

## SECOND DIVISION

[ G.R. No. 144681, June 21, 2004 ]

**PROFESSIONAL REGULATION COMMISSION (PRC), CHAIRMAN HERMOGENES P. POBRE, ASSOCIATE COMMISSIONER ARMANDO PASCUAL, BOARD OF MEDICINE, CHAIRMAN RODOLFO P. DE GUZMAN, JOSE S. RAMIREZ, JUANITO B. BILLOTE, RUBEN R. POLICARPIO, EDGARDO T. FERNANDO AND RICARDO D. FULGENCIO II, PETITIONERS, VS. ARLENE V. DE GUZMAN, VIOLETA V. MENESES, CELERINA S. NAVARRO, JOSE RAMONCITO P. NAVARRO, ARNEL V. HERRERA AND GERALDINE ELIZABETH M. PAGILAGAN, ELNORA R. RAQUENO, MARISSA A. REGODON, LAURA M. SANTOS, KARANGALAN D. SERRANO, DANILO A. VILLAYER, MARIA ROSARIO L. LEONOR, ALICIA S. LIZANO, MARITEL M. ECHIVERRI, BERNADETTE T. MENDOZA, FERNANDO F. MANDAPAT, ALELI A. GOLLAYAN, ELCIN C. ARRIOLA, HERMINIGILDA E. CONEJOS, SALLY B. BUNAGAN, ROGELIO B. ANCHETA, OSCAR H. PADUA, JR., EVELYN D. GRAJO, EVELYN S. ACOSTA, MARGARITA BELINDA L. VICENCIO, VALENTINO P. ARBOLEDA, EVELYN O. RAMOS, ACHILLES J. PERALTA, CORAZON M. CRUZ, LEUVINA P. CHICO, JOSEPH A. JAO, MA. LUISA S. GUTIERREZ, LYDIA C. CHAN, OPHELIA C. HIDALGO, FERNANDO T. CRUZ, MELVIN M. USITA, RAFAEL I. TOLENTINO, GRACE E. UY, CHERYL R. TRIGUERO, MICHAEL L. SERRANO, FEDERICO L. CASTILLO, MELITA J. CAÑEDO, SAMUEL B. BANGOY, BERNARDITA B. SY, GLORIA T. JULARBAL, FREDERICK D. FRANCISCO, CARLOS M. BERNARDO, JR., HUBERT S. NAZARENO, CLARISSA B. BACLIG, DAYMINDA G. BONTUYAN, BERNADETTE H. CABUHAT, NANCY J. CHAVEZ, MARIO D. CUARESMA, ERNESTO L. CUE, EVELYN C. CUNDANGAN, RHONEIL R. DEVERATURDA, DERILEEN D. DORADO, SAIBZUR N. EDDING, VIOLETA C. FELIPE, HERMINIO V. FERNANDEZ, JR., MARIA VICTORIA M. LACSAMANA, NORMA G. LAFAVILLA, RUBY B. LANTIN, MA. ELOISA Q. MALLARI, CLARISA SJ. NICOLAS, PERCIVAL H. PANGILINAN, ARNULFO A. SALVADOR, ROBERT B. SANCHEZ, MERLY D. STA. ANA AND YOLANDA P. UNICA, RESPONDENTS.**

## DECISION

**TINGA, J.:**

This petition for review under Rule 45 of the 1997 Rules of Civil Procedure seeks to nullify the Decision,<sup>[1]</sup> dated May 16, 2000, of the Court of Appeals in CA-G.R. SP No. 37283. The appellate court affirmed the judgment<sup>[2]</sup> dated December 19, 1994, of the Regional Trial Court (RTC) of Manila, Branch 52, in Civil Case No. 93-66530. The trial court allowed the respondents to take their physician's oath and to register as duly licensed physicians. Equally challenged is the *Resolution*<sup>[3]</sup> promulgated on

August 25, 2000 of the Court of Appeals, denying petitioners' Motion for Reconsideration.

The facts of this case are as follows:

The respondents are all graduates of the Fatima College of Medicine, Valenzuela City, Metro Manila. They passed the Physician Licensure Examination conducted in February 1993 by the Board of Medicine (Board). Petitioner Professional Regulation Commission (PRC) then released their names as successful examinees in the medical licensure examination.

Shortly thereafter, the Board observed that the grades of the seventy-nine successful examinees from Fatima College in the two most difficult subjects in the medical licensure exam, Biochemistry (Bio-Chem) and Obstetrics and Gynecology (OB-Gyne), were unusually and exceptionally high. Eleven Fatima examinees scored 100% in Bio-Chem and ten got 100% in OB-Gyne, another eleven got 99% in Bio-Chem, and twenty-one scored 99% in OB-Gyne. The Board also observed that many of those who passed from Fatima got marks of 95% or better in both subjects, and no one got a mark lower than 90%. A comparison of the performances of the candidates from other schools was made. The Board observed that strangely, the unusually high ratings were true only for Fatima College examinees. It was a record-breaking phenomenon in the history of the Physician Licensure Examination.

On June 7, 1993, the Board issued Resolution No. 19, withholding the registration as physicians of all the examinees from the Fatima College of Medicine.<sup>[4]</sup> The PRC asked the National Bureau of Investigation (NBI) to investigate whether any anomaly or irregularity marred the February 1993 Physician Licensure Examination.

Prior to the NBI investigation, the Board requested Fr. Bienvenido F. Nebres, S.J., an expert mathematician and authority in statistics, and later president of the Ateneo de Manila University, to conduct a statistical analysis of the results in Bio-Chem and Ob-Gyne of the said examination.

On June 10, 1993, Fr. Nebres submitted his report. He reported that a comparison of the scores in Bio-Chem and Ob-Gyne, of the Fatima College examinees with those of examinees from De La Salle University and Perpetual Help College of Medicine showed that the scores of Fatima College examinees were not only incredibly high but unusually clustered close to each other. He concluded that there must be some unusual reason creating the clustering of scores in the two subjects. It must be a cause "strong enough to eliminate the normal variations that one should expect from the examinees [of Fatima College] in terms of talent, effort, energy, etc."<sup>[5]</sup>

For its part, the NBI found that "the questionable passing rate of Fatima examinees in the [1993] Physician Examination leads to the conclusion that the Fatima examinees gained early access to the test questions."<sup>[6]</sup>

On July 5, 1993, respondents Arlene V. De Guzman, Violeta V. Meneses, Celerina S. Navarro, Jose Ramoncito P. Navarro, Arnel V. Herrera, and Geraldine Elizabeth M. Pagilagan (Arlene V. De Guzman et al., for brevity) filed a special civil action for mandamus, with prayer for preliminary mandatory injunction docketed as Civil Case No. 93-66530 with the Regional Trial Court (RTC) of Manila, Branch 52. Their

petition was adopted by the other respondents as intervenors.

Meanwhile, the Board issued Resolution No. 26, dated July 21, 1993, charging respondents with "immorality, dishonest conduct, fraud, and deceit" in connection with the Bio-Chem and Ob-Gyne examinations. It recommended that the test results of the Fatima examinees be nullified. The case was docketed as Adm. Case No. 1687 by the PRC.

On July 28, 1993, the RTC issued an Order in Civil Case No. 93-66530 granting the preliminary mandatory injunction sought by the respondents. It ordered the petitioners to administer the physician's oath to Arlene V. De Guzman et al., and enter their names in the rolls of the PRC.

The petitioners then filed a special civil action for certiorari with the Court of Appeals to set aside the mandatory injunctive writ, docketed as CA-G.R. SP No. 31701.

On October 21, 1993, the appellate court decided CA-G.R. SP No. 31701, with the dispositive portion of the Decision ordaining as follows:

WHEREFORE, this petition is GRANTED. Accordingly, the writ of preliminary mandatory injunction issued by the lower court against petitioners is hereby nullified and set aside.

SO ORDERED.<sup>[7]</sup>

Arlene V. de Guzman, et al., then elevated the foregoing Decision to this Court in G.R. No. 112315. In our Resolution dated May 23, 1994, we denied the petition for failure to show reversible error on the part of the appellate court.

Meanwhile, on November 22, 1993, during the pendency of the instant petition, the pre-trial conference in Civil Case No. 93-66530 was held. Then, the parties, agreed to reduce the testimonies of their respective witnesses to sworn questions-and-answers. This was without prejudice to cross-examination by the opposing counsel.

On December 13, 1993, petitioners' counsel failed to appear at the trial in the mistaken belief that the trial was set for December 15. The trial court then ruled that petitioners waived their right to cross-examine the witnesses.

On January 27, 1994, counsel for petitioners filed a *Manifestation and Motion* stating the reasons for her non-appearance and praying that the cross-examination of the witnesses for the opposing parties be reset. The trial court denied the motion for lack of notice to adverse counsel. It also denied the Motion for Reconsideration that followed on the ground that adverse counsel was notified less than three (3) days prior to the hearing.

Meanwhile, to prevent the PRC and the Board from proceeding with Adm. Case No. 1687, the respondents herein moved for the issuance of a restraining order, which the lower court granted in its Order dated April 4, 1994.

The petitioners then filed with this Court a petition for certiorari docketed as G.R. No. 115704, to annul the Orders of the trial court dated November 13, 1993, February 28, 1994, and April 4, 1994. We referred the petition to the Court of

Appeals where it was docketed as CA-G.R. SP No. 34506.

On August 31, 1994, the appellate court decided CA-G.R. SP No. 34506 as follows:

WHEREFORE, the present petition for certiorari with prayer for temporary restraining order/preliminary injunction is GRANTED and the Orders of December 13, 1993, February 7, 1994, February 28, 1994, and April 4, 1994 of the RTC-Manila, Branch 52, and all further proceedings taken by it in Special Civil Action No. 93-66530 are hereby DECLARED NULL and VOID. The said RTC-Manila is ordered to allow petitioners' counsel to cross-examine the respondents' witnesses, to allow petitioners to present their evidence in due course of trial, and thereafter to decide the case on the merits on the basis of the evidence of the parties. Costs against respondents.

IT IS SO ORDERED.<sup>[8]</sup>

The trial was then set and notices were sent to the parties.

A day before the first hearing, on September 22, 1994, the petitioners filed an *Urgent Ex-Parte Manifestation and Motion* praying for the partial reconsideration of the appellate court's decision in CA-G.R. SP No. 34506, and for the outright dismissal of Civil Case No. 93-66530. The petitioners asked for the suspension of the proceedings.

In its *Order* dated September 23, 1994, the trial court granted the aforesaid motion, cancelled the scheduled hearing dates, and reset the proceedings to October 21 and 28, 1994.

Meanwhile, on October 25, 1994, the Court of Appeals denied the partial motion for reconsideration in CA-G.R. SP No. 34506. Thus, petitioners filed with the Supreme Court a petition for review docketed as G.R. No. 117817, entitled *Professional Regulation Commission, et al. v. Court of Appeals, et al.*

On November 11, 1994, counsel for the petitioners failed to appear at the trial of Civil Case No. 93-66530. Upon motion of the respondents herein, the trial court ruled that herein petitioners waived their right to cross-examine the herein respondents. Trial was reset to November 28, 1994.

On November 25, 1994, petitioners' counsel moved for the inhibition of the trial court judge for alleged partiality. On November 28, 1994, the day the *Motion to Inhibit* was to be heard, petitioners failed to appear. Thus, the trial court denied the *Motion to Inhibit* and declared Civil Case No. 93-66530 deemed submitted for decision.

On December 19, 1994, the trial court handed down its judgment in Civil Case No. 93-66530, the *fallo* of which reads:

WHEREFORE, judgment is rendered ordering the respondents to allow the petitioners and intervenors (except those with asterisks and footnotes in pages 1 & 2 of this decision) [sic],<sup>[9]</sup> to take the physician's oath and to register them as physicians.

It should be made clear that this decision is without prejudice to any administrative disciplinary action which may be taken against any of the petitioners for such causes and in the manner provided by law and consistent with the requirements of the Constitution as any other professionals.

No costs.

SO ORDERED.<sup>[10]</sup>

As a result of these developments, petitioners filed with this Court a petition for review on certiorari docketed as G.R. No. 118437, entitled *Professional Regulation Commission v. Hon. David G. Nitafan*, praying *inter alia*, that (1) G.R. No. 118437 be consolidated with G.R. No. 117817; (2) the decision of the Court of Appeals dated August 31, 1994 in CA-G.R. SP No. 34506 be nullified for its failure to decree the dismissal of Civil Case No. 93-66530, and in the alternative, to set aside the decision of the trial court in Civil Case No. 93-66530, order the trial court judge to inhibit himself, and Civil Case No. 93-66530 be re-raffled to another branch.

On December 26, 1994, the petitioners herein filed their *Notice of Appeal*<sup>[11]</sup> in Civil Case No. 93-66530, thereby elevating the case to the Court of Appeals, where it was docketed as CA-G.R. SP No. 37283.

In our *Resolution* of June 7, 1995, G.R. No. 118437 was consolidated with G.R. No. 117817.

On July 9, 1998, we disposed of G.R. Nos. 117817 and 118437 in this wise:

WHEREFORE, the petition in G.R. No. 117817 is DISMISSED for being moot. The petition in G.R. No. 118437 is likewise DISMISSED on the ground that there is a pending appeal before the Court of Appeals. Assistant Solicitor General Amparo M. Cabotaje-Tang is advised to be more circumspect in her dealings with the courts as a repetition of the same or similar acts will be dealt with accordingly.

SO ORDERED.<sup>[12]</sup>

While CA-G.R. SP No. 37283 was awaiting disposition by the appellate court, Arnel V. Herrera, one of the original petitioners in Civil Case No. 93-66530, joined by twenty-seven intervenors, to wit: Fernando F. Mandapat, Ophelia C. Hidalgo, Bernadette T. Mendoza, Ruby B. Lantin-Tan, Fernando T. Cruz, Marissa A. Regodon, Ma. Eloisa Q. Mallari-Largoza, Cheryl R. Triguero, Joseph A. Jao, Bernadette H. Cabuhat, Evelyn S. Acosta-Cabanes, Laura M. Santos, Maritel M. Echiverri, Bernadette C. Escusa, Carlosito C. Domingo, Alicia S. Lizano, Elnora R. Raqueno-Rabaino, Saibzur N. Edding, Derileen D. Dorado-Edding, Robert B. Sanchez, Maria Rosario L. Leonor-Lacandula, Geraldine Elizabeth M. Pagilagan-Palma, Margarita Belinda L. Vicencio-Gamilla, Herminigilda E. Conejos, Leuvina P. Chico-Paguio, Elcin C. Arriola-Ocampo, and Jose Ramoncito P. Navarro, manifested that they were no longer interested in proceeding with the case and moved for its dismissal. A similar manifestation and motion was later filed by intervenors Mary Jean I. Yeban-Merlan, Michael L. Serrano, Norma G. Lafavilla, Arnulfo A. Salvador, Belinda C. Rabara,