

REYNALDO MADRIÑAN, ET AL., PETITIONERS AND APPELLEES VS. VICENTE G. SINCO, AS PRESIDENT OF THE UNIVERSITY OF THE PHILIPPINES, ET AL. RESPONDENTS AND APPELLANTS.

G.R. No. L-14559. November 29, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

This is an appeal from the decision of the Manila court of first instance annulling Administrative Circular No. 1, series 1958-1959, of the President of the University of the Philippines which reads as follows:

"TO THE CHAIRMAN OF THE COMMITTEE ON STUDENT ORGANIZATIONS AND ACTIVITIES and ADVISERS OF UNIVERSITY ORGANIZATIONS.

"For the purpose of enlarging the participation of students in extra-curricular activities and to avoid concentration of privileges in any one group of students, to reduce to the minimum causes of friction and dissatisfactions among students in extra-curricular matters, and to improve the enforcement of discipline in the University, the following regulation should be strictly observed:

"1. Not more than one member of any student organization, fraternity, sorority, club, or any other student association may be appointed or elected for any particular term to any office or employment in the University Student Council, Senior Council, Junior Council, Woman's Club, and Board of Management or Staff of the Philippine Collegian, or other University student organization. In the event that a student after having been appointed or elected to any office in any of these organizations, should join any student association other than the organization to which he already belonged before his appointment or election, he shall automatically forfeit his position in the Student Council * * *."

It appears that pursuant to this Circular, the Chairman of the Committee on Student Organizations and Activities of the University Council, issued memorandum clarifying several points in connection therewith.

Both the circular and memorandum were the subject of this petition for prohibition and mandamus with preliminary injunction in the said court, petitioners being students of the said institution who claimed to be adversely affected thereby. On various grounds, they assailed the validity of such school regulations.

The two university officials, is respondents, questioned the venue, and the petitioners' right to institute the proceedings. They sustained the validity of their actuations, and raised the important procedural point of the petitioners' remedy to bring the matter before the Board of Regents—instead of the courts.

After several incidents not necessary to be mentioned, the case was heard, and on October 2, 1958, judgment was rendered annulling both the circular and the memorandum for the reasons: "First, they are unjust, unreasonable, undemocratic and oppressive; Second, they constitute class legislation designed to favor a small minority as against the vast majority of students of the University of the Philippines; Third, they infringe or impair the constitutional right to freedom of association; Fourth, they were promulgated by officers without legal power

or authority to do so."

Appellants made several assignments of error, the most important of which assert the power of the University President to issue the circular. They also elaborate on the failure of the petitioning parties to exhaust available administrative remedies.

For the purposes of this decision, we shall merely refer to the circular; the memorandum stands or falls with it.

It is admitted on both sides that the validity of that circular was never raised by petitioners before the Board of Regents. Considering that the President of the University is subject to the direction of the Board of Regents, that the Board of Regents had the power to annul or modify this circular, we think it was the legal obligation of petitioners to appeal to the Board, before resorting to the courts. Well known is the principle in the law of Public Administration, that parties requesting judicial review of administrative official action must first exhaust their remedies in the executive branch. This is founded not only on practical consideration^[1] but also on the comity existing between different departments of the government, which comity requires the courts to stay their hand until the administrative processes have been completed.^[2]

The government of the University of the Philippines is vested by law in the Board of Regents (Sec. 4, Act 1870); and although the administration thereof is conferred on the Board of Regents and the President of the University, the statute adds significantly, "in so far as authorized by said Board." (Sec. 5 as amended) Therefore, the ultimate authority in that State institution lies with the Board Of Regents. So, petitioners should submit their grievances there; In fact, they themselves claim the respondent President Sinco. assumed powers pertaining to the Board of Regents, of which he was executive officer, or to the University Council, subject to approval (or disapproval) of the Board of Regents. Wherefore, the controversy should be aired before said Board, specially because it may delegate or may have delegated to the President, the exercise of some of its administrative powers in the matter. Furthermore, it is best for petitioners to debate the issue before the Board, because in that forum, they are not restricted to purely legal questions, but may discuss other phases thereof like those they raised here, concerning reasonableness, fairness convenience, discrimination, etc.

It was unnecessary for the University Charter to specifically provide for an appeal to the Board; it is understood that the principal has the power to revoke the acts of his agents.

Petitioners claim they could not have resorted to the Board in time. They allege the student election was scheduled for July 2, they came to know the Circular only on June 25, and the memorandum was issued on June 27, whereas the next meeting of the Board of Regents was set for June 30. There were four days—enough opportunity—to submit their protest to the Board and ask for suspension at least, of such election. Supposing the protest could not be decided by the Board before the election in July, still it could undoubtedly be discussed and decided after the election, with all proper consequences, such as annulment thereof should the Board so declare. Anyway, petitioners could have foreseen that the question, even if submitted to the courts, would not be finally decided before such election of July 2.

Special civil actions against administrative officers should not, be entertained if superior administrative officers could grant relief (Moran, Rules of Court [1957 Ed.] Vol. II, p. 190 citing *Ang Tuan Kai & Co. vs. Import Commission*, 91 Phil. 143. See also minute resolution in *Subido vs. Sarmiento*, L-5328, December 14, 1951.)

In this view, we need not take up the other issues tendered by appellants. The appealed decision is revoked and the petition is dismissed, without costs.

Paras, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and

Dizon, JJ., concur.

Judgment revoked.

[1] Wee Poco & Co. vs. Posadas, 64 Phil., 640.

[2] Arnedo vs. Aldanese, 63 Phil., 768; Vda. de Roxas vs. Rafferty, 37 Phil., 957.

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