

**TEODORO C. SANTIAGO, JR., MINOR, REPRESENTED BY HIS
MOTHER, MRS. ANGELITA C. SANTIAGO, PETITIONER-APPELLANT,
VS. MISS JUANITA BAUTISTA, ROSALINDA ALPAS, REBECCA
MATUGAS, MILKITA...**

G.R. No. L-25024. March 30, 1970

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the order of the Court of First Instance of Cotabato dismissing, on a motion to dis-miss, its Civil Case No. 2012 - for certiorari, in-junction and damages - on the ground that the complaint therein states no cause of action, and from the subsequent order of the court a quo denying the motion for the reconsideration of the said order of dismissal.

The record shows that at the time Civil Case No. 2012 was commenced in the court below, appellant Teodoro Santiago, Jr. was a pupil in Grade Six at the public school named Sero Elementary School in Co-tabato City. As the school year 1964-1965 was then about to end, the "Committee On The Rating Of Students For Honor" was constituted by the teachers concerned at said school for the purpose of selecting the "honor students" of its graduating class. With the school Principal, Mrs. Aurora Lorena, as chairman, and Juanita Bautista, Rosalinda Alpas, Rebecca Matugas, Milkita Inamac, Romeo Agustin, Aida Camino and Luna Sarmago, as mem-bers, the above-named committee deliberated and finally adjudged Socorro Medina, Patricia Liñgat and Teodoro C. Santiago, Jr. as first, second and third honors, res-pectively. The school's graduation exercises were there-after set for May 21, 1965; but three days before that date, the "third placer" Teodoro Santiago, Jr., represent-ed by his mother, and with his father as counsel, sought the invalidation of the "ranking of honor students" thus made, by instituting the above-mentioned civil case in the Court of First Instance of Cotabato, against the above-named committee members along with the District Supervisor and the Academic Supervisor of the place.

The corresponding complaint filed alleged, inter alia: that plaintiff-petitioner Teodoro C. Santiago, Jr. is a sixth grader at the Sero Elementary School in Cota-bato City scheduled to be graduated on May 21st, 1965 with the honor rank of third place, which is disputed; that the teachers of the school had been made respond-ents as they compose the "Committee on the Rating of Students for Honor" whose grave abuse of official dis-cretion is the subject of suit, while the other defend-ants were included as Principal, District Supervisor and Academic Supervisor of the school; that Teodoro Santiago, Jr. had been a consistent honor pupil from Grade I to Grade V of the Sero Elementary School, while Patricia Liñgat (second placer in the disputed ranking in Grade VI) had never been a close rival of petitioner before, except in Grade V wherein she ranked third; that Santiago, Jr. had been prejudiced, while his closest rival had been so much benefited, by the circumstance that the latter, Socorro Medina, was coached and tutored during the summer vacation of 1964 by Mrs. Alpas who became the teacher of both pupils in English in Grade VI, resulting in the far lead Medina obtained over the other pupil; that the committee referred to in this case had been illegally constituted as the same was composed of all the Grade VI teachers only, in vio-lation of the Service Manual for Teachers of the Bureau of Public Schools which provides

that the committee to select the honor students should be composed of all teachers in Grades V and VI; that there are direct and circumstantial matters, which shall be proven during the trial, wherein respondents have exercised grave abuse of discretion and irregularities, such as the changing of the final ratings on the grading sheets of Socorro Medina and Patricia Liñgat from 80% to 85%, and some teachers giving petitioner a starting grade of 75% in Grade VI, which prove, that there was already an intention to pull him to a much lower rank at the end of the school year; that several district examinations outside of teachers' daily units and other than periodical tests were given, ratings in which were heavily considered in the determination of periodical ratings, whereas according to the Academic Supervisor and Acting Division Superintendent of schools of the place such district examinations were not advisable; that there was a unanimous agreement and understanding among the respondent teachers to insult and prejudice the second and third honors by rating Socorro Medina with a perfect score, which is very unnatural; that the words "first place" in petitioner's certificate in Grade I was erased and replaced with the words "second place", which is an instance of the unjust and discriminating abuses committed by the respondent teachers in the disputed selection of honor pupils they made; that petitioner personally appealed the matter to the School Principal, to the District Supervisor, and to the Academic Supervisor, but said officials "passed the buck to each other" to delay his grievances, and as to appeal to higher authorities will be too late, there is no other speedy and adequate remedy under the circumstances; and, that petitioner and his parents suffered mental and moral damages in the amount of P10,000.00. They prayed the court, among others, to set aside the final list of honor students in Grade VI of the Sero Elementary School for that school year 1964-1965, and, during the pendency of the suit, to enjoin the respondent teachers from officially and formally publishing and proclaiming the said honor pupils in Grade VI in the graduation exercises the school was scheduled to hold on the 21st of May of that year 1965. The injunction prayed for was denied by the lower court in its order of May 20, 1965, the said court reasoning out that the graduation exercises were then already set on the following day, May 21, 1965, and the restraining of the same would be shocking to the school authorities, parents, and the community who had eagerly looked forward to the coming of that yearly happy event. As scheduled, the graduation exercises of the Sero Elementary School for the school year 1964-1965 was held on May 21, with the same protested list of honor students.

Having been required by the above-mentioned order to answer the petition within ten (10) days, respondents moved for the dismissal of the case instead. Under date of May 24, 1965, they filed a motion to dismiss, on the grounds (1) that the action for certiorari was improper, and (2) that even assuming the propriety of the action, the question brought before the court had already become academic. This was opposed by petitioner.

In an order dated June 4, 1965, the motion to dismiss of respondents was granted, the court reasoning thus:

"The respondents now move to dismiss the petition for being improper and for being academic. In order to resolve the motion to dismiss, the Court has carefully examined the petition to determine the sufficiency of the alleged cause of action constituting the special civil action of certiorari.

"The pertinent portions of the petition alleging 'grave abuse of discretion' are found in paragraphs 3, 4, 5, 6, 7, 8, 9 and 10. These allegations may be substantially summarized as follows: Paragraph 3 alleges that since grades one to six, the students closely contending for class honors were Socorro Medina, Teodoro Santiago, Jr., Dolores Dalican and Patricia Liñgat.

"Socorro Medina obtained first honor thrice (grades I, V and VI); once second honor (grade IV), and twice third place (grades II and III).

"Teodoro Santiago, Jr. obtained first place once (grade IV); four times second place (grades I, II, III and V) and once third place (grade VI).

"Dolores Dalican obtained twice first place (grades II, III); once third place (grade I).

"Patricia Liñgat once third place (grade V); and once second place (grade VI).

"That as now ranked in the graduation, Patricia Liñgat is given second place while Teodoro Santiago, Jr., is given the third place only. This is the ranking now disputed by petitioner, Teodoro Santiago, Jr.

"Paragraph 4 alleges that Socorro Medina was tutored in the summer of 1964 by Mrs. Rosalinda Alpas who became her English teacher in the sixth grade; that as such, Mrs. Alpas unjustly favored Socorro against her rivals.

"Paragraph 5 alleges that the teachers who composed the committee on honor students are all grade six teachers while the Service Manual For Teachers provides that the committee shall be composed of the teachers from the fifth and sixth grades.

"Paragraph 6 alleges that there are direct and circumstantial evidence showing the change of ratings of Socorro Medina and Patricia Liñgat from 80% to 85% and the intention to junk petitioner to a lower rank.

"Paragraph 7 alleges that the giving of district examinations upon which ratings were partly based were not advisable.

"Paragraph 8 alleges that the teachers rated Socorro Medina a perfect pupil which is unnatural.

"Paragraph 9 alleges that on the first grade certificate of the petitioner the word 'First Place' was erased and changed to 'Second Place'.

"Paragraph 10 alleges that petitioner personally appealed to the school authorities but they only 'passed the buck to each other'.

"SECOND PARAGRAPH VIOLATED

"Rule 65, Section 1 of the Rules of Court provides:

'Section 1. Petition for certiorari. - When any tribunal, board, or officer exercising judicial functions, has acted without or in excess of, its or his jurisdiction, or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, as the law requires, of such tribunal, board or officer.'

'The petition shall be accompanied by a certified true copy of the judgment or order subject thereof, together with copies of all pleadings and documents relevant and pertinent thereto.'

"It is striking, indeed, that this petition has not been accompanied by a certified true copy of the judgment or order complained of, together with all pleadings and documents which are relevant thereto, as required by the second paragraph of the aforequoted rule. This violation renders the petition extremely indefinite and uncertain. There is no written formal judgment or order of respondents that is submitted for revision or correction of this Court. This violation is fatal to the petition.

"ADMINISTRATIVE REMEDIES NEGLECTED

"All that the petition alleges is that the petitioner personally appealed to the school authorities who only 'passed the buck to each other'. This allegation does not show that petitioner formally availed of and exhausted the administrative remedies of the Department of Education. The petition implies that this is the 'first formal complaint of petitioner against his teachers. The administrative agencies of the Department of Education could have investigated the grievances of the petitioner with dispatch and give effective remedies, but petitioner negligently abandoned them. Petitioner cannot now claim that he lacked any plain, speedy and adequate remedy.

"NO GRAVE ABUSE OF DISCRETION

"Allegations relating to the alleged 'grave abuse of discretion' on the part of teachers refer to errors, mistakes, or irregularities rather than to real grave abuse of discretion that would amount to lack of jurisdiction. Mere commission of errors in the exercise of jurisdiction may not be corrected by means of certiorari.

"In view of the foregoing, the Court is of the opinion, and so holds, that the petition states no cause of action and should be, as it is hereby dismissed."

Upon receipt of a copy of the above-quoted order, the petitioner moved for the reconsideration thereof, but the same proved to be futile, hence, this appeal.

Appellant here assails the holding of the lower court that his petition states no cause of action on the grounds - discussed by the court a quo in the ap-pealed order above-quoted - (1) that the petition does not comply with the second paragraph of Sec. 1 of Rule 65 because it has not been accompanied by a certified true copy of the judgment or order subject thereof, to-gether with copies of all pleadings and documents relevant and pertinent thereto; (2) that administrative re-medies were not first exhausted; and (3) that there was no grave abuse of discretion on the part of the teachers who constituted the committee referred to. On the other hand, appellees maintain that the court below did not err, in dismissing the case on said grounds. Further, they, argue in favor of the questioned order of dismissal upon the additional ground that the "committee on the ratings of students for honor" whose actions are here condemned by appellant is not the "tribunal, board or officer exercising judicial functions" against which an action for certiorari may lie under Section 1 of Rule 65.

The last point raised by appellees deserves first consideration, for if really the said committee of teach-ers does not fall within the category of the tribunal, board, or officer exercising judicial functions contem-plate-d by Rule 65, further discussion of the issues raised by appellant may no longer be necessary. To re-solve this problem the following tests may be employed:

"In this jurisdiction certiorari is a special civil action instituted against 'any tribunal, board, or offi-cer exercising judicial functions.' (Section 1, Rule 67.) A judicial function is an act performed by vir-tue of judicial powers; the exercise of a judicial function is the doing of something in the nature of the action of the court (34 C.J. 1182). In order that a special civil action of certiorari may be invoked in this jurisdiction the following circum-stances must exist: (1) that there must be a specific controversy in-volving rights of persons or property and said controversy is brought be-fore a tribunal, board or officer for hearing and determination of their respective rights and obligations.

'Judicial action is an ad-judication upon the rights of parties who in general appear or are brought before the tri-bunal by notice or process, and upon whose claims some de-cision or judgment is rendered. It implies impartiality, disin-terestedness, a weighing of adverse claims, and is incon-sistent with discretion on the one hand - for the tribunal must decide according to law and the rights of the parties - or with dictation on the other; for in the first instance it must exercise its own judg-ment under the law, and not act under a mandate from a-nother power. x x x The character of its action in a given case must decide whether that action is judi-cial, ministerial, or legis-lative, or whether it be simply that of a public agent of the county or State, as in its varied jurisdictions it may by turns be each.' (In Re Saline County Subscription, 100 Am. Dec. 337, 338, cited in Southeastern Greyhound Lines v. Georgia Public Ser-vice Commission, 181 S. E. 836-837.)

'It may be said generally that the exercise of judicial function is to determine what the law is, and what the legal rights of parties are, with respect to a matter in contro-versy; and whenever an officer is clothed with that authority, and undertakes to determine those questions, he acts judi-cially.' (State ex rel. Board of Commissioners of St. Louis County, et al. v. Dunn, 90 N. W. 772-773.)

(2) the tribunal, board or officer before whom the controversy is brought must have the power and authority to pronounce judgment and render a decision on the controversy construing and applying the laws to that end.

"The phrase "judicial power" is not capable of a precise definition which would be applicable to all cases. The term has been variously defined as the authority to determine the rights of persons or property by arbitrating between adversaries in specific controversies at the instance of a party thereto; the authority exercised by that department of government which is charged with the declaration of what the law is and its construction so far as it is written law; the authority or power vested in the judges or in the courts; the authority vested in some court, officer, or persons to hear and determine when the rights of persons or property or the propriety of doing an act is the subject matter of adjudication; the power belonging to or emanating from a judge as such; the power conferred upon a public officer, involving the exercise of judgment and discretion in the determination of questions of right in specific cases affecting the interest of persons or property, as distinguished from ministerial power or authority to carry out the mandates of judicial power or of the law; the power exercised by courts in hearing and determining cases before them, or some matter incidental thereto, and of which they have jurisdiction; the power of a court to decide and pronounce a judgment; the power which adjudicates upon and protects the rights and interests of individual citizens, and to that end construes and applies the law. "Judicial power" implies the construction of laws and the adjudication of legal rights. It includes the power to hear and determine but not everyone who may hear and determine has judicial power. The term "judicial power" does not necessarily include the power to hear and determine a matter that is not in the nature of a suit or action between the parties.' (34 C.J. 1183-1184)

(3) the tribunal, board or officer must pertain to that branch of the sovereign power which belongs to the judiciary, or at least, which does not belong to the legislative or executive department.

'x x x the distinction between legislative or ministerial functions and judicial functions is difficult to point out. What is a judicial function does not depend solely upon the mental operation by which it is performed or the importance of the act. In solving this question, due regard must be had to the organic law of the state and the division of power of government. In the discharge of executive and legislative duties, the exercise of discretion and judgment of the highest order is necessary, and matters of the greatest weight and importance are dealt with. It is not enough to make a function judicial that it requires discretion, deliberation, thought, and judgment. It must be the exercise of discretion and judgment within that subdivision of the sovereign power which belongs to the judiciary, or, at least, which does not belong to the legislative or executive department. If the matter, in respect to which it is exercised, belongs to either of the two last-named departments of government, it is not judicial. As to what is judicial and what is not seems to be better indicated by the nature of a thing, than its definition.' (Whealing & Elm Grove Railroad Co., Appt. v. Town of Triadelphia, et al., 4 L.R.A. (N.S.), pp. 321, 328- 329.) [Underscoring supplied][1]

"WHAT ARE JUDICIAL OR QUASI JUDICIAL ACTS. It is difficult, if not impossible, precisely to define what are judicial or quasi judicial acts, and there is considerable conflict in the decisions in regard thereto, in connection with the law as to the right to a writ of certiorari. It is clear, however, that it is the nature of the act to be performed, rather than of the office, board, or body which performs it, that determines whether or not it is the discharge of a judicial or quasi-judicial function. It is not essential that the proceedings should be strictly and technically judicial, in the sense in which that word is used when applied to courts of justice, but it is sufficient if they are quasi judicial. It is enough if the officers act judicially in making their decision, whatever may be their public character. x x x.'

"In State ex rel. Board of Commrs. vs. Dunn (86 Minn., 301, 304), the following statements were made:

"The precise line of demarcation between what are judicial and, what are administrative or ministerial functions

is often difficult to determine. The exercise of judicial functions may involve the performance of legislative or administrative duties, and the performance of administrative or ministerial duties, may, in a measure, involve the exercise of judicial functions. It may be said generally that the exercise of judicial functions is to determine what the law is, and what the legal rights of parties are, with respect to a matter in controversy; and whenever an officer is clothed with that authority, and undertakes to determine those questions, he acts judicially.”[2]

It is evident, upon the foregoing authorities, that the so called committee on the rating of students for honor whose actions are questioned in this case exercised neither judicial nor quasi judicial functions in the performance of its assigned task. From the above-quoted portions of the decisions cited, it will be gleaned that before a tribunal, board, or officer may exercise judicial or quasi judicial acts, it is necessary, that there be a law that gives rise to some specific rights of persons or property under which adverse claims to such rights are made, and the controversy ensuing therefrom is brought, in turn, before the tribunal, board or officer clothed with power and authority to determine what that law is and thereupon adjudicate the respective rights of the contending parties. As pointed out by appellees,[3] however, there is nothing on record about any rule of law that provides that when teachers sit down to assess the individual merits of their pupils for purposes of rating them for honors, such function involves the determination of what the law is and that they are therefore automatically vested with judicial or quasi judicial functions. Worse still, this Court has not even been apprised by appellant of the pertinent provisions of the Service Manual of Teachers for Public Schools appellees allegedly violated in the composition of the committee they constituted thereunder, and, in the performance of that committee's duties.

At any rate, the situation brought before Us in this case, though seemingly one of first impression, is not without substantial parallel. In the case of Felipe vs. Leuterio, etc., et al.,[4] the issue presented for determination was whether or not the courts have the authority to reverse the award of the board of judges of an oratorical contest, and this Court declared that the judiciary has no power to reverse the award of the board of judges of that contest and, for that matter, it would not interfere in literary contests, beauty contests and similar competitions. It was reasoned out thus:

"For more than thirty years oratorical tilts have been held periodically by schools and colleges in this islands. Inter-collegiate oratorical competitions are of more recent origin. Members of this court have taken part in them either as contestants in their school days (In the College of Law, U. P. annual oratorical contest, first prize was awarded to Justice Montemayor in 1914 and to Justice Labrador in 1916), or as members of the board of judges afterwards. They know some (few) verdicts did not reflect the audience's preference and that errors have sometimes been ascribed to the award of the judges. Yet no party ever presumed to invoke judicial intervention; for it is unwritten law in such contests that the board's decision is final and unappealable.

"Like the ancient tournaments of the Sword, these tournaments of the Word apply the highest tenets of sportsmanship: finality of the referee's verdict. No alibis, no murmurs of protest. The participants are supposed to join the competition to contribute to its success by striving their utmost: the prizes are secondary.

"No rights to the prizes may be asserted by the contestants, because their's was merely the privilege to compete for the prize, and that privilege did not ripen into a demandable right unless and until they were proclaimed winners of the competition by the appointed arbiters or referees or judges.

"Incidentally, these school activities have been imported from the United States. We found in American jurisprudence no litigation questioning the determination of the board of judges.

"Now, the fact that a particular action has had no precedent during a long period affords some reason for doubting the existence of the right sought to be enforced, especially where occasion for its assertion must have often arisen; and courts are cautious before allowing it, being loath to establish a new legal principle not in

harmony with the generally accepted views thereon. (See C.J.S. Vol. 1, p. 1012.)

"We observe that in assuming jurisdiction over the matter, the respondent judge reasoned out that where there is a wrong there is a remedy and that courts of first instance are courts of general jurisdiction.

"The flaw in his reasoning lies in the assumption that Imperial suffered some wrong at the hands of the board of judges. If at all, there was error on the part of one judge, at most. Error and wrong do not mean the same thing. 'Wrong' as used in the aforesaid legal principle is the deprivation or violation of a right. As stated before, a contestant has no right to the prize unless and until he or she is declared winner by the board of referees or judges.

"Granting that Imperial suffered some loss or injury, yet in law there are instances of 'damnum absque injuria'. This is one of them. If fraud or malice had been proven, it would be a different proposition. But then her action should be directed against the individual judge or judges who fraudulently or maliciously injured her. Not against the other judges."

But even were we to assume for the moment, as the court below apparently did, that judicial intervention might be sought in cases of this nature, still, we are inclined to sustain the order of dismissal appealed from for failure on the part of appellant to comply with the requirements of Section 1 of Rule 65. To be sure, the lower court's holding that appellant's failure to accompany his petition with a copy of the judgment or order subject thereof together with copies of all pleadings and documents relevant and pertinent thereto "is fatal to his cause" is supported not only by the provision of that Rule but by precedents as well. In the case of *Alajar et al. vs. Court of Industrial Relations*,^[5] where it was claimed by therein petitioners that the respondent court had acted with grave abuse of discretion in estimating certain rice harvests involved in the case in terms of cavans instead of cans, allegedly in complete disregard of the decision of the Court of First Instance of Batangas in Expropriation Proceedings No. 84, and of this Court in G.R. No. L-6191,^[6] and in ordering thereafter the division of the said rice harvests on the ratio of 70-30 in favor of the tenants, this Court denied the petition for certiorari on the ground, among others, of failure on the part of said petitioners to attach to their petition copies of the decisions allegedly violated. Speaking thru Mr. Justice J.B.L. Reyes then, this Court held:

"The petition is patently without merit. In the first place, it is not even sufficient in form and substance to justify the issuance of the writ of certiorari prayed for. It charges that the Court of Industrial Relations abused its discretion in disregarding the decision of the Court of First Instance of Batangas in Expropriation Proceedings No. 84 and of this Court in G. R. No. L-6191; yet it does not attach to the petition the decisions allegedly violated by the Court below and point out which particular portion or portions thereof have been disregarded by the respondent Court."

The same principle was applied in the more recent case of *NAWASA vs. Municipality of Libmanan, et al.*,^[7] wherein this Court dismissed (by Resolution) the petition for certiorari and mandamus filed by the National Water-works and Sewerage Authority against the Court of First Instance of Camarines Sur, and the municipality of Libmanan. In the following language, this Court emphasized the importance of complying with the said requirement of Rule 65:

"While paragraph 3 of the petition speaks of the complaint filed by the respondent municipality with the respondent court for recovery of property with damages (Civil Case No. L-161), no copy thereof is attached to the petition.

"Similarly, paragraph 4 of the petition mentions the decision rendered by the respondent court on December 10, 1965, but no copy thereof is attached to the petition.

"Again, paragraph 5 of the petition speaks of the order of default entered by the respondent court and of the motion for reconsideration filed by petitioner in the case above-mentioned, but no copy of the order of default

is at-tached to the petition.

"Bearing in mind that the petition under consideration was filed for the purpose of enjoining the respondent court from executing the decision rendered in Civil Case No. L-161, the importance of the missing pleadings is obvious.

"Moreover, the petition is also for the purpose of securing an order commanding the respondent court to approve either the original or the amended record on appeal filed by petitioner, but no copy of either is attached to its petition.

"In view of the foregoing, the petition under consideration is dismissed."

It might be true, as pointed out by appellant, that he received a copy of the program of the graduation exercises held by the Sero Elementary School in the morning of the very day of that graduation exercises, implying that he could not have attached then a copy thereof (to show the decision of the committee of teachers in the ranking of students complained of) to his petition. The stubborn fact remains, however, that appellant had known of such decision of the said committee of teachers much earlier, as shown by the circumstance that according to him, even before the filing of his petition with the lower court on the 19th of May, 1965, he had personally appealed the said committee's decision with various higher authorities of the above-named school, who merely passed the buck to each other. Moreover, appellant mentions in his petition various other documents or papers as the Service Manual for Teachers allegedly violated by appellees in the constitution of their committee; altered grading sheets; and erasures in his Grade I certificate - which appellant never bothered to attach to his petition. There could be no doubt then that he miserably failed to comply with the requirement of Rule 65 above-mentioned. With this conclusion, it is no longer necessary to pass upon the other two errors assigned by appellant.

FOR THE FOREGOING CONSIDERATIONS, the judgment appealed from is affirmed, with costs against appellant.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Villamor, JJ., concur.

[1] Ruperto vs. Torres, et al., L-8785, February 25, 1957, (Unreported).

[2] Municipal Council of Lemery vs. Provincial Board of Batangas, 56 Phil. 260, 268.

[3] See pp. 5-6, Brief for Appellees.

[4] 91 Phil. 482 (May 30, 1952).

[5] G.R. Nos. L-8174 and L-8280-86, October 8, 1955, 97 Phil. 675.

[6] Republic of the Philippines vs. Baylosis, et al., 96 Phil. 461.

[7] L-27197, May 31, 1967, 20 SCRA 337.

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