

## SECOND DIVISION

[ G.R. No. 134372, August 22, 2002 ]

**MANUEL CAMACHO, PETITIONER, VS. ATTY. JOVITO A. CORESIS, JR., GRAFT INVESTIGATION OFFICER I AND/OR OFFICE OF THE OMBUDSMAN - MINDANAO, SIXTO O. DALEON, AIDA AGULO, DESIDERIO ALABA, NORMA TECSON, AND THE BOARD OF REGENTS OF THE UNIVERSITY OF SOUTHEASTERN PHILIPPINES; SECRETARY RICARDO GLORIA, ASSISTANT SECRETARY RENO CAPINPIN – OF THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS (DECS), DR. EDMUNDO B. PRANTILLA, AND NEDA REGIONAL DIRECTOR SANTIAGO ENGINCO, RESPONDENTS.**

### D E C I S I O N

#### **QUISUMBING, J.:**

Subject of the present petition for certiorari is the Resolution dated June 3, 1997 of the Office of the Ombudsman-Mindanao, hereafter simply the Office, which dismissed the administrative and criminal complaints against respondents Sixto O. Daleon, Aida Agulo, Desiderio Alaba, Norma Tecson and the Board of Regents of the University of Southeastern Philippines (USP), Davao City, for violation of Section 3 [a], [e] and [j] of Republic Act 3019 also known as the "Anti-Graft and Corrupt Practices Act."<sup>[1]</sup> Also sought to be nullified is the Order of the Office dated September 10, 1997, denying petitioner's motion for reconsideration. The pertinent facts as culled from the records are as follows:

Petitioner is the Dean of the College of Education of said university, since January 1994 to the present. He has served the university as faculty member and as administrator for almost 13 years.<sup>[2]</sup>

Respondent, Dr. Sixto O. Daleon, is a Professor 6 and officer-in-charge of the Graduate School of USP, with a salary grade of CS 29. The other respondents, Agulo, Tecson and Alaba, are faculty members of said university. They enrolled under Dr. Daleon in the subject Ed.D. 317, which is a Seminar in Curriculum Development, during the first semester of 1994-1995. At the end of the semester, Dr. Daleon gave the three final passing grades of 1.0, 1.25 and 1.5, respectively.<sup>[3]</sup> They were graded without requiring them to attend regular classes. Instead, Dr. Daleon gave them a special program of self-study with reading materials, once a week tutorial meetings, quizzes, and term papers.

Sometime in June 1995, several doctoral students complained to petitioner that during the first semester of school year 1994-1995, there were "ghost students" in the Ed.D. 317 class of Dr. Daleon. According to them, these "ghost students", namely Agulo, Alaba and Tecson were given passing grades despite their failure to attend classes.<sup>[4]</sup>

On June 13, 1995, petitioner informed Dr. Daleon of the complaint. Petitioner requested the latter to furnish him with photocopies of exams, term papers, and record of attendance of the students involved. Dr. Daleon ignored the request.<sup>[5]</sup>

On July 28, 1995, the matter was raised in a university council meeting where it was agreed that the University President, Dr. Edmundo Prantilla, would create a committee to investigate the complaint.

In a letter dated August 10, 1995, Dr. Daleon apologized for the delay in responding to petitioner's letter-request dated June 15, 1995. Dr. Daleon admitted that he made special arrangements with Agulo, Alaba and Tecson regarding their course without petitioner's approval.

Thereafter, petitioner wrote Dr. Prantilla recommending that Agulo, Tecson and Alaba be required to attend regular classes in school year 1995-1996 and comply with the course requirements in Ed.D. 317. Dr. Prantilla approved the recommendations. However, on December 1, 1995, Dr. Prantilla entertained the appeal of Agulo for the validation of the grades given by Dr. Daleon to the three of them. On December 23, 1995, the Board of Regents passed its Resolution No. 2432 Series of 1995, upholding the grade given by Dr. Daleon to Agulo.

Consequently, petitioner filed a Complaint-Affidavit against Dr. Daleon before the Office of the Ombudsman-Mindanao. The complaint for gross incompetence, insubordination and violation of R.A. 6770<sup>[6]</sup> was docketed as OMB-ADM-3-96-0132.

On May 28, 1996, petitioner submitted a Manifestation with Prayer, with a Supplement to Complaint-Affidavit for Violation of R.A. 3019 and/or such other penal laws against Dr. Daleon, Agulo, Alaba, Tecson and members of the USP Board of Regents,<sup>[7]</sup> including Dr. Prantilla. On July 24, 1996, the Office of the Ombudsman-Mindanao issued an order directing respondent members of the Board of Regents and the committee created to hear Administrative Case No. 96-602 to desist from conducting further proceedings thereon and to have the entire records of said criminal complaint forwarded to the Office for possible consolidation with the administrative complaint.

On June 3, 1997, a Resolution was issued by Atty. Jovito Coresis, Jr., graft investigator in the Office of the Ombudsman-Mindanao, dismissing the administrative and criminal complaints against respondents. Approved by Ombudsman Aniano Desierto, the resolution in its dispositive portion reads as follows:

**WHEREFORE**, finding insufficient evidence to hold respondent Dr. Daleon liable for the administrative charges of incompetence, insubordination and favoritism or unjust discrimination, or of any other laws, let the instant case be ordered **DISMISSED**.

Likewise, finding no prima facie case of violation of Section 3(a), (e) and (j), the criminal complaint filed by Dr. Camacho against Professor Daleon, Mr. Desiderio Alaba, Misses Aida Agulo, Norma Tecson, and the Members of the Board of Regents of USP is hereby DISMISSED outright for want of palpable merit.

AS RESOLVED.<sup>[8]</sup>

Petitioner moved for reconsideration but the same was denied for lack of merit in an Order dated September 10, 1997.

Before us, petitioner now anchors the present petition on the following grounds:

1. THE SAID QUESTIONED DISPOSITIONS FAILED TO FIND THE ACTS OF RESPONDENTS DALEON AND HIS RESPONDENTS-STUDENTS-AGULO, ALABA AND TECSON TO BE NOT IN ACCORDANCE WITH THE PROVISIONS OF THE LAW IN THE UNIVERSITY – THE UNIVERSITY CODE, PARTICULARLY THE PROVISIONS OF ARTICLES 128, 140, 141, 152 (LAST PARAGRAPH) THEREIN; AND OF THE ACTS OF RESPONDENT BOARD OF REGENTS AS “ULTRA VIRES” AND CONTRARY TO THE SAID LAW IN THE UNIVERSITY WHEN IT PASSED BOARD OF REGENTS (BOR) RESOLUTIONS NO. 2432 S. OF 1995 ON DECEMBER 23, 1995 AND NO. 2449 S. 1996, RESPECTIVELY;
2. THERE WAS OBVIOUS ABUSE AND GRAVE ERROR IN MISAPPLYING THE PRINCIPLE OF “ACADEMIC FREEDOM” TO ABSOLVE RESPONDENT DALEON OF THE ADMINISTRATIVE COMPLAINT; AND THE RESPONDENTS-STUDENTS AND THE BOARD OF REGENTS (ALONG WITH SAID RESPONDENT DALEON) OF THE ANTI-GRAFT CHARGES;
3. THE SAID RESOLUTION AND ORDER OF RESPONDENT GRAFT INVESTIGATION OFFICER AND/OR THE OFFICE OF THE OMBUDSMAN-MINDANAO WERE ATTENDED BY PATENT “DUE PROCESS” VIOLATIONS AS THEIR FINDINGS AND CONCLUSIONS EMANATED FROM SELF-SERVING, INCREDIBLE AND HEARSAY PROFFERS; AND DID NOT CONSIDER THE EVIDENCE OF PETITIONER.<sup>[9]</sup>

In issue is whether or not public respondents committed grave abuse of discretion amounting to lack of jurisdiction in exonerating Dr. Daleon from administrative as well as criminal liability arising from his giving passing grades to Agulo, Tecson and Alaba without requiring them to attend classes.

Petitioner avers that public respondent Office of the Ombudsman-Mindanao, committed grave abuse of discretion when it affirmed the impugned BOR resolution as it is contrary to the University Code, violates due process and is based on self-serving hearsays. He argues that the BOR resolution is based on a wrong interpretation of the constitutional provision on “academic freedom”.

In its Comment, the Office of Solicitor General posits a contrary view. The OSG argues that public respondent did not commit grave abuse of discretion.<sup>[10]</sup> According to the OSG, there is no provision in the University Code of USP which prohibits a professor or teacher from giving a special program or arrangement tailored to meet the requirements of a particular course.<sup>[11]</sup>

We are in agreement with the position taken by the respondents through the OSG. The petition lacks merit and ought to be dismissed.

A special civil action for certiorari under Rule 65 of the Rules of Court is an extraordinary remedy for the correction of errors of jurisdiction. To invoke the Court’s power of judicial review under this Rule, it must first be shown that respondent tribunal, board or officer exercising judicial or quasi-judicial functions has indeed acted without or in excess of its or his jurisdiction, and that there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.<sup>[12]</sup> Conversely, absent a showing of lack or excess of jurisdiction or grave abuse of