesters prior to graduation.

### **Our Ruling**

The petition is denied for lack of merit.

*The doctrine of exhaustion of administrative remedies does not apply in this case.*

The doctrine of exhaustion of administrative remedies requires that where a

remedy before an administrative agency is provided, the administrative agency concerned must be given the opportunity to decide a matter within its jurisdiction before an action is brought before the courts.<sup>[12]</sup> Failure to exhaust administrative remedies is a ground for dismissal of the action.<sup>[13]</sup>

In this case, the doctrine does not apply because petitioners failed to demonstrate that recourse to the CHED is mandatory - or even possible - in an action such as that brought by the respondent, which is essentially one for mandamus and damages. The doctrine of exhaustion of administrative remedies admits of numerous exceptions,<sup>[14]</sup> one of which is where the issues are purely legal and well within the jurisdiction of the trial court, as in the present case.<sup>[15]</sup> Petitioners' liability - if any - for damages will have to be decided by the courts, since any judgment inevitably calls for the application and the interpretation of the Civil Code.<sup>[16]</sup> As such, exhaustion of administrative remedies may be dispensed with. As we held in *Regino v. Pangasinan Colleges of Science and Technology*:<sup>[17]</sup>

x x x exhaustion of administrative remedies is applicable when there is competence on the part of the administrative body to act upon the matter complained of. Administrative agencies are not courts; x x x neither [are they] part of the judicial system, [or] deemed judicial tribunals. Specifically, **the CHED does not have the power to award damages**. Hence, petitioner could not have commenced her case before the Commission. (Emphasis ours)

In addition, the rule on primary jurisdiction applies only where the administrative agency exercises quasi-judicial or adjudicatory functions.<sup>[18]</sup> Thus, an essential requisite for this doctrine to apply is the actual existence of quasi-judicial power.<sup>[19]</sup>

However, petitioners have not shown that the CHED possesses any such power to "investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions."<sup>[20]</sup> Indeed, Section 8 of Republic Act No. 7722<sup>[21]</sup> otherwise known as the Higher Education Act of 1994, certainly does not contain any express grant to the CHED of judicial or quasi-judicial power.

Petitioners also claim that even without any express grant of quasi-judicial power by the legislature, the CHED is authorized to adjudicate the case filed by respondent on the strength of the following provisions of the Manual of Regulations of Private Schools:<sup>[22]</sup>

(1) Section 33, which authorizes the CHED to cancel or revoke the graduation of any student whose records are found to be fraudulent:

Section 33. Authority to Graduate Without Department Approval. One of the benefits which may be made available for accredited schools of the appropriate level is the authority to graduate students from accredited courses or programs of study without prior approval of the Department, the conditions of which are as follows:

a) The school head must furnish the Regional Office of the region where the school is situated a copy of its certificate of accreditation.

b) Within two weeks after the graduation exercise, the school shall submit to the Regional Office concerned an alphabetical list of graduates by course, accompanied by a certification under oath signed by the school registrar certifying that the students listed (1) have complied with all the requirements of the Department, (2) were conferred their respective certificates or degrees on a specific date, (3) have complete scholastic records on file in the school, and (4) have their Form 137 for high school and Form IX for college, as the case may be, in the custody of the school. This list shall be sufficient basis for issuing special orders, if still necessary.

The school will be held fully liable for the veracity of the records without prejudice to any legal action, including revocation of government recognition, as may be called for under the circumstances.

The Department reserves the right to cancel or revoke the graduation of any student whose records are found to be fraudulent.

(2) Section 72, which permits the school to withhold students' credentials under certain specified circumstances, and authorizes the CHED to issue a student's credentials in case these are unlawfully withheld by the school:

Section 72. Withholding of Credentials. The release of the transfer credentials of any pupil or student may be withheld for reasons of suspension, expulsion, or non-payment of financial obligations or property responsibility of the pupil or student to the school. The

credentials shall be released as soon as his obligation shall have been settled or the penalty of suspension or expulsion lifted.

However, if, after due inquiry, a school is found to have unjustifiably refused to issue transfer credentials or student records, the Department may issue the same without prejudice to the imposition of appropriate administrative sanctions against the school concerned.

The most cursory perusal of these provisions shows that they are inapplicable. Section 33 concerns the conditions and authority of accredited schools to authorize the graduation of students without the prior authority of the CHED. Corollarily, the CHED may cancel or revoke the graduation if it is found to be fraudulent. We are not aware that the CHED has taken any action to revoke the respondent's graduation, though it is free to do so.

As regards Section 72, it refers to a school's right to withhold the release of credentials due to "suspension, expulsion, or non-payment of financial obligations or property responsibility." None of these circumstances is present, and there has been no intimation that respondent's ToR has been withheld on any of these grounds.

In any event, even if we were to assume that these provisions were applicable, the CHED remains without authority to adjudicate an action for damages.

### ***Respondent is not guilty of forum shopping***

Forum shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or *certiorari*) in another, or when he institutes two or more actions or proceedings grounded on the same cause, on the gamble that one or the other court would make a favorable disposition.<sup>[23]</sup> Here, there can be no forum shopping precisely because the CHED is without quasi-judicial power, and cannot make any disposition of the case - whether favorable or otherwise. As we held in *Cabarrus, Jr. v. Bernas*:<sup>[24]</sup>

The courts, tribunal and agencies referred to under Circular No. 28-91, revised Circular No. 28-91 and Administrative Circular No. 04-94 are those vested with judicial powers or quasi-judicial powers and those who not only hear and determine controversies between adverse parties, but to make binding orders or judgments. As succinctly put by R.A. 157, the NBI is not performing judicial or quasi-judicial functions. The NBI cannot therefore be among those forums contemplated by the Circular that can entertain an action or proceeding, or even grant any relief, declaratory or otherwise.

### ***The Complaint states a cause of action***

Under Rule 16, Section 1(g) of the Rules of Court, a motion to dismiss may be made on the ground that the pleading asserting the claim states no cause of action.<sup>[25]</sup> To clarify the essential test required to sustain dismissal on this ground, we have explained that "[t]he test of the sufficiency of the facts found in a petition, to