408 Phil. 483

THIRD DIVISION

[G.R. No. 139371, April 04, 2001]

INDIANA AEROSPACE UNIVERSITY, PETITIONER, VS. COMMISSION ON HIGHER EDUCATION (CHED), RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

When the delayed filing of an answer causes no prejudice to the plaintiff, default orders should be avoided. Inasmuch as herein respondent was improvidently declared in default, its Petition for Certiorari to annul its default may be given due course. The act of the Commission on Higher Education enjoining petitioner from using the word "university" in it corporate name and ordering it to revert to its authorized name does not violate its proprietary rights or constitute irreparable damage to the school. Indeed, petitioner has no vested right to misrepresent itself to the public. An injunction is a remedy in equity and should not be used to perpetuate a falsehood.

The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, challenging the July 21, 1999 Decision[1] of the Court of Appeals (CA) in CA-GR SP No. 51346. The appellate court directed the Regional Trial Court (RTC) of Makati City, Branch 136, to cease and desist from proceeding with Civil Case No. 98-811 and to dismiss the Complaint for Damages filed by the "Indiana Aerospace University" against the Commission on Higher Education (CHED). The dispositive portion of the CA Decision reads as follows:

"

> WHEREFORE, in the light of the foregoing consideration, and pursuant to pertinent existing laws and jurisprudence on the matter, [the trial court] is hereby DIRECTED to cease and desist from proceeding with Civil case No. 98-811 and to order the dismissal of [petitioner's] Petition dated March 31, 1999 in Civil Case No. 98-911 for lack of merit and valid cause of action."[2]

The Facts

The facts of this case we are summarized by the CA, as follows:

> "Sometime in October 1996, Dr. Reynaldo B. Vera, Chairman, Technical Panel for Engineering, Architecture, and Maritime Education (TPRAM) of

[CHED], received a letter dated October 18, 1998 (Annex `C') from Douglas R. Macias, Chairman, Board of Aeronautical Engineering, Professional Regulat[ory] Commission (PRC) and Chairman, Technical Committee for Aeronautical Engineering (TPRAME) inquiring whether [petitioner] had already acquired [u]niversity status in view of the latter's advertisement in [the] Manila Bulletin.

"In a letter dated October 24, 1996, Dr. Vera formally referred the aforesaid letter to Chairman Alcala with a request that the concerned Regional Office of [CHED] be directed to conduct appropriate investigation on the alleged misrepresentation by [petitioner]. Thereafter, [CHED] referred the matter to its Regional Director in Cebu City, requesting said office to conduct an investigation and submit its report. The [R]eport submitted in January 1997, stated in substance:

`xxx xxx
xxx

`To recall it was in the month of May 1996, [that] Director Ma. Lilia Gaduyon met the school [p]resident in the regional office and verbally talked[with] and advised them not to use University when it first came out in an advertisement column of a local daily newspaper in Cebu City. It was explained that there was a violation [committed by] his institution [when it used] the term university unless the school ha[d] complied [with] the basic requirement of being a university as prescribed in CHED Memorandum Order No. 48, s. 1996.'

x x x x x x
x x.'

"As a consequence of said Report, [respondent's] Legal Affairs Service was requested to take legal action against [petitioner]. Subsequently, on February 3, 1997, [respondent] directed [petitioner] to desist from using the term University, including the use of the same in any of its alleged branches. In the course of it investigation, [respondent] was able to verify from the Securities and Exchange Commission (SEC) that [petitioner had] filed a proposal to amend its corporate name from Indiana School of Aeronautics to Indiana Aerospace University, which was supposedly favorably recommended by the Department of Education, Culture and Sports (DECS) per its Indorsement dated 17 July 1995, and on [that] basis, SEC issued to [petitioner] Certificate of Registration No. AS-083-002689 dated August 7, 1995. Surprisingly, however, it ought to be noted, that SEC Chairman Perfecto R. Yasay, Jr. wrote the following letter to the [c]hairman of [respondent]:

`Hon. Angel C. Alcala
Chairman
Commission on Higher Education
DAP Bldg., San Miguel Avenue
Ortigas Center, Pasig City

Dear Chairman Alcala:

This refers to your letter dated September 18, 1997 requesting this Commission to make appropriate changes in the Articles of Incorporation of Indiana School of aeronautics, Inc. due to its unauthorized use of the term `University in its corporate name.

Relative thereto, please be informed that our records show that the above-mentioned corporation has not filed any amended articles of incorporation that changed its corporate name to include the term `University.'

In the case the corporation submit[s] an application for change of name, your Cease and Desist Order shall be considered accordingly.

Very truly yours,

(SGD.) PERFECTO R. YASAY, JR.
Chairman'

"In reaction to [respondent's] order for [petitioner] to desist from using the word `University', Jovenal Toring, [c]hairman and [f]ounder of [petitioner] wrote a letter dated February 24, 1997 (Annex `G') appealing for reconsideration of [respondent's] Order, with a promise to follow the provisions of CMO No. 48, pertinent portions of which have been quoted in the Petition, to wit:

`On 07 August 1995, in line with the call of the government to go for global competitiveness and our vision to help in the development of aerospace technology, the Board of Directors applied with the SEC for the amendment of Article I of the Articles of Incorporation to read as `Indiana Aerospace University' instead of `Indiana School of Aeronautics, Inc.'

x x x x x x x
x x

`In view thereof, we would like to appeal to you Fr. Delagoza to please reconsider your order of February 3, 1997, otherwise the school will encounter financial difficulties and suffer damages which will eventually result in the mass dislocation of xxx thousand[s] of students. The undersigned, being the [c]hairman and [f]ounder, will try our very best to follow the provisions of CHED MEMO No. 48, series of 1996 that took effect last June 18, 1996.

x x x x x x x
x x

Thank you very much for giving me a copy of said CHED MEMO order No.

48. More power and God Bless You.

x x x x x x x
x x.'

"The appeal of [petitioner] was however rejected by [respondent] in its decision dated July 30, 1998 and the [the latter] ordered the former to cease and desist from using the word `University.' However, prior to said date, on April 2, 1998, [petitioner] filed a Complaint for Damages with prayer for Writ of preliminary and Mandatory Injunction and Temporary Restraining Order against [respondent], docketed as Civil Case No. 98-811 before public respondent judge.

"On April 7, 1998, [respondent] filed a Special Appearance with Motion to Dismiss, based on 1) improper venue; 2) lack of authority of the person instituting the action; and 3) lack of cause of action. On April 17, 1998, [petitioner] filed its Opposition to the Motion to Dismiss [on] grounds stated therein, to which [respondent] filed a Reply on April 21, 1998, reiterating the same arguments in its Motion to Dismiss. After due hearing, [petitioner] formally offered its evidence on July 23, 1998 while [respondent] made a formal offer of evidence on July 28, 1998 to which [petitioner] filed its Comments/Objections and finally, [respondent] submitted its Memorandum relative thereto on October 1, 1998.

"Public respondent judge, in an Order dated August 14, 1998, denied [respondent's] Motion to Dismiss and at the same time, issued a Writ of preliminary Injunction in favor of [petitioner]. [Respondent], in the same Order, was directed to file its Answer within fifteen (15)days from receipt of said Order, which was August 15, 1998.

x x x x x x x
x x

`WHEREFORE, and in consideration of all the foregoing [respondent's] Motion to Dismiss is hereby denied, and the [respondent] is directed to file its [A]nswer to the [C]omplaint within fifteen (15) days from receipt of this Order.

In the meantime, [respondent], its officials, employees and all parties acting under its authority are hereby enjoined to observe the following during the pendency of this case.

1. Not to publish or circulate any announcement in the newspaper, radio or television regarding its Cease and Desist Order against xxx [petitioner];

2. Not to enforce the Cease and Desist Order issued against xxx [petitioner];

3. To maintain the status quo by not withholding the issuance of yearly school permits and special order to all graduates.

> Let a writ of preliminary Injunction to that effect issue upon posting by [petitioner] of an injunction bond in the amount of One Hundred Thousand Pesos (P100,000.00), and subject to the approval of the Court.
>
> SO ORDERED.'

"On September 22, 1998, [petitioner] filed before public respondent a Motion To Declare [Respondent] in [D]efault pursuant to Section 3, Rule 9 in relation to Section 4, Rule 16 of the Rules of Court, as amended, and at the same time praying [for] the Motion to [S]et for [H]earing on October 30, 1998 at 8:30 a.m. On the same date, [respondent] filed a Motion For Extension of Time to File its Answer, x x x until November 18, 1998. On November 17, 1998, [respondent] filed its [A]nswer.

"[Petitioner], on November 11, 1998 filed its Opposition to the Motion for Extension of Time to File [Respondent's] Answer and on November 9, 1998, a Motion to Expunge [Respondent's] answer and at the same time praying that its [M]otion be heard on November 27, 1998 at 9:00 a.m. On even date, public respondent judge issued an Order directing the Office of the Solicitor General to file within a period of ten (10) days from date its written Opposition to the Motion to Expunge [Respondent's] answer and within the same period to file a written [N]otice of [A]ppearance in the case. Unable to file their written Opposition to the Motion to Expunge within the period given by public respondent, the OSG filed a Motion to Admit Written Opposition stating the reasons for the same, attaching thereto the Opposition with [F]ormal [E]ntry of [A]ppearance.

"In an Order dated December 9, 1998, (Annex `A'), public respondent judge ruled on [Petitioner's] Motion to Declare [Respondent in Default], to wit:

> `WHEREFORE, and in view of all the foregoing, the present motion is granted. [Petitioner] is hereby directed to present its evidence ex-parte before the [b]ranch [c]lerk of [c]ourt, who is designated as [c]ommissioner for the purpose, within ten (10) days from receipt of this [O]rder, and for the latter to submit his report within twenty (20) days from the date the case is submitted for decision."
>
> SO ORDERED.'"[3]

On February 23, 1999, respondent filed with the CA a Petition for certiorari, arguing that the RTC had committed grave abuse of discretion (a) in denying the former's Motion to Dismiss, (b) in issuing a Writ of Preliminary Injunction, and (c) in declaring respondent in default despite its filing an Answer.

Ruling of the Court of Appeals

The CA ruled that petitioner had no cause of action against respondent. Petitioner failed to show any evidence that it had been granted university status by respondent as required under existing law and CHED rules and regulations. A certificate of incorporation under an Unauthorized name does not confer upon petitioner the right