

ISABELO T. CRISOSTOMO, PETITIONER, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.[1]

G.R. No. 106296. July 05, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition to review the decision of the Court of Appeals dated July 15, 1992, the dispositive portion of which reads:

WHEREFORE, the present petition is partially granted. The questioned Orders and writs directing (1) "reinstatement" of respondent Isabelo T. Crisostomo to the position of "President of the Polytechnic University of the Philippines," and (2) payment of "salaries and benefits" which said respondent failed to receive during his suspension insofar as such payment includes those accruing after the abolition of the PCC and its transfer to the PUP, are hereby set aside. Accordingly, further proceedings consistent with this decision may be taken by the court a quo to determine the correct amounts due and payable to said respondent by the said university.

The background of this case is as follows:

Petitioner Isabelo Crisostomo was President of the Philippine College of Commerce (PCC), having been appointed to that position by the President of the Philippines on July 17, 1974.

During his incumbency as president of the PCC, two administrative cases were filed against petitioner for illegal use of government vehicles, misappropriation of construction materials belonging to the college, oppression and harassment, grave misconduct, nepotism and dishonesty. The administrative cases, which were filed with the Office of the President, were subsequently referred to the Office of the Solicitor General for investigation.

Charges of violations of R.A. No. 3019, § 3 (e) and R.A. No. 992, § 20-21 and R.A. No. 733, § 14 were likewise filed against him with the Office of Tanodbayan.

On June 14, 1976, three (3) informations for violation of Sec. 3 (e) of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019, as amended) were filed against him. The informations alleged that he appropriated for himself a bahay kubo, which was intended for the College, and construction materials worth P250,000.00, more or less. Petitioner was also accused of using a driver of the College as his personal and family driver.[1]

On October 22, 1976, petitioner was preventively suspended from office pursuant to R.A. No. 3019, § 13, as amended. In his place Dr. Pablo T. Mateo, Jr. was designated as officer-in-charge on November 10, 1976, and then as Acting President on May 13, 1977.

On April 1, 1978, P.D. No. 1341 was issued by then President Ferdinand E. Marcos, CONVERTING THE PHILIPPINE COLLEGE OF COMMERCE INTO A POLYTECHNIC UNIVERSITY, DEFINING ITS OBJECTIVES, ORGANIZATIONAL STRUCTURE AND FUNCTIONS, AND EXPANDING ITS CURRICULAR OFFERINGS.

Mateo continued as the head of the new University. On April 3, 1979, he was appointed Acting President and on March 28, 1980, as President for a term of six (6) years.

On July 11, 1980, the Circuit Criminal Court of Manila rendered judgment acquitting petitioner of the charges against him. The dispositive portion of the decision reads:

WHEREFORE, the Court finds the accused, Isabelo T. Crisostomo, not guilty of the violations charged in all these three cases and hereby acquits him therefrom, with costs de oficio. The bail bonds filed by said accused for his provisional liberty are hereby cancelled and released.

Pursuant to the provisions of Section 13, R.A. No. 3019, as amended, otherwise known as The Anti-Graft and Corrupt Practices Act, and under which the accused has been suspended by this Court in an Order dated October 22, 1976, said accused is hereby ordered reinstated to the position of President of the Philippine College of Commerce, now known as the Polytechnic University of the Philippines, from which he has been suspended. By virtue of said reinstatement, he is entitled to receive the salaries and other benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

The bail bonds filed by the accused for his provisional liberty in these cases are hereby cancelled and released.

SO ORDERED.

The cases filed before the Tanodbayan (now the Ombudsman) were likewise dismissed on August 8, 1991 on the ground that they had become moot and academic. On the other hand, the administrative cases were dismissed for failure of the complainants to prosecute them.

On February 12, 1992, petitioner filed with the Regional Trial Court a motion for execution of the judgment, particularly the part ordering his reinstatement to the position of president of the PUP and the payment of his salaries and other benefits during the period of suspension.

The motion was granted and a partial writ of execution was issued by the trial court on March 6, 1992. On March 26, 1992, however, President Corazon C. Aquino appointed Dr. Jaime Gellor as acting president of the PUP, following the expiration of the term of office of Dr. Nemesio Prudente, who had succeeded Dr. Mateo. Petitioner was one of the five nominees considered by the President of the Philippines for the position.

On April 24, 1992, the Regional Trial Court, through respondent Judge Teresita Dy-Liaco Flores, issued another order, reiterating her earlier order for the reinstatement of petitioner to the position of PUP president. A writ of execution, ordering the sheriff to implement the order of reinstatement, was issued.

In his return dated April 28, 1992, the sheriff stated that he had executed the writ by installing petitioner as President of the PUP, although Dr. Gellor did not vacate the office as he wanted to consult with the President of the Philippines first. This led to a contempt citation against Dr. Gellor. A hearing was set on May 7, 1992. On May 5, 1992, petitioner also moved to cite Department of Education, Culture and Sports Secretary Isidro Cariño in contempt of court. Petitioner assumed the office of president of the PUP.

On May 18, 1992, therefore, the People of the Philippines filed a petition for certiorari and prohibition (CA G.R. No. 27931), assailing the two orders and the writs of execution issued by the trial court. It also asked for a temporary restraining order.

On June 25, 1992, the Court of Appeals issued a temporary restraining order, enjoining petitioner to cease and desist from acting as president of the PUP pursuant to the reinstatement orders of the trial court, and enjoining further proceedings in Criminal Cases Nos. VI-2329-2331.

On July 15, 1992, the Seventh Division of the Court of Appeals rendered a decision,[2] the dispositive portion of which is set forth at the beginning of this opinion. Said decision set aside the orders and writ of reinstatement issued by the trial court. The payment of salaries and benefits to petitioner accruing after the conversion of the PCC to the PUP was disallowed. Recovery of salaries and benefits was limited to those accruing from the time of petitioner's suspension until the conversion of the PCC to the PUP. The case was remanded to the trial court for a determination of the amounts due and payable to petitioner.

Hence this petition. Petitioner argues that P.D. No. 1341, which converted the PCC into the PUP, did not abolish the PCC. He contends that if the law had intended the PCC to lose its existence, it would have specified that the PCC was being "abolished" rather than "converted" and that if the PUP was intended to be a new institution, the law would have said it was being "created." Petitioner claims that the PUP is merely a continuation of the existence of the PCC, and, hence, he could be reinstated to his former position as president.

In part the contention is well taken, but, as will presently be explained, reinstatement is no longer possible because of the promulgation of P.D. No. 1437 by the President of the Philippines on June 10, 1978.

P.D. No. 1341 did not abolish, but only changed, the former Philippine College of Commerce into what is now the Polytechnic University of the Philippines, in the same way that earlier in 1952, R.A. No. 778 had converted what was then the Philippine School of Commerce into the Philippine College of Commerce. What took place was a change in academic status of the educational institution, not in its corporate life. Hence the change in its name, the expansion of its curricular offerings, and the changes in its structure and organization.

As petitioner correctly points out, when the purpose is to abolish a department or an office or an organization and to replace it with another one, the lawmaking authority says so. He cites the following examples:

E.O. No. 709:

§ 1. There is hereby created a Ministry of Trade and Industry, hereinafter referred to as the Ministry. The existing Ministry of Trade established pursuant to Presidential Decree No. 721 as amended, and the existing Ministry established pursuant to Presidential Decree No. 488 as amended, are abolished together with their services, bureaus and similar agencies, regional offices, and all other entities under their supervision and control. . . .

E.O. No. 710:

§ 1. There is hereby created a Ministry of Public Works and Highways, hereinafter referred to as the Ministry. The existing Ministry of Public Works established pursuant to Executive Order No. 546 as amended, and the existing Ministry of Public Highways established pursuant to Presidential Decree No. 458 as amended, are abolished together with their services, bureaus and similar agencies, regional offices, and all other entities within their supervision and control. . . .

R.A. No. 6975:

§ 13. Creation and Composition. - A National Police Commission, hereinafter referred to as the Commission, is hereby created for the purpose of effectively discharging the functions prescribed in the Constitution and provided in this Act. The Commission shall be a collegial body within the Department. It shall be composed of a Chairman and four (4) regular commissioners, one (1) of whom shall be designated as Vice-Chairman by the President. The Secretary of the Department shall be the ex-officio Chairman of the Commission, while the Vice-Chairman shall act as the executive officer of the Commission.

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§ 90. Status of Present NAPOLCOM, PC-INP. - Upon the effectivity of this Act, the present National Police

Commission, and the Philippine Constabulary-Integrated National Police shall cease to exist. The Philippine Constabulary, which is the nucleus of the integrated Philippine Constabulary-Integrated National Police, shall cease to be a major service of the Armed Forces of the Philippines. The Integrated National Police, which is the civilian component of the Philippine Constabulary-Integrated National Police, shall cease to be the national police force and in lieu thereof, a new police force shall be established and constituted pursuant to this Act.

In contrast, P.D. No. 1341, provides:

§ 1. The present Philippine College of Commerce is hereby converted into a university to be known as the "Polytechnic University of the Philippines," hereinafter referred to in this Decree as the University.

As already noted, R.A. No. 778 earlier provided:

§ 1. The present Philippine School of Commerce, located in the City of Manila, Philippines, is hereby granted full college status and converted into the Philippine College of Commerce, which will offer not only its present one-year and two-year vocational commercial curricula, the latter leading to the titles of Associate in Business Education and/or Associate in Commerce, but also four-year courses leading to the degrees of Bachelor of Science in Business in Education and Bachelor of Science in Commerce, and five-year courses leading to the degrees of Master of Arts in Business Education and Master of Arts in Commerce, respectively.

The appellate court ruled, however, that the PUP and the PCC are not "one and the same institution" but "two different entities" and that since petitioner Crisostomo's term was coterminous with the legal existence of the PCC, petitioner's term expired upon the abolition of the PCC. In reaching this conclusion, the Court of Appeals took into account the following:

a) After respondent Crisostomo's suspension, P.D. No. 1341 (entitled "CONVERTING THE PHILIPPINE COLLEGE OF COMMERCE INTO A POLYTECHNIC UNIVERSITY, DEFINING ITS OBJECTIVES, ORGANIZATIONAL STRUCTURE AND FUNCTIONS, AND EXPANDING ITS CURRICULAR OFFERINGS") was issued on April 1, 1978. This decree explicitly provides that PUP's objectives and purposes cover not only PCC's offering of programs "in the field of commerce and business administration" but also "programs in other polytechnic areas" and "in other fields such as agriculture, arts and trades and fisheries . . ." (section 2). Being a university, PUP was conceived as a bigger institution absorbing, merging and integrating the entire PCC and other "national schools" as may be "transferred" to this new state university.

b) The manner of selection and appointment of the university head is substantially different from that provided by the PCC Charter. The PUP President "shall be appointed by the President of the Philippines upon recommendation of the Secretary of Education and Culture after consultation with the University Board of Regents" (section 4, P.D. 1341). The President of PCC, on the other hand, was appointed "by the President of the Philippines upon recommendation of the Board of Trustees" (Section 4, R.A. 778).

c) The composition of the new university's Board of Regents is likewise different from that of the PCC Board of Trustees (which included the chairman of the Senate Committee on Education and the chairman of the House Committee on Education, the President of the PCC Alumni Association as well as the President of the Chamber of Commerce of the Philippines). Whereas, among others, the NEDA Director-General, the Secretary of Industry and the Secretary of Labor are members of the PUP Board of Regents. (Section 6, P.D. 1341).

d) The decree moreover transferred to the new university all the properties including "equipment and facilities":

" . . . owned by the Philippine College of Commerce and such other National Schools as may be integrated . . . including their obligations and appropriations . . ." (Sec. 12; Italics supplied).[3]

But these are hardly indicia of an intent to abolish an existing institution and to create a new one. New course offerings can be added to the curriculum of a school without affecting its legal existence. Nor will changes in its

existing structure and organization bring about its abolition and the creation of a new one. Only an express declaration to that effect by the lawmaking authority will.

The Court of Appeals also cites the provision of P.D. No. 1341 as allegedly implying the abolition of the PCC and the creation of a new one " the PUP " in its stead:

§ 12. All parcels of land, buildings, equipment and facilities owned by the Philippine College of Commerce and such other national schools as may be integrated by virtue of this decree, including their obligations and appropriations thereof, shall stand transferred to the Polytechnic University of the Philippines, provided, however, that said national schools shall continue to receive their corresponding shares from the special education fund of the municipal/provincial/city government concerned as are now enjoyed by them in accordance with existing laws and/or decrees.

The law does not state that the lands, buildings and equipment owned by the PCC were being "transferred" to the PUP but only that they "stand transferred" to it. "Stand transferred" simply means, for example, that lands transferred to the PCC were to be understood as transferred to the PUP as the new name of the institution.

But the reinstatement of petitioner to the position of president of the PUP could not be ordered by the trial court because on June 10, 1978, P.D. No. 1437 had been promulgated fixing the term of office of presidents of state universities and colleges at six (6) years, renewable for another term of six (6) years, and authorizing the President of the Philippines to terminate the terms of incumbents who were not reappointed. P.D. No. 1437 provides:

§ 6. The head of the university or college shall be known as the President of the university or college. He shall be qualified for the position and appointed for a term of six (6) years by the President of the Philippines upon recommendation of the Secretary of Education and Culture after consulting with the Board which may be renewed for another term upon recommendation of the Secretary of Education and Culture after consulting the Board. In case of vacancy by reason of death, absence or resignation, the Secretary of Education and Culture shall have the authority to designate an officer in charge of the college or university pending the appointment of the President.

The powers and duties of the President of the university or college, in addition to those specifically provided for in this Decree shall be those usually pertaining to the office of the president of a university or college.

§ 7. The incumbent president of a chartered state college or university whose term may be terminated according to this Decree, shall be entitled to full retirement benefits: provided that he has served the government for at least twenty (20) years; and provided, further that in case the number of years served is less than 20 years, he shall be entitled to one month pay for every year of service.

In this case, Dr. Pablo T. Mateo Jr., who had been acting president of the university since April 3, 1979, was appointed president of PUP for a term of six (6) years on March 28, 1980, with the result that petitioner's term was cut short. In accordance with § 7 of the law, therefore, petitioner became entitled only to retirement benefits or the payment of separation pay. Petitioner must have recognized this fact, that is why in 1992 he asked then President Aquino to consider him for appointment to the same position after it had become vacant in consequence of the retirement of Dr. Prudente.

WHEREFORE, the decision of the Court of Appeals is MODIFIED by SETTING ASIDE the questioned orders of the Regional Trial Court directing the reinstatement of the petitioner Isabelo T. Crisostomo to the position of president of the Polytechnic University of the Philippines and the payment to him of salaries and benefits which he failed to receive during his suspension in so far as such payment would include salaries accruing after March 28, 1980 when petitioner Crisostomo's term was terminated. Further proceedings in accordance with this decision may be taken by the trial court to determine the amount due and payable to petitioner by the university up to

March 28, 1980.

SO ORDERED.

Regalado, (Chairman), Romero, and Torres, Jr., JJ., concur.

Puno, J., took no part. Counsel for petitioner is his brother.

[*] The original title of this case, "Hon. Teresita Dy-Liacó Flores, as Presiding Judge, RTC, Branch 46, Manila, Elmer R. Melgas, as Sheriff IV of Manila and Isabelo T. Crisostomo, petitioners, v. The Court of Appeals and the People of the Philippines, respondents," has been changed by omitting the names of the two petitioners who were merely nominal parties in the Court of Appeals.

[1] Judgment in CCC-VI-2329-2331, pp. 2-3.

[2] Per Justice Lorna Lombos-De la Fuente, chairman, and concurred in by Justices Cesar D. Francisco and Cancio C. Garcia, members.

[3] Rollo, p. 148, Decision, p. 4.

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