

SECOND DIVISION

[G.R. No. 161172, December 13, 2004]

**NADINE ROSARIO M. MORALES, PETITIONER, VS. THE BOARD OF
REGENTS OF THE UNIVERSITY OF THE PHILIPPINES,
RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

"It is an accepted principle that schools of learning are given ample discretion to formulate rules and guidelines in the granting of honors for purposes of graduation. This is part of academic freedom. Within the parameters of these rules, it is within the competence of universities and colleges to determine who are entitled to the grant of honors among the graduating students. Its discretion on this academic matter may not be disturbed much less controlled by the courts unless there is grave abuse of discretion in its exercise."^[1]

The Case

Before Us is a Petition for Review on *Certiorari* of the Decision^[2] of the Court of Appeals^[3] dated 28 November 2003, reversing the 05 September 2002 Order^[4] of the Regional Trial Court (RTC) of Quezon City, Branch 87.

The pivotal issue from which this case arose is the interpretation and application of Article 410 of the University of the Philippines (UP) Code which provides:

ART. 410. Students who complete their courses with the following absolute minimum weighted average grade shall be graduated with honors:

Summa Cum Laude 1.20

Magna Cum Laude1.45

Cum Laude1.75

Provided, that all the grades in all subjects prescribed in the curriculum, as well as subjects that qualify as electives, shall be included in the computation of the weighted average grade; provided further that in cases where the electives taken are more than those required in the program, the following procedure will be used in selecting the electives to be included in the computation of the weighted average grade:

(I) For students who did not shift programs, consider the required number of electives in chronological order.

(II) For students who shifted from one program to another, the electives to be considered shall be selected according to the following order of priority:

(1) Electives taken in the program where the student is graduating will be selected in chronological order.

(2) Electives taken in the previous program and acceptable as electives in the second program will be selected in chronological order.

(3) Prescribed courses taken in the previous program, but qualify as electives in the second program will be selected in chronological order.^[5]

The Facts

In the school year 1997-1998, petitioner Nadine Rosario M. Morales transferred from the UP Manila campus, where she was taking up Speech Pathology, to UP Diliman and enrolled in the European Languages undergraduate program under the College of Arts and Letters. Said program has three curricula, namely, Plan A, Plan B, and Plan C. Upon the petitioner's transfer, she chose the Plan A curriculum and elected French as her major and German as her minor. Under the Plan A curriculum, the student is required to complete 141 units worth of subjects in the University, 27 of which should be electives in his or her minor field of study.

During the first semester of school year 1997-1998, the petitioner enrolled in the subjects German 10 and German 11 where she obtained the grades of 1.0 in both subjects. At the start of the second semester, however, the petitioner changed her language minor from German to Spanish, while maintaining French as her major.

By the end of the first semester of school year 1999-2000, the petitioner was included in the list of candidates for graduation "with probable honors" issued by the College of Arts and Letters of UP Diliman. The inclusion of the petitioner in the said list was based on the computation made by the College of Arts and Letters of the petitioner's General Weighted Average (GWA) inclusive of her grades of 1.0 in German 10 and 11. According to the college's computation, the petitioner had a GWA of 1.725, clearly above the minimum weighted average grade^[6] for conferment of *cum laude* honors.^[7] Petitioner obtained an average of 1.708 for her remaining subjects in her final semester in the University, bringing her GWA to 1.729, which is definitely higher than the 1.75 average grade required for *cum laude* honors.

During the assessment for graduation though, the petitioner was not granted *cum laude* honors because her grades of 1.0 in the subjects German 10 and 11, which she took when her minor was still German, were excluded in the computation of her GWA, thus bringing her GWA to 1.760, which is lower than the minimum weighted average grade required for the conferment of *cum laude* honors.

Prof. Edwin Thaddeus L. Bautista, Chair of the Department of European Languages, explained that a student following the Plan A curriculum is required to major in one European language other than Spanish, and minor in another or any of the disciplines allowed under the curriculum. In petitioner's case, her major is French and her minor is Spanish, thus, German does not fit into her curriculum. Furthermore, the Plan A curriculum does not allow for free electives. Electives under said curriculum must be major language electives, which, in the case of petitioner, must have been taken from French courses in either literature or translation. German 10 and 11, being basic language courses, do not fall under electives as contemplated in the Plan A curriculum.

Maintaining that the college's manner of computing her grades was erroneous, the petitioner wrote Dr. Ofelia Silapan, College Secretary of the College of Arts and Letters, on 06 April 2000, requesting that her German language subjects (*i.e.*, German 10 and 11) be included in the computation of her GWA, it appearing that such had been done in connection with the inclusion of her name in the list of those graduating "with probable honors." Said letter was followed-up by another letter signed by petitioner's father, and addressed to Dr. Elena L. Samonte, University Registrar, on 08 April 2000, explaining why petitioner's German 10 and 11 grades should be included in the computation of her GWA.

These letters were taken up on a no-name basis during the 68th meeting of the University Council on 10 April 2000 upon the University Registrar's endorsement. After deliberating on the matter, the University Council, by a vote of 207 in favor and 4 against, affirmed the recommendation of the European Languages Department and the College of Arts and Letters of not awarding the *cum laude* honors to the petitioner.

In view of the adverse decision of the University Council, the petitioner, together with her parents, wrote UP President Francisco A. Nemenzo, on 18 April 2000, asking that the merits of petitioner's case be reviewed and, if deemed appropriate, the same be elevated to the UP Board of Regents in order to correct the error in the computation of the petitioner's GWA.

At the 1142nd meeting of the Board of Regents held on 26 May 2000, petitioner's appeal was thus discussed, and it was resolved that said appeal be returned to the University Council for further consideration, with full disclosure of who is involved in the matter.

Petitioner's case was then again considered by the University Council during its 69th meeting held on 21 June 2000. After much deliberation, the University Council, by a vote of 99 for, 12 against, and 6 abstentions, resolved to reaffirm its earlier decision of 10 April 2000 denying the award of *cum laude* honors to petitioner.

Upon the denial of the appeal, petitioner's parents, on petitioner's behalf and for themselves, submitted a Notice of Appeal dated 27 June 2000 to the Board of Regents through President Nemenzo and, subsequently, an Appeal Memorandum and Supplemental Memorandum dated 24 and 30 August 2000, respectively. The appeal was taken up during the 1144th meeting of the Board of Regents held on 31 August 2000. After a thorough discussion on the proper interpretation and

application of Article 410 of the UP Code, the Board of Regents, by a vote of 9 against 2, elected to deny the appeal. Petitioner's parents thereafter filed a Motion for Reconsideration, but the same was also denied.

Assailing the decision of the UP Board of Regents as erroneous, petitioner, on 21 March 2001, brought a petition for *certiorari* and *mandamus* before the RTC, which resolved the case in her favor under Order of 05 September 2002. According to the said Order, the UP Board of Regents gravely abused its discretion in the improper application of its academic discretion in interpreting Article 410 of the UP Code. The lower court, hence, required the respondent UP Board of Regents to re-compute petitioner's grades by including her grades in German 10 and 11 and to confer upon petitioner *cum laude* honors. The respondent filed a Motion for Reconsideration on 07 October 2002, which was subsequently denied by the lower court. Upon said denial, the respondent appealed the RTC's Order to the Court of Appeals by filing a Notice of Appeal dated 14 February 2003.

The petitioner filed a Motion to Dismiss the appeal on 24 April 2003, advancing that the Court of Appeals had no jurisdiction to take cognizance of the appeal, inasmuch as it raised only questions of law. Said argument was reiterated in petitioner's Memorandum, together with the position that the lower court was correct to find that respondent had gravely abused its discretion in arbitrarily excluding petitioner's grades in German 10 and 11 from the computation of her GWA.

The respondent, for its part, contended that the lower court failed to take into consideration the interpretation of the pertinent provision of the UP Code arrived at by the University Council during its deliberations. It instead, substituted its own interpretation in violation of the academic freedom of UP as an institution of higher learning.

Noting the identity of the arguments raised by petitioner in both her Motion to Dismiss and Memorandum, the Court of Appeals, in a resolution, deemed the case submitted for decision. In deciding the appeal, the appellate court initially determined whether only questions of law are involved in the case. Eventually, the appellate court declared that an analysis of the facts of the case is indispensable. According to the Court of Appeals:

To resolve these issues, an incursion or investigation of the facts attending the case of the petitioner-appellee is indispensable. The Court must sift through the contrasting evidence submitted to determine the specific situation of appellee's academic standing, and the chronology of appellee's scholastic progress, her grades and scholastic average, as well as what particular rules were used or misused by the Respondent Board, and by the lower court, in coming up with its respective decisions. The Court is called upon to make a calibration and resolution of all these elements, and to determine the existence and relevancy [sic] of specific surrounding circumstances, its relation to each other and to the whole and the probabilities of the situation.

This is not a simple matter of determining what the [sic] law is applicable on a given or specific set of facts. Indeed, the facts itself [sic] must be determined and reviewed, before a legal adjudication could be made.

To be sure, questions of law are attendant in the instant appeal, but to resolve the same, a review and determination of [the] facts, based on evidence and matters on record, is necessary before such issues could be resolved. The Court, therefore, as a legal reviewer of issues of fact and law, is competent, and legally empowered, to take cognizance of and resolve the instant appeal.^[8]

Having resolved the issue of jurisdiction, the Court of Appeals went on to determine whether the lower court erred in not finding that academic freedom should apply in the instant case. According to the appellate court, the RTC's Order involved an intrusion on the discretion and authority of the UP Board of Regents in the matter of whether or not to confer academic honors upon the petitioner. The Court of Appeals stated that the lower court violated UP's constitutionally protected right to academic freedom when it substituted its own interpretation of the internal rules and regulations of the University for that of the UP Board of Regents, and applied the same to the petitioner's case. The appellate court further made a determination that respondent is not guilty of grave abuse of discretion in deciding not to confer academic honors upon the petitioner, inasmuch as respondent proceeded fairly in reaching its decision, giving the petitioner and her parents ample opportunity to present their case. Accordingly, on 28 November 2003, the Court of Appeals issued a decision granting the UP Board of Regents' appeal:

The Order, dated September 5, 2002 of the Regional Trial Court of Quezon City, Branch 87 is hereby SET ASIDE. In lieu thereof, judgment is hereby rendered DISMISSING the petition for *certiorari* and mandamus filed by petitioner-appellee Nadine Rosario M. Morales.^[9]

Claiming that the Court of Appeals committed grave and reversible errors in issuing its 28 November 2003 decision, petitioner filed before this Court a Petition for Review on *Certiorari*, raising the following assignment of errors:^[10]

I

The Court of Appeals had no jurisdiction over respondent's appeal of the RTC's Order (the CA Appeal) because the essential facts here were never in dispute, this case involves purely questions of law.

II

The RTC correctly required respondent to confer *cum laude* honors on petitioner because respondent gravely abused its discretion in refusing to comply with Article 410 of the UP Code (which respondent itself issued) and in arbitrarily excluding petitioner's grades in German 10 and 11 from the computation of her GWA. The Court of Appeals therefore gravely erred in reversing the RTC's Order.

According to the petitioner, it was erroneous for the appellate court to assume jurisdiction over respondent's appeal of the RTC Order as said appeal involved purely questions of law, and that respondents should have challenged said Order directly with the Supreme Court through a Petition for Review on *Certiorari* and not before the Court of Appeals through a Notice of Appeal. The petitioner further argues that it was error for the Court of Appeals to rule that respondent's refusal to