

JOSE S. ANGELES AND GILBERTO G. MERCADO, IN HIS CAPACITY AS DEAN OF INSTITUTE OF TECHNOLOGY, FEU, PETITIONERS, VS. HON. RAFAEL S. SISON, AS JUDGE OF THE COURT OF FIRST INSTANCE ...

G.R. No. L-45551. February 16, 1982

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition for certiorari to review the decision of the Court of First Instance of Manila, Branch XXVII, dated December 29, 1976 in Civil Case No. 101222 entitled, "Edgardo Picar and Wilfredo Patawaran, represented by his father, Wenceslao Patawaran, Plaintiffs, versus Jose S. Angeles, Dean Gilberto G. Mercado in his capacity as Dean of the Institute of Technology, Defendants," the dispositive part of which reads:

"WHEREFORE, the petition prayed for by the plaintiffs is hereby GRANTED, and the defendants are hereby perpetually enjoined from further proceeding with the administrative investigation against the plaintiffs.

"So ordered." [1]

The records disclose that sometime in November 1975 the petitioner, Jose Angeles, initiated an administrative case before the Office of the Dean, Gilberto G. Mercado, of the Institute of Technology, Far Eastern University, by filing a complaint [2] against the private respondents Edgardo Picar and Wilfredo Patawaran for alleged breach of the university's rules and regulations. In the said complaint, it is alleged that on October 20, 1975, Jose Angeles, a professor in the Institute of Technology of Far Eastern University (FEU), was assaulted by Edgardo Picar and Wilfredo Patawaran, both students in mechanical engineering in the said institute at the Oak Barrel Restaurant located at P. Gomez Street, Quiapo, Manila on the occasion of the birthday party of Professor Alfonso Bernabe, the Secretary of the Institute of Technology of FEU.

The same incident became also the subject of a criminal complaint for assault against a person in authority instituted by the petitioner Jose Angeles in the Office of the City Fiscal of Manila against the private respondents Picar and Patawaran. Later, the complaint was amended to assault and/or physical injuries. The case was dismissed as against private respondent Wilfredo Patawaran but an information for slight physical injuries was filed against private respondent Edgardo Picar in the City Court of Manila. [3] However, during the pendency of this case, on July 8, 1977, the criminal case for slight physical injuries against Edgardo Picar was dismissed on the basis of an affidavit of desistance [4] submitted by petitioner Jose Angeles before the City Court of Manila, Branch VIII, stating among others, that the subject incident was only "a result of a misunderstanding and nobody is to be blamed."

Acting on the administrative complaint filed before his Office by the petitioner Jose Angeles, the Dean of the Institute, petitioner Gilberto Mercado, immediately created a committee headed by him to investigate the complaint. The private respondents Picar and Patawaran questioned the authority of the Dean and his committee to conduct the administrative investigation because the act complained of --- the alleged assault of Professor Angeles at the Oak Barrel Restaurant - is not within his authority to investigate. They contend that the Dean's

authority to investigate under the Code of Conduct of FEU (as amended) from where he derives that power, is limited to acts done or committed within the premises of the compound of the University. The Dean proceeded to conduct the challenged administrative investigation. Thus the private respondents, Picar and Patawaran, the latter being then a minor, was represented by his father, Wenceslao Patawaran, filed on February 13, 1976 in the Court of First Instance of Manila a complaint[5] with petition for issuance of a writ of preliminary injunction to restrain the petitioners from proceeding with the administrative investigation against the private respondents.

Forthwith, the respondent judge issued on the same day, February 13, 1976, an Order[6] temporarily restraining the petitioners from further proceeding with the administrative investigation against the private respondents, and setting the motion for the issuance of the writ of preliminary injunction for hearing.

On March 10, 1976, the petitioners filed their answer to the complaint and an opposition to the petition for injunction.[7]

Over the opposition of the petitioners, the respondent Judge issued an Order[8] on June 7, 1976 granting the writ of preliminary injunction and enjoining the petitioners from proceeding with the administrative investigation of private respondents until further orders from the Court.

On July 13, 1976, the petitioners moved for a reconsideration of the order of the respondent judge and to lift the order granting plaintiffs' petition for preliminary injunction.[9] The private respondents opposed the said motion for reconsideration on August 10, 1976.[10]

On October 11, 1976, the respondent Judge issued an order denying the petitioners' motion for reconsideration.[11]

Consequently, the petitioners filed on November 17, 1976, a motion for summary judgment stating, among others, that "since the issue before this Court is one of law and not of fact, and therefore, there exists no genuine controversy as to any material fact, summary judgment will lie to effectuate the prompt disposition of this case." [12]

Finding no objection to the rendition of a summary judgment, the private respondents filed to that effect a manifestation[13] on December 8, 1976.

On December 29, 1976, the respondent judge rendered the decision under review, perpetually enjoining the petitioners from further proceeding with the administrative investigation against the private respondents.

From this decision, the petitioners interposed an appeal to this Court, assigning the following as errors:

"I

"THE RESPONDENT JUDGE ERRED IN FINDING THAT FAR EASTERN UNIVERSITY ("FEU", FOR BREVITY), THROUGH PETITIONER GILBERTO G. MERCADO WHO IS THE DEAN OF THE INSTITUTE OF TECHNOLOGY, IS NOT AUTHORIZED TO INVESTIGATE AND DISCIPLINE THE PRIVATE RESPONDENTS, WHO ARE STUDENTS OF SAID UNIVERSITY, FOR THEIR CONDUCT OUTSIDE OF SCHOOL HOURS AND NOT WITHIN THE SCHOOL PREMISES WHICH DIRECTLY AFFECTS THE GOOD ORDER AND WELFARE OF THE SCHOOL.

"II

"THE RESPONDENT JUDGE ERRED IN FINDING THAT THE SERVICE MANUAL FOR PUBLIC SCHOOLS APPLIES TO, AND OVERRIDES THE RULES AND REGULATIONS OF FEU A PRIVATE SCHOOL, UPON THE GROUND THAT THERE IS NO DIFFERENCE BETWEEN A PRIVATE SCHOOL AND A PUBLIC SCHOOL.

“III

"THE RESPONDENT JUDGE ERRED IN FINDING THAT THE CONDUCT OF THE PRIVATE RESPONDENTS IN MAULING PETITIONER JOSE S. ANGELES, A FACULTY MEMBER OF FEU, OUTSIDE THE PREMISES OF THE SCHOOL IS NOT PRESCRIBED BY THE RULES AND RE-GULATIONS CONTAINED IN THE SERVICE MANUAL FOR PUBLIC SCHOOLS.

“IV

"THE RESPONDENT JUDGE ERRED IN FINDING THAT FEU, THROUGH PETITIONER GILBERTO G. MERCADO, IS LEGALLY INHIBITED FROM INVESTIGATING PRIVATE RESPONDENTS FOR CONDUCT PRESCRIBED BY ITS RULES AND REGULATIONS BECAUSE OF THE PENDENCY OF CRIMINAL CHARGES AGAINST SAID RESPONDENTS.[14]

The main legal issue presented in this petition is whether a school through its duly authorized representative has the jurisdiction to investigate its student or students for an alleged misconduct committed outside the school premises and beyond school hours.

The petitioners contend that the mauling incident, subject matter of this case, was sought to be investigated under and pursuant to the following rules and regulations of the Manual of Regulation for Private Schools.[15]

“(1) Paragraph 145, Section IX

"Every private school is required to maintain good school discipline. No cruel or physically harmful punishment shall be imposed nor shall corporal punishment be countenanced. The school rules governing discipline and the corresponding sanctions therefor must be clearly specified and defined in writing and made known to the students and/or their parents or guardians. Schools shall have the authority and prerogative to promulgate such rules and regulations as they may deem necessary from time to time effective as of the promulgation unless otherwise specified.

"No penalty shall be imposed upon any student, except for cause as defined in this Manual and/or in the school's rules and regulations duly promulgated and only after due investigation shall have been conducted.

“(2) Paragraph 146, Section IX;

"The three categories of disciplinary administrative sanctions which may be imposed upon erring students, commensurate with the nature and gravity of the violation of school rules and regulations committed, are:

"a. Dropping - a school may drop from its rolls during the school year or term a student who is considered undesirable. The student who is dropped should be issued immediately his transfer credentials.

"b. Suspension - a school may suspend an erring student during the school year or term for a maximum period not exceeding 20% of the prescribed school days. Suspension which will involve the loss of the entire year or term shall not be effective unless approved by the Director of Private Schools.

"c. Expulsion - the penalty of expulsion is an extreme form of administrative sanction which debars the student from all public and private schools. To be valid and effective the penalty of expulsion requires the approval of the Secretary of Education. Expulsion is usually considered proper punishment for gross misconduct or dishonesty and/or such offenses as hazing, carrying deadly weapons, immorality, drunkenness, vandalism, hooliganism, assaulting a teacher or any other school authority, or his agent or student, instigating, leading or participating in concerted activities leading to a stoppage of classes, preventing or threatening students or faculty members or school authorities from discharging their duties, or from attending classes or entering the school premises, forging or tampering (with) school records or transfer forms, or securing or using such forged transfer credentials.”

In accordance with the above-quoted provision, the Advisory Council of FEU approved on December 2, 1971, the Code of Conduct[16] for all students to observe. The pertinent articles provide:

"Article 1 - General Behavior

"Section 2. Students shall not use language or commit acts which are disrespectful, vulgar, or indecent, or which in any manner may cause or tend to cause molestation or injury to other members of the university community.

x x x

"Article V - Penalties

"Section 1. Violation of any of the provisions of this Code of Conduct shall be punished, after due investigation, by reprimand, dropping, suspension or expulsion in accordance with the Manual of Regulation for Private Schools taking into account the following factors:

- a) previous record of the student;
- b) inherent gravity of the offense committed;
- c) position of the aggrieved person;
- d) established precedents; and
- e) other related circumstances, such as the pertinent and applicable mitigating and aggravating circumstances found in the Revised Penal Code.

"Section 2. In cases not covered by this Code, the categories of disciplinary administrative sanctions contained in the Manual of Regulations for Private Schools shall apply upon the ground provided in said Manual.

x x x

"Article VI - Enforcement

"Section 1. The Deans and Principals shall enforce the provisions of this Code of Conduct.

"There shall be created in each Institute and School a committee on Discipline, Manners and Morals, composed of two faculty members and one student, all appointed by the Dean or Principal, as the case may be, to investigate cases of violations of this Code of Conduct referred to it by the corresponding Dean or Principal.

"Section 4. In cases involving a student and a faculty member, the Dean or the Principal concerned shall conduct the hearing. Where the case involves a student and an administrative personnel, the President may appoint a Committee to investigate the same which shall submit its findings and recommendations to the President for decision."

Thus, the petitioner Mercado contends that in his capacity as Dean of the Institute of Technology, he is charged under Sections 1 and 4 of Article VI of the Code of Conduct of FEU with the duty of conducting a hearing in cases involving a student and a faculty member in furtherance of the university's legally recognized right to discipline its students.

On the other hand, the private respondents submit that to apply the above-quoted rules to the instant case would be "capricious, malicious, palpably unreasonable, arbitrary or a clear abuse of discretion"[17] and that "any investigation by the school of the said incident will be violative of the private respondents' right to privacy and peace of mind."[18]

The respondent judge opined that the instant case falls under the general rule that the power of the school ends at the border of its campus.[19] His basis is Section 9, paragraph 145 of the Manual of Regulations for Private Schools the opening paragraph of which states: "Every private school is required to maintain good school discipline." He explains thus:

"What other interpretation could be placed on the phrase 'school discipline' except that it is a norm of action that must be observed within a school. If the rules and regulations provided by school authorities shall be deemed to extend outside of school premises and activities, the term 'school discipline' would be a misnomer. We must consider the fact that FEU as an institution can exercise only such powers expressly conferred, so that any authority not so given shall be deemed to be withheld. In the absence of an express provision on this matter, this Court could not see any reason why para-graph 155 of the Service Manual relative to public schools should not be applied by way of analogy considering that there is actually no difference between a private and a public school. The objective for the promulgation of rules and regulations with respect to both institutions are one and the same. Section 155, among others, states:

'School authorities are not, under ordinary circumstances, war-ranted in applying school punishment of pupils for acts committed outside of the jurisdiction of the school building and grounds x x x As a rule x x x the authority and responsibility of the school stop at the border of the school grounds, and any action taken for acts committed without these boundaries should in general be left to the police authorities, the courts of justice and the family concerned.'

Of course, there are certain exceptions as correctly pointed out by the defendants, which are also provided in the same Section 155, but then, considering that defendants moved for a summary judgment without presenting any evidence to prove that the case of the plaintiffs fall under any of the aforementioned exceptions, the Court has no other alternative except to apply the general rule." [20]

Implicit in Paragraph 155 of the Service Manual, Fourth Revision quoted by the respondent judge and reproduced as follows:

"A pupil who has committed an immoral act outside of the school jurisdiction would be a source of danger to other pupils in the school building, and such pupil might with reason be excluded from the school. There are certain borderline cases, however, which are hard to decide, and for which no definite rules can be laid down. Should pupils in a concerted effort attempt to run a teacher out of town or try to make life outside of school unbearable for him, such action might well be taken as having a direct and vital effect on the school and therefore as coming under school discipline. Pupils engaged in school matters elsewhere than on the school grounds, such as school athletic affairs and trips, parades, literary contests, etc., are considered under the jurisdiction of the school."

is the recognition of the school's authority and power to expel a pupil who has committed an immoral act outside of the school premises since the latter would be a "source of danger to other pupils in the school building."

If the power to expel or to punish an immoral act committed outside the school premises is recognized in this provision, why is the power to investigate the act of a student in mauling a faculty member outside the school premises not be accorded the same recognition?

It is thus error for respondent judge to state that there is nothing in the authorities relied upon by the defendants, petitioners herein, which compels any school authority to administratively discipline students for incidents committed outside the school compound on an occasion which is not school-sponsored or connected with any activity of the school.

A college, or any school for that matter, has a dual responsibility to its students. One is to provide opportunities for learning and the other is to help them grow and develop into mature, responsible, effective and worthy citizens

of the community. Discipline is one of the means to carry out the second responsibility.

Thus, there can be no doubt that the establishment of an educational institution requires rules and regulations necessary for the maintenance of an orderly educational program and the creation of an educational environment conducive to learning. Such rules and regulations are equally necessary for the protection of the students, faculty, and property. The power of school officials to investigate, an adjunct of its power to suspend or expel, is a necessary corollary to the enforcement of such rules and regulations and the maintenance of a safe and orderly educational environment conducive to learning.

The respondent judge correctly stated that the general rule is that the authority of the school is co-extensive with its territorial jurisdiction, or its school grounds, so that any action taken for acts committed outside the school premises should, in general, be left to the police authorities, the courts of justice, and the family concerned.[21]

However, this rule is not rigid or one without exceptions. It is the better view that there are instances when the school might be called upon to exercise its power over its student or students for acts committed outside the school and beyond school hours in the following:

- a) In cases of violations of school policies or regulations occurring in connection with a school-sponsored activity off-campus[22] ; or
- b) In cases where the misconduct of the student involves his status as a student or affects the good name or reputation of the school.

Common sense dictates that the school retains its power to compel its students in or off-campus to a norm of conduct compatible with their standing as members of the academic community. Hence, when as in the case at bar, the misconduct complained of directly affects the suitability of the alleged violators as students, there is no reason why the school can not impose the same disciplinary action as when the act took place inside the campus.

There is a showing from the records of this case that the proximate cause of the alleged mauling incident, subject of the administrative investigation in question, is attributable to the professor-student relationship of the parties concerned.

The sworn statement[23] of the petitioner Jose Angeles submitted to the petitioner Dean Gilberto Mercado, as Head of the Investigating Committee states, inter alia:

“4. That sometime after the end of this first semester mentioned earlier, Eduardo Picar under the influence of liquor accosted me along the corridor of the Institute building and asked for an explanation why Mr. Garcia gave him a failing grade in Shop 302. I told him I had no idea.

“5. That from this time on, said Picar stopped being cordial to me and sometimes would look daggers at me when-ever we meet on the campus.

“6. That also sometime last July 1975, Wilfredo Patawaran accosted me along the corridors of the Technology building and asked me to enroll him in my class. But I told him that I had already enough students for one section.

“7. That from this time on, this Patawaran avoided me and together with Picar they would show their contempt of me, by facial expressions, whenever we met on the corridors of the Technology building or in the campus.”

These statements clearly establish the necessity for an administrative investigation of the alleged mauling incident because it cannot be denied that the same is a violation of the norms of decency and good taste which is antithetical to one of the school's duties vis-a-vis the family, that of developing the moral character of the youth.[24]

Moreover, from the facts of record, the alleged mauling of petitioner Jose Angeles at the Oak Barrel Restaurant in Quiapo, Manila can be regarded as a continuation or the climax of the alleged display of animosities by private respondents Picar and Patawaran towards Angeles which began at the corridors of the FEU Institute of Technology building.

Precisely, the administrative investigation in question is proper in order that the duly authorized school officials can determine whether the continued presence of private respondents, Picar and Patawaran, as students of FEU and/or petitioner, Jose Angeles, as faculty member, within the university premises is detrimental to the maintenance of a moral climate conducive to learning.

Furthermore, the true test of a school's right to investigate, or otherwise, suspend or expel a student for a misconduct committed outside the school premises and beyond school hours is not the time or place of the offense, but its effect upon the morale and efficiency of the school and whether it, in fact, is adverse to the school's good order welfare and the advancement of its students.

Likewise the power of the school over its students does not cease absolutely when they leave the school premises, and that conduct outside of school hours may subject a student to school discipline if it directly affects the good order and welfare of the school or has a direct and immediate effect on the discipline or general welfare of the school.

The private respondent's averment that the dismissal of the criminal case against private respondent Picar upon the filing of the affidavit of desistance of petitioner Jose Angeles has the effect of rendering this instant petition moot and academic^[25] is unmeritorious. The pendency or the dismissal of the criminal action does not abate the administrative proceeding which involves the same cause of action.^[26] The administrative action before the school authorities can proceed independently of the criminal action because these two actions are based on different considerations. In the former, the private respondent's suitability or propriety as a student which is the paramount concern and interest of the school is involved, while in the latter, what is at stake is his being a citizen who is subject to the penal statutes and is the primary concern of the State.

Hence, there being no withdrawal of the complaint filed by petitioner Jose Angeles before the petitioner Dean Gilberto Mercado, the administrative investigation should proceed.

Therefore, as aptly stated by the petitioners^[27] to affirm the decision of the respondent Judge would give nothing less than a license to students of a school, public or private, to assault and maul their teachers or professors without fear of being subjected to discipline by the school as long as the assault takes place off-campus or beyond school hours.

WHEREFORE, the decision of the Court of First Instance of Manila sought to be reviewed is hereby set aside and the writ of preliminary injunction issued by the respondent judge is hereby dissolved, without pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, and Plana, JJ., concur.

Melencio-Herrera, J., no part.

[1] Annex "L", Petition, p. 7; Rollo, p. 110.

[2] Annex "A", Complaint with Petition for Pre-liminary Injunction, Original Record in CFI, Manila, p. 6.

- [3] Petition, p. 5, Rollo, p. 12.
- [4] Annex "A", Memorandum for Respondents, Rollo, p. 203.
- [5] Annex "A", Petition; Rollo, p. 34.
- [6] Annex "B", Petition; Rollo, p. 40.
- [7] Annexes "C" and "D", Petition; Rollo, pp. 41 and 49, respectively.
- [8] Annex "F", Petition; Rollo, p. 60.
- [9] Annex "G", Petition; Rollo, p. 61.
- [10] Annex "H", Petition; Rollo, p. 71.
- [11] Annex "I", Petition; Rollo, p. 72.
- [12] Annex "J", par. 7, Petition; Rollo, p. 73.
- [13] Annex "K", Petition; Rollo, p. 103.
- [14] Petition, pp. 8-9; Rollo, pp. 15-16.
- [15] Manual of Regulations for Private Schools 1970, Seventh Edition Annotated, pp. 109--111.
- [16] Petition, pp. 12-13; Rollo, pp. 19-20; Annex "J-6, Petition, pp. 50-55; Rollo, p. 96.
- [17] Memorandum for Private Respondents, p. 6, Rollo, p. 196.
- [18] Ibid.
- [19] CFI Decision, p 5; Annex "L", Petition, Rollo, p. 108.
- [20] Id., pp. 5-7; Rollo, pp. 108-110.
- [21] Paragraph 155, Service Manual, 4th Revision.
- [22] Ibid.
- [23] Annex "A", Complaint, Original Record, p. 6.
- [24] This even receives the aid and support of the Government, see Section 4, Art. II, 1973 Constitution.
- [25] Memorandum for Private Respondents, p. 11; Rollo, p. 201.
- [26] cf., Gonzales vs. Almodovar, 53 SCRA 124, 131 and Festejo vs. Crisologo, et al., 17 SCRA 868.
- [27] Petition, p. 3; Rollo, p. 10.

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