

UNIVERSITY OF SAN AGUSTIN, INC., SISTER CONCEPCION CAJILIG, NENALYN ABIODA, MARY ESPINO, RHODORA AZUCENA, MA. DULCE SOCORRO POSA AND COSETTE MONTEBLANCO, PETITIONERS, VS. COURT ...

G.R. No. 100588. March 07, 1994

Ponente: NOCON, J.

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NOCON, J.:

The present case involves third year Nursing students who failed to meet the retention policy of the school, that is, minimum grade of 80% in any major Nursing subject and in two minor subjects. As a consequence, the school refused to re-admit them. In view of the rights granted to students by the provisions of Section IV, paragraph 107 of the Manual of Regulations for Private Schools, Section 9(2) of Batas Pambansa Blg. 232 and Article XIV, Section 5(3) of the 1987 Constitution, may they compel the school to allow them to complete their course?

The antecedent facts are undisputed:

Private respondents Antonio Marco Ho, Ma. Elaine Magante, Roy D. Sancho, Michael Kim So and Bernardita Cainoy were third year Nursing students of petitioner University of San Agustin (USA) who were refused re-admission in the summer classes of 1989 and last two semesters of school year 1989-1990 on the alleged ground that they failed to obtain grades of not lower than 80% in Nursing 104 (Nursing Practice II With Related Learning Experience). Its persistent refusal to re-admit them prejudiced their right to freely choose their field of study and finish a college degree and worse, no other school within the city and nearby areas is willing to accept them due to the difference in the curriculum and school residency requirement. Thus, they filed a petition for mandamus before the Regional Trial Court of Iloilo City, to command petitioner USA to re-admit them. Aside from the prayer for re-admission, they also prayed for actual and moral damages in the amount of P50,000.00 for each of them.

Submitting a joint answer to the petition, petitioner USA and the other petitioners, Dean Concepcion Cajilig and Clinical Instructors Nenalyn Abioda, Mary Espino, Rhodora Azucena, Ma. Dulce Socorro Posa and Cosette Monteblanco admitted having barred private respondents from finishing their Nursing course but justified the decision not to re-admit them as being in pursuance of the school's policy that only students with grades of at least 80% in any major Nursing subject, including Nursing 104, and two minor subjects, are allowed enrollment in the following year. Private respondents were duly informed and forewarned of their below 80% performance rating. To buttress petitioners' stance, they placed reliance on Section 9(2) of the Education Act of 1982 (B.P. Blg. 232) which recognizes the right of students to freely choose their field of study subject to existing curricula, and to continue their course up to graduation, except in cases of academic deficiency or violation of disciplinary regulations; and Section 13(2) thereof vesting in institutions of higher learning the right to determine on academic grounds who shall be admitted to study, who may teach, and what shall be the subjects of study and research.

Additionally, petitioners contended that private respondents have no cause of action for mandamus under the

premises because there is no clear and well-defined right of the latter which has been violated neither do the former have a corresponding ministerial duty to re-admit them, since petitioner USA is a private educational institution not performing public functions and duties. Under the Manual of Regulations for Private Schools, petitioner USA enjoys the right to academic freedom.

The trial court was not persuaded that private respondents are entitled to the relief sought. The dispositive portion of its order dated September 15, 1989 thus reads:

"WHEREFORE, this Court resolves that:

"1. This Court has jurisdiction over this case as the correct and proper docket fees has (sic) been paid by petitioners when so required by the Court;

"2. That Mandamus will not lie to compel the respondents to enroll petitioning students because of their academic deficiencies and that this refusal of respondent university falls within its right to do so under the academic freedom clause of our Constitution.

"This petition is hereby dismissed with cost upon petitioners.

"SO ORDERED."[1]

It supported its ruling on the basis of the following considerations:

"When petitioning students enrolled at respondent university, they and their parents/ guardians signed agreements of admission wherein they bound themselves to abide by the policies of the school, otherwise to discontinue. This is also provided for in the Nursing Catalog of respondent university.

"These petitioning students have been given warnings of their sub?standard performance after and before examination periods and informed of their efficiency and performance ratings. During the evaluation and promotional meetings, some of the students were advised to discontinue while those on the boarder (sic) line were, for humanitarian reasons (sic), allowed to sign promises to improve, otherwise they agreed to withdraw from the course. Respondents' judgment not to readmit petitioning students was based on sound reasons and good faith."

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"Upon the admission of petitioning students at (sic) the First Year of (sic) the School of Nursing of respondent university, they as well as their parents or guardian signed Agreements for Admission, (Annex 1, 2, 3, 4 and 5 to Answer) where they agreed to maintain very good academic performance so that the student belongs to the rank No. 100 of the class.

"Upon admission to the Second Year at the start of the school year 1987-88, they also signed Agreements for Admission (Annex 6, 7, 8, 9 and 10). Among other things they agreed that at anytime after the first semester of the first semester internship, they may be asked to discontinue the course due to grades below 80 on two minor and any nursing subjects and agreed that at anytime for failure to meet said standard, the College of Nursing can disqualify said students from the BSN Course and that the disqualification does not render the college liable for damages said student may suffer.

"The students involved were in the third year of the Nursing Course of the respondent University at the start of the school year 1988-89 but at the start and by the end of the first semester were borderline cases. They and their parents/guardians signed promises to improve, copies attached are Annexes 11, 12, 13, 14, 15, 16 and 17. They promised to improve my academic performance (a grade of at least 80% in all major nursing subjects) and 'improve my behaviour and attitude in the classroom and/or the clinical area' and 'should I fail to meet the above considerations, I will voluntarily withdraw from this college'. However, even these borderline students

now petitioning failed to make good.

"x x x. Mandamus will not lie to compel the school authorities to graduate a student who has failed to comply with the disciplinary and academic rules of the school as said writ cannot review or control the exercise of discretionary powers (*Magtibay vs. Garcia* L-28971, Jan. 25, 1983). The same rule was applied in the recent case of *Tangonan vs. Pano* 137 SCRA 245 where our Supreme Court held that a school may refuse to enroll a student for academic delinquencies. It cannot be compelled by mandamus to enroll a student. In the same case it was held that a school has the right to refuse to enroll a student and such refusal falls within the academic freedom clause of the Constitution.

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"Under the principle of equitable estoppel, the petitioning students, their parents/ guardians are now estopped to deny what they have signed at the start of the semester and to question the same signing only at about the end of the semester when they could not keep up with the grades required of them.

"Petitioning students, their parents/guardians who has (sic) full knowledge of the facts that the agreement of admission is one-sided against them but continued to keep quite (sic) and acted on the requirements of the respondent university not to have a grade below 80% but having failed to obtain the same at grading time shall not be permitted to act in a manner inconsistent with their former position or conduct to the injury of the other."[2]

Respondent Court of Appeals did not agree with the ruling of the trial court. The dispositive portion of its decision dated April 23, 1991 reads:

"WHEREFORE, the judgment appealed from is hereby REVERSED and respondent USA and the other respondents are hereby ordered to re-admit petitioners as 4th year students in the College of Nursing of respondent USA for the current school year, 1991-1992. Costs against the respondents.[3]

"SO ORDERED."

It expressed the different view that:

"x x x. The outcome of the case under consideration hinges on the decisive issue as to whether or not petitioners, with grades ranging from 77% to 78% in Nursing 104, are deemed, within legal contemplation, to be with academic deficiency. And on this crucial issue, We cannot help but resolve in the negative. In Our considered view, petitioners possess no academic deficiency within the purview of the aforecited law (Section IV, paragraph 107 of the Manual of Regulations for Private Schools), and are not disqualified from re-admission to respondent USA's College of Nursing. While it is true that they did not obtain a grade of at least 80% in Nursing 104, they passed and did not fail in said subject. It is irrefutable that 75% is the passing grade in respondent USA, and in all educational institutions of this country; so that petitioners' grades of 77% and 78% are well above passing mark. Therefore, petitioners having been given passing grades in all their subjects and full credit for the corresponding number of units; it stands to reason, and conclude, that far from suffering from any academic deficiency petitioners have satisfactorily complied with the prescribed curriculum, entitling them to re-admission and enrollment as 4th year students in the College of Nursing of respondent USA. Indeed, to be fair to all concerned, especially to the students and their parents who sacrifice day and night for the education of their children, academic deficiency should be construed to refer to failing or flunking grades or, to be more precise, grades lower than 75% in any subject; something herein petitioners never obtained. This must be so because exceptions or limitations to the constitutionally protected right of students to enroll in schools of their preference must be strictly construed and should not be given an unreasonably broad and expanded scope. To Our mind, this is the proper interpretation and approach; the agreement between the parties to the contrary notwithstanding. More concretely stated; the stipulation between petitioners and respondent USA to the effect that a grade of at least 80% in all major nursing subjects and two

(2) minor subjects is a prerequisite for re-admission is repugnant to public policy and is consequently unavailing to defeat the constitutionally guaranteed right of petitioners to re-admission, absent any academic deficiency or violation of rules of discipline. Verily, clear, express and succinct is the mandate of Section 4, paragraph 107 of the Manual of Regulations for Private Schools -- that in the absence of any academic deficiency or violation of rules on discipline, students have the right to be re-admitted to finish and graduate from their chosen course. In the instant case, We hold that petitioners neither have any academic deficiency nor violated any rule of discipline; and, therefore, richly deserve re-admission in the respondent educational institution. It bears stressing that the right of every Filipino to acquire an education is impressed with public interest; and any contract tending to defeat or nullify such right cannot be countenanced and is not entitled to judicial recognition and protection. Thus inforced, the agreements for admission relied upon by respondent USA cannot defeat the right of petitioners to pursue to a successful conclusion their nursing course.

"It is not Our purpose, however, to undermine or disregard rules and regulations promulgated to maintain desirable academic standards; but it bears repeating that when a school, such as respondent USA here, has given a student a passing grade of 75% or higher, that passing mark is, to all intents and purposes, a certification and acknowledgment of the student's eligibility for promotion to the next higher grade; which, in the case of the herein petitioners, signified their eligibility for re-admission and enrollment as 4th year students in the College of Nursing of respondent USA because if the latter itself, which gave petitioners ratings ranging from 77% to 78%, well above the passing mark of 75%, is not ready to re-admit petitioners, how can other schools with different curricula be expected to admit petitioners who already finished 3rd year and cannot therefore meet the usual residence requirement? Obviously, then, the aforesaid contracts invoked by respondent USA are not only contrary to public policy but are most unfair to petitioners, and cannot be upheld.

"Respondents' stance - that petitioners are precluded by the principle of estoppel from impugning or assailing such agreements, is untenable. We believe that the equitable principle of estoppel cannot muzzle or defeat the constitutional right of a citizen to pursue higher education subject only to reasonable rules and regulations. Here, to repeat, what the respondents required of petitioners are unreasonable, nay unconscionable."

Prior to the decision of respondent court, or on April 4, 1991, petitioners already filed a motion for dismissal of appeal[4] averring, inter alia, that the appeal has become moot and academic because private respondents have enrolled in and graduated from the Lanting College of Nursing, Tandang Sora, Quezon City. In the resolution dated April 25, 1991, respondent court merely noted said motion, considering that the appeal has been decided and the importance of the issues involved.[5] Petitioners then filed a motion for reconsideration ad cautelam of the April 23, 1991 decision, reiterating their previous averments. The motion was denied in the resolution dated June 10, 1991 because:

"[t]he importance of the issues involved and jurisprudential relevance and significance of the ponencia sought to be vacated militate against (petitioners') posture." [6]

Hence, the present petition.

Petitioners fault respondent court for: 1) not dismissing the case although moot and academic; and 2) ordering them to re-admit private respondents.

Petitioners allege that private respondents, before rendition of the questioned decision of respondent court, had already enrolled in the Lanting College of Nursing, Tandang Sora, Quezon City and graduated in October, 1990. Therefore, respondent court's directive to re-admit them is futile and illusory. Moreover, while the Manual of Regulations for Private Schools (Sections X, XII and XIII thereof) is very specific about 75% being the passing grade for the elementary and secondary courses (or starting with Grade IV up to the intermediate grades), vocational courses, and in night school (secondary subjects), it is silent with respect to the collegiate course. This can only mean that the passing grade therein can be based on school standards and policies, in consonance with

the principle of academic freedom. With respect to the Nursing course in particular, it is undeniable that Nursing as a profession involves the life and death of patients, and petitioners bear a heavy responsibility to the local community, the nation, and the world to produce graduates of competence and high quality. The high standard of grading which they have set coupled with rigid training and instruction is intended to develop the quality of extraordinary diligence which is expected of professionals. This goal cannot be accomplished by graduates who pass the ordinary and dilute standard of 75%.

Private respondents do not deny that they had enrolled in the Lanting College of Nursing and finished the Nursing course therein in October, 1990. Nevertheless, they contend that even if a case were moot and academic, a statement of the governing principle is appropriate in the resolution thereof for the guidance not only of the parties but of others similarly situated. Petitioners cannot dispute the fact that private respondents obtained grades of 77% or 78% in Nursing 104, as reflected in their respective transcripts of records. And they earned credits for the subject, signifying that they have passed. The pertinent provisions of the Manual of Regulations for Private Schools that were cited by petitioners can very well be construed to mean that a student given credit for the completion of a course is eligible for promotion.

We rule that the special civil action of mandamus is not available in this instance.

The petition which was filed by private respondents before the trial court sought the issuance of a writ of mandamus, to command petitioners to admit them for enrolment.[7] Taking into account the admission of private respondents that they have finished their Nursing course at the Lanting College of Nursing even before the promulgation of the questioned decision, this case has clearly been overtaken by events and should therefore be dismissed. However, the case of *Eastern Broadcasting Corporation (DYRE) v. Dans, etc., et al.*[8] is the authority for the view that "even if a case were moot and academic, a statement of the governing principle is appropriate in the resolution of dismissal for the guidance not only of the parties but of others similarly situated.[9] We shall adhere to this view and proceed to dwell on the merits of this petition.

Under Rule 65, Section 3 of the Rules of Court, mandamus lies under any of the following cases: (1) against any tribunal which unlawfully neglects the performance of an act which the law specifically enjoins as a duty; (2) in case any corporation, board or person unlawfully neglects the performance of an act which the law enjoins as a duty resulting from an office, trust or station; and (3) in case any tribunal, corporation, board or person unlawfully excludes another from the use and enjoyment of a right or office to which such other is legally entitled; and there is no other plain, speedy and adequate remedy in the ordinary course of law.[10]

The nature of mandamus has been the subject of discussions in several cases. It is settled that mandamus is employed to compel the performance, when refused, of a ministerial duty, this being its main objective. It does not lie to require anyone to fulfill contractual obligations or to compel a course of conduct,[11] nor to control or review the exercise of discretion.[12] On the part of the petitioner,[13] it is essential to the issuance of a writ of mandamus that he should have a clear legal right to the thing demanded and it must be the imperative duty of the respondent to perform the act required. It never issues in doubtful cases. While it may not be necessary that the duty be absolutely expressed, it must however, be clear. The writ will not issue to compel an official to do anything which is not his duty to do or which is his duty not to do, or give to the applicant anything to which he is not entitled by law. The writ neither confers powers nor imposes duties. It is simply a command to exercise a power already possessed and to perform a duty already imposed.[14]

In the present case, private respondents have failed to satisfy the prime and indispensable requisites of a mandamus proceeding. There is no showing that they possess a clear legal right to be enrolled in petitioner USA. Moreover, assuming that petitioner USA has an imperative duty to enrol them, it does not appear to this Court that

the duty is merely ministerial; rather, it is a duty involving the exercise of discretion. This was likewise our ruling in the case of *Tangonan v. Paño, et al.*,^[15] which involves a factual setting similar to the present petition. We adopted as our own the rationalization of the trial court therein:

"x x x. Every school has a right to determine who are the students it should accept for enrolment. It has the right to judge the fitness of students. This is particularly true in the case of nursing students who perform essential health services. Over and above its responsibility to petitioner is the responsibility of the school to the general public and the community. This Court take (sic)judicial notice that nursing has become a popular course because of the great demand for Filipino Nurses abroad, especially in the United States. It is essential therefore that Nursing graduates who go abroad and become in a sense our own ambassador (sic) should be highly qualified to perform their tasks. This is the responsibility of our school and in the discharge of this responsibility, they certainly should be given the greatest latitude in formulating their admission policies.

"While petitioner questions the findings of respondent school as to her academic competence, the Court cannot find any legal jurisdiction to interfere in the exercise of judgment of the school on this matter. xxx."^[16]

The late Chief Justice Claudio Teehankee supplied the rationale underlying our attitude towards academic decisions or policies in his concurring opinion in the case of *Garcia v. The Faculty Admission Committee, et al.*,^[17] to wit:

"Only x x x when there is marked arbitrariness, will the courts interfere with the academic judgment of the school faculty and the proper authorities as to the competence and fitness of an applicant for enrollment x x x. The courts simply do not have the competence nor inclination to constitute themselves as Admission Committees of the universities and institutions of higher learning and to substitute their judgment for that of the regularly constituted Admission Committees of such educational institutions. Were the courts to do so, they would conceivably be swamped with petitions for admission from the thousands refused admission every year, and next the thousands who flunked and were dropped would also be petitioning the courts for a judicial review of their grades."

Section IV, paragraph 107 of the Manual of Regulations for Private Schools states:

"Every student has the right to enrol in any school, college or university upon meeting its specific requirement and reasonable regulation: Provided, that except in the case of academic delinquency and violation of disciplinary regulation, the student is presumed to be qualified for enrolment for the entire period he is expected to complete his course without prejudice to his right to transfer." ^[18]

The meaning of this provision is that the school, after having accepted a student for enrollment in a given course may not expel him or refuse to re-enroll him until he completes his course, except when he is academically deficient or has violated the rules of discipline. He is presumed to be qualified to study there for the entire period it will take to complete his course.^[19]

This presumption has been translated into a right in Batas Pambansa Blg. 232, otherwise known as the "Education Act of 1982."^[20] Section 9(2) of this Act provides:

"SEC. 9. Rights of Students in School.- In addition to other rights, and subject to the limitations prescribed by law and regulations, students and pupils in all schools shall enjoy the following rights:

x x x

(2) The right to freely choose their field of study subject to existing curricula and to continue their course therein up to graduation, except in cases of academic deficiency, or violation of disciplinary regulations."
(underscoring supplied)

Article XIV, Section 5(3) of the 1987 Constitution affords a similar right, although limited to citizens:

"SEC. 5 (3) Every citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements." (underscoring supplied)

At the same time, educational institutions are entitled to pursue their academic freedom and in the process have the concomitant right to see to it that this freedom is not jeopardized.[21]

Section 13(2) of B.P. Blg. 232 provides:

"SEC. 13. Rights of Schools.-In addition to other rights provided for by law, schools shall enjoy the following:

"x x x.

"2. The right for institutions of higher learning to determine on academic grounds who shall be admitted to study, who may teach, and what shall be the subjects of the study and research." (underscoring supplied)

Equally mandated by Article XIV, Section 5(2) of the 1987 Constitution is that academic freedom shall be enjoyed in all institutions of higher learning. Academic freedom of educational institutions has been defined as the right of the school or college to decide for itself, its aims and objectives, and how best to attain them - free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint. It has a wide sphere of autonomy certainly extending to the choice of students. Said constitutional provision is not to be construed in a niggardly manner or in a grudging fashion. That would be to frustrate its purpose and nullify its intent.[22]

While it is true that an institution of learning has a contractual obligation to afford its students a fair opportunity to complete the course they seek to pursue,[23] since a contract creates reciprocal rights and obligations, the obligation of the school to educate a student would imply a corresponding obligation on the part of the student to study and obey the rules and regulations of the school.[24] When a student commits a serious breach of discipline or fails to maintain the required academic standard, he forfeits his contractual right. In this connection, this Court recognizes the expertise of educational institutions in the various fields of learning. Thus, they are afforded ample discretion to formulate reasonable rules and regulations in the admission of students,[25] including setting of academic standards. Within the parameters thereof, they are competent to determine who are entitled to admission and re-admission.

We find the challenged regulation of petitioner USA reasonable and relevant to its objective, namely: "x x x to produce graduates of proven competence and aptitude in a demanding profession, for which it is responsible to society-at-large, not only nationally but also internationally, considering the good fame and reputation of Filipino nurses abroad.[26] Although private respondents did not flunk in Nursing 104 but on the contrary earned credits therefor, nevertheless, their performances are still academically deficient for failure to meet the standards set by petitioner USA. Besides, it is worthy to note that they were apprised fully beforehand about the rules and regulations of petitioner USA. When they applied for admission to first year at petitioner USA, they signed agreements therefor, containing the following terms and conditions:

"1. That the College of Nursing, University of San Agustin admits _____ to the BSN Course for a period of one year;

"2. That after this period of probation, a final deliberation will take place to decide the Candidates who will be taken in for BSN second year based on the following conditions:

‘a. very good academic performance so that the student belongs to the rank No. 100 of the class;

‘b. very good attitudes such as punctuality in classes, cooperation in the activities in the school; respectfulness and cordiality in dealing with others, honesty;

‘c. good physical and mental health;

‘d. obedience to the rules and regulations of the College of Nursing:

"3. That I hereby waive any right and agree that at anytime for failure of the above-named student to meet the necessary standards specifically mentioned above, the College of Nursing, USA can disqualify said student from the BSN Course;

"4. That the disqualification of the said student from the department does not render the College of Nursing, USA liable from (sic) whatever damage the said student may, suffer."[27]

A year later, or on April 5, 1987, private respondents signed new agreements for admission, subject to the following terms and conditions:

"1. That the College of Nursing, University of San Agustin admits _____ to the BSN Course for a period of probation of at least one (1) semester;

"2. That after the period of probation (first semester of the first year internship) and at anytime thereafter, unless officially accepted as a candidate for graduation, the above-named student may be asked to discontinue the course due to:

‘a. poor academic performance, such as failure in one nursing subject or a grade of 70%;

‘b. receipt of a grade below 80 on two minor and any nursing subjects;

‘c. frequent absences from classes and related clinical experience without legitimate reasons;

‘d. poor physical and mental health and;

‘e. failure to comply with the requirements of the University and/or the rules and regulations of the College of Nursing.

"3. That I hereby waive any right and agree that any time for failure of the above-named student to meet the necessary standards specifically mentioned above, the College of Nursing, USA can disqualify said student from the BSN Course;

"4. That the College of Nursing has no right to disqualify the said student possessing the necessary qualifications and has completed the requirements both academic and related clinical experience and thus has met the standards set by the College of Nursing, USA and the MECS Office;

"5. That the disqualification of the said student from the department does not render the College of Nursing, University of San Agustin liable from (sic) whatever damage the said student may suffer."[28]

On October 28, 1988, private respondents, except Michael Kim So, wrote to the Dean, College of Nursing of petitioner USA promising to:

"a. improve my academic performance (a grade of at least 80% in all major nursing subjects).

"b. improve my behavior and attitude in the classroom and/or the clinical area.

"Should I fail to meet the above considerations I will voluntarily withdraw from this college."[29]

Our conclusion is, as sure to follow as night follows day, that the dismissal of private respondents' petition by the trial court is proper.

WHEREFORE, the petition is hereby GRANTED. The decision of the Court of Appeals dated April 23, 1991 and its resolutions dated April 25, 1991 and June 10, 1991 are SET ASIDE. The order of the Regional Trial Court of

Iloilo City dated September 15, 1989 is REINSTATED.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Puno, JJ., concur.
Padilla, J., separate opinion.

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- [1] Records, p. 752.
- [2] Records, pp. 742-751.
- [3] Rollo, p. 45.
- [4] Rollo, p. 15
- [5] Rollo, p. 47.
- [6] Rollo, p. 49-A.
- [7] Records, pp. 1-3.
- [8] G.R. No. 59329, July 19, 1985, 137 SCRA 628.
- [9] At p. 637, concurring opinion of Chief Justice Enrique Fernando.
- [10] Reyes v. Zamora, et al., G.R. No. 46732, May 5, 1979, 90 SCRA 92; Province of Pangasinan v. Reparations Commission, G.R. No. L-27448, November 29, 1977, 80 SCRA 376.
- [11] Tabique v. Duvall, 16 Phil. 324.
- [12] Avenue Arrastre and Stevedoring Corp., Inc. v. Commissioner of Customs, et al., G.R. No. L-44674, February 28, 1983, 120 SCRA 878.
- [13] Canonizado v. Benitez, etc., et al., G.R. Nos. L-49315 and 60966, February 20, 1984, 127 SCRA 610; Lozada, et al. v. Commission on Elections, G.R. No. 59068, January 27, 1983, 120 SCRA 337; Taboy, et al. v. Court of Appeals, et al., G.R. No. L-47472, July 24, 1981, 105 SCRA 758; Ocampo v. Subido, etc., et al., G.R. No. L-28344, August 27, 1976, 72 SCRA 443.
- [14] Province of Pangasinan v. Reparations Commission, supra.
- [15] G.R. No. L-45157, June 27, 1985, 137 SCRA 245.
- [16] At p. 255; underscoring supplied.
- [17] G.R. No. L-40779, November 28, 1975, 68 SCRA 277; San Sebastian College v. Court of Appeals, et al., G.R. No. 84401, May 15, 1991, 197 SCRA 138.
- [18] Non, et al. v. Dames, etc., et al., G.R. No. 89317, May 20, 1990, 185 SCRA 523.
- [19] Capitol Medical Center, Inc., et al. v. Court of Appeals, et al., G.R. No. 82499, October 13, 1989, 178 SCRA 493.
- [20] Non, et al. v. Dames, etc., et al., supra.
- [21] Licup, et al. v. University of San Carlos (USC), et al., G.R. No. 85839, Oct. 19, 1989, 178 SCRA 637.

[22] Garcia v. The Faculty Admission Committee, et al., supra; Tangonan v. Paño, et al., supra.

[23] Licup, et al. v. University of San Carlos (USC), et al., supra.

[24] Capitol Medical Center, Inc., et al. v. Court of Appeals, et al., supra.

[25] Yap Chin Fah, et al. v. Court of Appeals, et al., G.R. No. 90063, December 12, 1989.

[26] Records, pp. 20-21.

[27] Annexes "1" to "5."

[28] Annexes "6" to "10."

[29] Annexes "12," "14" to "16."

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SEPARATE OPINION

PADILLA, J.:

The Court's decision narrates facts that clearly show that private respondents' petition for mandamus with the court a quo has become moot and academic. Even before the respondent appellate court rendered its now questioned decision, the private respondents had enrolled and later graduated from another nursing school. This is not disputed by private respondents. Consequently, their petition for mandamus to be allowed re-admission in the petitioner's school of nursing became moot and academic. From then on, whatever the courts, including this Court, have to say on the terminated issues, constitute opinion on extinct issues.

I, therefore, vote to SET ASIDE the respondent court's decision and to order the court a quo to dismiss the private respondents' petition for mandamus therein, the issues having become moot and academic in both instances.

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