

UNIVERSITY OF THE PHILIPPINES BOARD OF REGENTS AND DR. OLIVIA C. CAOILI IN HER CAPACITY AS SECRETARY OF THE BOARD, PETITIONERS, VS. HON. ELSIE LIGOT-TELAN IN HER CAPACITY AS PRE...

G.R. No. 110280. October 21, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

In an effort to make the University of the Philippines (U.P.) truly the university of the people, the U.P. administration conceptualized and implemented the socialized scheme of tuition fee payments through the Socialized Tuition Fee and Assistance Program (STFAP), popularly known as the "Iskolar ng Bayan" program. Spawned by the public clamor to overcome what was perceived as the sharpening elitist profile of the U.P. studentry, the STFAP aspired to expand the coverage of government educational subsidies so as to include the deserving in the lower rungs of the socio-economic ladder.

After broad consultations with the various university constituencies by U.P. President Jose V. Abueva, the U.P. Board of Regents issued on April 28, 1988 a Resolution establishing the STFAP. A year later, it was granted official recognition when the Congress of the Philippines allocated a portion of the National Budget for the implementation of the program.

In the interest of democratizing admission to the State University, all students are entitled to apply for STFAP benefits which include reduction in tuition fees, living and book subsidies and student assistantships which give undergraduate students the opportunity to earn P12.00 per hour by working for the University.

Applicants are required to accomplish a questionnaire where, among others, they state the amount and source of the annual income of the family, their real and personal properties and special circumstances from which the University may evaluate their financial status and need on the basis of which they are categorized into brackets. At the end of the application form, the student applicant, as well as his parent, signs a sworn statement, as follows:

"Statement of the Student

I hereby certify, upon my honor, that all the data and information which I have furnished are accurate and complete. I understand that any willful misinformation and/or withholding of information will automatically disqualify me from receiving any financial assistance or subsidy, and may serve as ground for my expulsion from the University. Furthermore, if such misinformation and/or withholding of information on my part is discovered after I have been awarded tuition scholarship or any form of financial assistance. I will be required to reimburse all financial benefits plus the legal rate of interest prevailing at the time of reimbursement without prejudice to the filing of charges against me. (Underscoring supplied for emphasis)

Moreover, I understand that the University may send a fact-finding team to visit my home/residence to verify the veracity of the information provided in this application and I will give my utmost cooperation in this regard. I also understand that my refusal to cooperate with the fact-finding team may mean suspension or

withdrawal of STFAP benefits and privileges.

Student's Signature

Statement of the Applicant's Parent or Guardian

I hereby certify to the truthfulness and completeness of the information which my son/daughter/dependent has furnished in this application together with all the documents attached. I further recognize that in signing this application form, I share with my son/daughter/dependent the responsibility for the truthfulness and completeness of the information supplied herein. (Underscoring supplied for emphasis)

Moreover, I understand that the University may send a fact-finding team to visit my home/residence to verify the information provided in this application and I will give my utmost cooperation in this regard. I also understand that my refusal to cooperate with the fact-finding team may mean suspension or withdrawal of STFAP benefits and privileges of my son/daughter/dependent.

Parent's/Legal Guardian's/Spouse's Signature"[1]

From the early stages of its implementation, measures were adopted to safeguard the integrity of the program. One such precautionary measure was the inclusion as one of the punishable acts under Section 2 (a) of the Rules and Regulations on Student Conduct and Discipline of the University the deliberate falsification or suppression/withholding of any material information required in the application form.

To further insure the integrity of the program, a random sampling scheme of verification of data indicated in a student's application form is undertaken. Among those who applied for STFAP benefits for School Year 1989-90 was Ramon P. Nadal, a student enrolled in the College of Law.

On March 14, 1991, a team composed of Arsenio L. Dona and Jose Carlo Manalo conducted a home investigation at the residence of Nadal at 31 Twinpeaks Drive, Blue Ridge, Quezon City. Ms. Cristeta Packing, Nadal's aunt, was interviewed and the team submitted a home visit report. Consolacion Urbino, Scholarship Affairs Officer II, found discrepancies between the report and Nadal's application form. Forthwith, she and Bella M. Villanueva, head of the Office of Scholarships and Student Services, presented the matter to the Diliman Committee on Scholarships and Financial Assistance.[2]

In compliance with the said Committee's directive, Bella Villanueva wrote Nadal informing him that the investigation showed that he had failed to declare, not only the fact that he had been maintaining a 1977 Corolla car which was owned by his brother but also the income of his mother who was supporting his brothers Antonio and Federico. Nadal was likewise informed that the Diliman Committee had reclassified him to Bracket 9 (from Bracket 4), retroactive to June 1989, unless he could submit "proofs to the contrary." Nadal was required "to pay back the equivalent amount of full school fees" with "interest based on current commercial rates." Failure to settle his account would mean the suspension of his registration privileges and the withholding of clearance and transcript of records. He was also warned that his case might be referred to the Student Disciplinary Tribunal for further investigation.[3]

On July 12, 1991, Nadal issued a certification stating, among other things, that his mother migrated to the United States in 1981 but because her residency status had not yet been legalized, she had not been able to find a "stable, regular, well-paying employment." He also stated that his mother, jointly with his brother Virgilio, Jr., was shouldering the expenses of the college education of his two younger brothers.[4]

Noting further discrepancies between Nadal's application form and the certification, the U.P. charged Nadal before the Student Disciplinary Tribunal (SDT) on August 23, 1991 with the following:

"That respondent RAMON P. NADAL (UP Student No. 83-11640), a student of the College of Law, UP System, Diliman, Quezon City, and STFAP (ISKOLAR NG BAYAN) recipient (Bracket 4 for SY 1989-1990; Bracket 5 for SY 1990-1991) in his applications for STFAP (ISKOLAR NG BAYAN) benefits which he filed for Schoolyear 1989-1990, and schoolyear 1990-1991, with the Office of Scholarship and Student Services (formerly Scholarship and Financial Assistance Service) voluntarily and willfully withheld and did not declare the following:

(a) That he has and maintains a car (Toyota Corolla, Model 1977); and

(b) The income of his mother (Natividad Packing Nadal) in the U.S.A. in support of the studies of his brothers Antonio and Federico,

which acts of willfully withholding information is tantamount to acts of dishonesty in relation to his studies, in violation of paragraph (a), Section 2, of the Rules and Regulations on Student Conduct and Discipline, as amended. (Approved by the B.O.R. at its 876th meeting on 02 September 1976, amended at the 923rd B.O.R. meeting on 31 January 1980, and further amended, at its 1017th B.O.R. meeting on 08 December 1988)."[5]

On October 27, 1992, after hearing, the SDT[6] rendered a decision in SDT Case No. 91-026 exculpating Nadal of the charge of deliberately withholding in his STFAP application form information that he was maintaining a Toyota Corolla car, but finding him guilty of "wilfully and deliberately withholding information about the income of his mother, who is living abroad, in support of the studies of his brothers Antonio and Federico,[7] which is tantamount to acts of dishonesty in relation to his studies in violation of paragraph [a], Section 2 of the Rules [now covered by paragraph (i), Section 2 of the Rules, as amended 25 June 1992]." As such, the SDT imposed upon Nadal the penalty of expulsion from the University and required him to reimburse all STFAP benefits he had received but if he does not voluntarily make reimbursement, it shall be "effected by the University thru outside legal action." [8]

The SDT decision was thereafter automatically elevated to the Executive Committee, of U.P. Diliman for review pursuant to Sec. 20 of the U.P. Rules on Student Conduct and Discipline. On November 26, 1992, the Executive Committee, voting 13:4, affirmed the decision of the SDT; whereupon, Nadal appealed to the Board of Regents (BOR). The appeal was included in the agenda of the BOR meeting on January 25, 1993.[9]

On January 18, 1993, upon her assumption to the Chairmanship of the Senate Committee on Education, thereby making her automatically a member of the BOR, Senator Leticia Ramos-Shahani wrote the BOR a letter expressing her view that, after a close review of Nadal's case by her legal staff, "it is only fair and just to find Mr. Nadal's appeal meritorious and his arguments worthy of belief. Consequently, he should be allowed to graduate and take the bar examinations this year." [10]

At its January 25, 1993 meeting, the BOR affirmed the decision of the SDT but because "the Board was willing to grant a degree of compassion to the appellant in view of the alleged status and predicament of the mother as an immigrant 'TNT' in the United States," the penalty was modified "from Expulsion to One Year Suspension, effective immediately, plus reimbursement of all benefits received from the STFAP, with legal interest." The BOR also decided against giving Nadal a certification of good moral character.[11]

Nadal forthwith filed a motion for reconsideration of the BOR decision, allegedly against the advice of his counsel.[12] The motion was placed on the agenda of the February 25, 1993 meeting of the BOR. A day before said date, Senator Shahani wrote the BOR another letter requesting that deliberation on Nadal's case be deferred until such time as she could attend a BOR meeting.

On March 15, 1993, the U.P. filed an opposition to Nadal's motion for reconsideration. Thereafter, the BOR held a special meeting to accommodate the request of Regent Shahani with Nadal's case as the sole item on its agenda. Again, Nadal's motion for reconsideration was included in the March 23, 1993 agenda but in view of the absence of Senator Shahani, the decision thereon was deferred.

At the special meeting of the BOR on March 28, 1993 at the Board Room of the Manila Polo Club in Forbes Park, Makati, Regent Antonio T. Carpio raised the "material importance" of verifying the truth of Nadal's claim that earlier, he was a beneficiary of a scholarship and financial aid from the Ateneo de Manila University (AdeMU). Learning that the "certification issued by the AdeMU that it had not given Nadal financial aid while he was a student there was made through a telephone call," Regent Carpio declared that there was as yet "no direct evidence in the records to substantiate the charge." According to Carpio, if it should be disclosed that Nadal falsely stated that he received such financial aid, it would be a clear case of gross and material misrepresentation that would even warrant the penalty of expulsion. Hence, he cast a conditional vote that would depend on the verification of Nadal's claim on the matter.

U.P. President and concurrently Regent Jose V. Abueva countered by stating that "a decision should not be anchored solely on one piece of information which he considered irrelevant, and which would ignore the whole pattern of the respondent's dishonesty and deception from 1989 which had been established in the investigation and the reviews." He added that "the respondent's eligibility for his AdeMU high school scholarship and financial assistance from 1979 to 1983 does not in any way establish that he is 'not guilty as charged' before the SDT," since the formal charges against him do not include withholding of information regarding scholarship grants received from other schools.

At the said March 28, 1993 special meeting, the Board decided to go into executive session where the following transpired:

"The Chairman of the Board, together with the President, directed the Secretary to reflect in the minutes of the meeting the following decisions of the Board in executive session, with only the Board members present.

A vote was held by secret ballot on whether Ramon P. Nadal was guilty or not guilty as charged of willful withholding of information in relation to his application for Socialized Tuition and Financial Assistance Program (STFAP) benefits which he filed for Schoolyears 1989-1990 and 1990-1991 which is tantamount to act of dishonesty in relation to his studies, in violation of paragraph (a), Section 2 of the Rules and Regulations on Student Conduct and Discipline, as amended.

The Chairman gave the following results of the Board action during the Executive Session: four (4) voted guilty; three (3) voted not guilty; and three (3) gave conditional votes, pending verification with Father Raymond Holscher of Ateneo de Manila University of Ramon P. Nadal's statement in his STFAP application that he was granted scholarship while he was in high school. Should Ateneo confirm that Nadal had not received financial assistance, then the conditional votes would be considered as guilty, and if otherwise, then not guilty. The Chairman requested the President to make the verification as soon as possible the next day. In answer to a query, the Chairman clarified that once the information was received from Ateneo, there would be no need for another meeting to validate the decision.

The President reiterated his objections to the casting of conditional votes.

The Chairman himself did not vote."^[13]

In the morning of March 29, 1993, the AdeMU issued a certification to the effect that Nadal was indeed a recipient of a scholarship grant from 1979 to 1983. That evening, the BOR met again at a special meeting at the Westin Philippine Plaza Hotel. According to Regent Carpio, in executive session, the BOR found Nadal "guilty"

as the members voted as follows: six members - guilty, three members - not guilty, and three members abstained.[14] Consequently, the BOR imposed on Nadal the penalties of suspension for one (1) year effective March 29, 1993, non-issuance of any certificate of good moral character during the suspension and/or as long as Nadal has not reimbursed the STFAP benefits he had received with 12% interest per annum from March 30, 1993 and non-issuance of his transcript of records until he has settled his financial obligations with the university.[15]

On March 30, 1993, Nadal wrote President Abueva a handwritten letter stating that "after learning of the latest decision" of the BOR, he had been "intensely concentrating on (his) job so that (he) can earn enough to be able to pay for (his) financial obligations to the University." Alleging that he was "now letting nature take its course," Nadal begged President Abueva not to issue any press release regarding the case.[16]

However, on April 22, 1993, Nadal filed in the Regional Trial Court of Quezon City, a petition for mandamus with preliminary injunction and prayer for a temporary restraining order against President Abueva, the BOR, Oscar M. Alfonso, Cesar A. Buenaventura, Armand V. Fabella and Olivia C. Caoili. The petition prayed:

"After trial on the merits, judgment be rendered as follows:

- a. Making the preliminary injunction permanent;
- b. Ordering respondents to uphold and implement their decision rendered on 28 March 1993, exonerating petitioner from all the charges against him, and accordingly dismissing SDT Case No. 91-026;
- c. Ordering respondents jointly and severally to pay petitioner litigation expenses of at least P150,000.00.

Other just and equitable reliefs are likewise prayed for."[17]

The motion for the issuance of a temporary restraining order and the writ of preliminary injunction was immediately set for hearing. At the May 10, 1993 hearing, the lower court declared that the only issue to be resolved was "whether or not the respondents in Civil Case No. 93-15665 violated (Nadal's) right to due process when it rendered a decision finding Nadal guilty of the charges against him" during the March 29, 1993 meeting. After the respondents had presented their first witness, Dr. Olivia C. Caoili, the lower court asked respondents' counsel whether they were amenable to maintaining the status quo. Said counsel replied in the negative asserting the University's prerogative to discipline students found guilty of violating its rules of discipline.[18]

On the same day, the lower court[19] issued the following Order:

"The parties were heard on their respective positions on the incident (application for preliminary injunction and prayer for temporary restraining order and opposition thereto). For lack of material time set this for continuation on May 17 and 18, 1993 both at 2:30 p.m.

In the meantime, in order that the proceedings of this case may not be rendered moot and academic, the respondents herein, namely: Jose V. Abueva, President of the University of the Philippines and Vice-Chairman of the U.P. Board of Regents, Oscar M. Alfonso, Cesar A. Buenaventura and Armand V. Fabella, members of the U.P. Board of Regents, Olivia C. Caoili, the officers, agents, representatives, and all persons acting in their behalf, are hereby temporarily restrained from implementing their decision rendered on March 29, 1993 in Administrative SDT Case No. 91-026 entitled University of the Philippines vs. Ramon P. Nadal, as reflected in the Minutes of the 1062nd meeting of the Board of Regents, U.P. held at the Romblon Room, Westin Phil. Plaza, Manila, until further order from this Court.

SO ORDERED."

Thereafter, Nadal presented as witnesses Regents Emerenciana Y. Arcellana, Ariel P. Tanangonan, Leticia R. Shahani and Antonio T. Carpio. The University, on the other hand, presented Dr. Olivia Caoili and Nadal himself

as a hostile witness. On May 29, 1993, the lower court issued the following Order:

"The petitioner complains that he was not afforded due process when, after the Board Meeting on SDT Case No. 91-026 on March 28, 1993 that resulted in a decision of "NOT GUILTY" in his favor, the Chairman of the U.P. Board of Regents, without notice to the herein petitioner, called another meeting the following day to deliberate on his (the Chairman's) MOTION FOR RECONSIDERATION, which this time resulted in a decision of "GUILTY." While the main issue of violation of due process raised in the petition pends trial and resolution, the petitioner prays for the issuance of a writ of preliminary injunction prohibiting the respondents from further proceeding with SDT Case No. 91-026 and from suspending the petitioner for one year.

It is a basic requirement in the issuance of the preliminary injunctive writ that there must be a right to be protected. As the issue in the case at bar is due process in the March 29 Board meeting, there is, indeed, a right to be protected for, in administrative proceedings, a respondent's right to due process exists not only at the early stages but also at the final stage thereof.

With the circulation to the members of the Board of Regents, as well as to other UP personnel, of the Minutes of the March 29, 1993 meeting, even after this case had already been filed, the Court is convinced that there now exists a threat to the petitioner (respondent in SDT Case No. 91-026) that the decision of the Board of Regents finally finding him guilty of willfully withholding information material to his application for Socialized Tuition and Financial Assistance Program (STFAP) benefits, will be implemented at any time, especially during the enrolment period, and that this implementation would work injustice to the petitioner as it would delay him in finishing his course, and, consequently, in getting a decent and good paying job. The injury thus caused would be irreparable.

'Damages are irreparable within the meaning of the rule where there is no standard by which their amount can be measured with reasonable accuracy. Where the damage is susceptible of mathematical computation, it is not irreparable.' (Social Security Commission v. Bayona, et al., G.R. No. L-13555, May 30, 1962).

IN VIEW OF THE FOREGOING, and so as not to render moot the issues in the instant proceedings, let a writ of preliminary injunction be issued restraining the respondents, their officers, agent(s), representatives, and all persons acting in their behalf, from further proceeding with SDT Case No. 91-026, and from suspending petitioner, upon the latter's filing a bond in the amount of P3,000.00.

IT IS SO ORDERED.[20]

Dispensing with the filing of a motion for reconsideration, the petitioners filed the instant petition for certiorari and prohibition with prayer for the issuance of an injunction or temporary restraining order, raising the following issues: whether or not Nadal was denied due process in the administrative disciplinary proceedings against him, and, whether or not the respondent judge gravely abused her discretion in issuing the May 29, 1993 writ of preliminary injunction thereby preventing the BOR from implementing the one-year suspension penalty it had imposed on Nadal.

Before proceeding with the discussion of the merits of the instant petition, we shall confront a threshold issue raised by private respondent, namely, that Dr. Caoili, not having been authorized by the Board of Regents as a collegial body to file the instant petition, and Dr. Abueva, who verified the petition, not being the "Board of Regents" nor "the University of the Philippines," they are not the real parties in interest who should file the same.[21]

A real party in interest is one "who stands to be benefited or injured by the judgment or the party entitled to the avails of the suit. 'Interest' within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest." [22] Undoubtedly, the U.P. Board of Regents has an interest to protect inasmuch as what is in issue here

is its power to impose disciplinary action against a student who violated the Rules and Regulations on Student Conduct and Discipline by withholding information in connection with his application for STFAP benefits, which information, if disclosed, would have sufficed to disqualify him from receiving the financial assistance he sought. Such dishonesty, if left unpunished, would have the effect of subverting a commendable program into which the University officials had devoted much time and expended precious resources, from the conceptualization to the implementation stage, to rationalize the socialized scheme of tuition fee payments in order that more students may benefit from the public funds allocated to the State University.

Having specifically named Drs. Abueva and Caoili as respondents in the petition for mandamus that he filed below, Nadal is now estopped from questioning their personality to file the instant petition.[23] Moreover, under Sec. 7 of the U.P. Charter (Act 1870) and Sec. 11 of the University Code "all process" against the BOR shall be served on "the president or secretary thereof." It is in accordance with these legal provisions that Dr. Caoili is named as a petitioner. Necessarily, Dr. Abueva, the University President and member of the BOR, has to verify the petition. It is not mandatory, however, that each and every member of the BOR be named petitioners. As the Court has time and again held, an action may be entertained, notwithstanding the failure to include an indispensable party where it appears that the naming of the party would be but a formality.[24]

No longer novel, as this is not a case of first impression, is the issue on the right of an academic institution to refuse admission to a student arising from the imposition upon him of an administrative disciplinary sanction. In our recent decision in *Ateneo de Manila University v. Hon. Ignacio M. Capulong*,[25] wherein certain law students were dismissed for hazing resulting in the death of another, we held that the matter of admission of students is within the ambit of academic freedom and therefore, beyond the province of the courts to decide. Certain fundamental principles bear stressing.

One of the arguments of Nadal in his petition for mandamus below was that he was denied due process. To clarify, the so-called lack of due process referred only to the March 29, 1993 meeting of the BOR. As stated by respondent's counsel: "What was conceded by undersigned counsel was that Nadal was afforded due process from the start of the administrative proceeding up to the meeting of the Board of Regents on March 28, 1993." [26]

With respect to the March 29, 1993 meeting, respondent considers the same as "unquestionably void for lack of due process" inasmuch as he was not sent a notice of said meeting. Counsel cites the ruling in *Non v. Dames II*[27] that imposition of sanctions on students requires "observance of procedural due process,"[28] the phrase obviously referring to the sending of notice of the meeting.

Attention is drawn to the disparate factual environments obtaining in *Non v. Dames II* and in the instant case. In the former case, the students were refused admission for having led or participated in student mass actions against the school, thereby posing a collision between constitutionally cherished rights - freedom of expression and academic freedom. In the case at bar, Nadal was suspended for having breached the University's disciplinary rules. In the *Non* case, the Court ruled that the students were not afforded due process for even the refusal to re-enroll them appeared to have been a mere afterthought on the part of the school administrators. Here, Nadal does not dispute the fact that his right to due process was held inviolate until the BOR decided to meet on March 29, 1993 with his case as the sole item on the agenda.

In any event, it is gross error to equate due process in the instant case with the sending of notice of the March 29, 1993 BOR meeting to respondent. University rules do not require the attendance in BOR meetings of individuals whose cases are included as items on the agenda of the Board. This is not exclusive of students whose disciplinary cases have been appealed to the Board of Regents as the final review body. At no time did respondent complain of lack of notice given to him to attend any of the regular and special BOR meetings where his case was up for

deliberation. He would make an exception of the March 29, 1993 meeting for it was "supposed to reconsider the decision made on March 28, 1993 exonerating respondent Nadal from all administrative charges against him." [29]

Regent Antonio T. Carpio, in his testimony before the lower court on May 25, 1993 admitted that there was no final verdict at the March 28, 1993 meeting in view of the conditional votes resulting from his assertion that he was "not morally convinced that there was sufficient evidence to make a finding of guilty against Nadal because there was no direct evidence that his mother received income from the United States and this income was sent to the Philippines to support the studies of the children." [30] Two regents shared the view of Regent Carpio, with the following result: four voted guilty, three, not guilty, and three cast conditional votes. The BOR agreed that, upon the suggestion of Regent Carpio, they would still verify from the AdeMU about Nadal's alleged scholarship as a student in said institution. Consequently, no definitive decision was arrived at by the BOR on March 28, 1993. Much less was a verdict of exoneration handed down as averred by respondent.

Regent Carpio testified, with respect to the March 29, 1993 meeting where all twelve members of the BOR were present, that all of them participated in the voting held to reconsider the previous day's decision. He stated: "I remember Regent Arcellana questioning the voting again on the ground that there was already a final decision, but there was a vote taken on whether a motion for reconsideration can be decided by the board, and a majority of the board ruled that the matter can be reconsidered again upon motion of the chairman." [31]

At said meeting, six (6) regents voted to find respondent guilty, three (3) voted that he was not guilty and three (3) abstained. As succinctly announced by Regent Carpio, the final decision was that which was rendered on March 29, 1993 as "no other decision was made by the Board with respect to the same issue." [32]

Counsel for Nadal charged before the lower court that his client was "not given due process in the March 29 meeting because the ground upon which he was again convicted was not the same as the original charge." [33] Obviously, he was referring to the basis of the conditional votes on March 28, i.e., whether or not Nadal was telling the truth when he claimed that he received a scholarship grant from the AdeMU. However, Regent Carpio himself testified that the charge considered was "exactly the same charge" of withholding information on the income of Nadal's mother. [34] It should be stressed that the reason why Regent Carpio requested a verification of Nadal's claim that he was a scholar at the AdeMU was that Regent Carpio was not "morally convinced" yet as to the guilt of Nadal. In other words, he sought additional insights into the character of Nadal through the information that would be obtained from the AdeMU.

In this regard, we find such information to be irrelevant and a mere superfluity. In his July 12, 1991 certification aforementioned, Nadal admitted, although inconsistently, that his mother was a "TNT" who could not find a "stable, regular, well-paying employment" but that she was supporting the education of his brothers with the help of another son. To our mind, this constitutes sufficient admission that Nadal withheld information on the income, however measly and irregular, of his mother. Unlike in criminal cases which require proof beyond reasonable doubt as basis for a judgment, in administrative or quasi-judicial proceedings, only substantial evidence is required, that which means more than a mere scintilla or relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise. [35] In light of the foregoing circumstances, we find that Nadal has been sufficiently proven to have violated his undertaking to divulge all information needed when he applied for the benefits of the STFAP.

Let it not be forgotten that respondent aspires to join the ranks of the professionals who would uphold truth at all costs so that justice may prevail. The sentinels who stand guard at the portals leading to the hallowed Temples of Justice cannot be overzealous in admitting only those who are intellectually and morally fit. In those who exhibit duplicity in their student days, one spots the shady character who is bound to sow the seeds of chicanery in the

practice of his profession.

Having reached his senior year, respondent is presumably aware that the bedrock axiom, Canon I, Rule 1.01 of the Code of Professional Responsibility states: "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." Further on, Canon 7, Rule 7.01 provides: "A lawyer shall be answerable for knowingly making a false statement or suppressing a material fact in connection with his application for admission to the bar." (Underscoring supplied for emphasis)

Surely, it is not too early to warn entrants to the noble profession of law that honesty and integrity are requirements no less weighty than hurdling the Bar examinations. This is the reason why a certification of good moral character is one of the documents that must be submitted in applying to take said examination. In fact, a charge of immoral or deceitful conduct on the part of an applicant, when proved, is a ground for disqualifying him.

To revert to the instant case, inasmuch as it has been shown sufficiently that respondent has committed an act of dishonesty in withholding vital information in connection with his application for STFAP benefits, all in blatant violation of the Rules and Regulations on Student Conduct and Discipline of petitioner University, the latter's inherent power and authority to impose disciplinary sanction may be invoked and rightfully exercised.

As a Bohemian proverb puts it: "A school without discipline is like a mill without water." Insofar as the water turns the mill, so does the school's disciplinary power assure its right to survive and continue operating. In more relevant terms, through its power to impose disciplinary sanctions, an educational institution is able to exercise its academic freedom which is, in the case at bar, the right to suspend and refuse admission to a student who has subverted its authority in the implementation of the critically important STFAP.

At the risk of being repetitious, the matter of admission to a University is encompassed by the right of academic freedom. In *Garcia v. The Faculty Admission Committee, Loyola School of Theology*[36] the Court stated that a school or college which is possessed of the right of academic freedom "decides for itself its aims and objectives and how best to attain them. It is 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." Elucidating, in *Ateneo de Manila University v. Hon. Ignacio M. Capulong*,[37] the Court further expounded:

"Since *Garcia v. Loyola School of Theology*, we have consistently upheld the salutary proposition that admission to an institution of higher learning is discretionary upon a school, the same being a privilege on the part of the student rather than a right. While under the Education Act of 1982, students have a right 'to freely choose their field of study, subject to existing curricula and to continue their course therein up to graduation,' such right is subject, as all rights are, to the established academic and disciplinary standards laid down by the academic institution.

'For private schools have the right to establish reasonable rules and regulations for the admission, discipline and promotion of students. This right . . . extends as well to parents . . . as parents are under a social and moral (if not legal) obligation, individually and collectively, to assist and cooperate with the schools.'

Such rules are 'incident to the very object of incorporation and indispensable to the successful management of the college. The rules may include those governing student discipline.' Going a step further, the establishment of rules governing university-student relations, particularly those pertaining to student discipline, may be regarded as vital, if not merely to the smooth and efficient operation of the institution, but to its very survival.

Within memory of the current generation is the eruption of militancy in the academic groves as collectively, the students demanded and plucked for themselves from the panoply of academic freedom their own rights

encapsulized under the rubric of 'right to education' forgetting that, in Hohfeldian terms, they have a concomitant duty, and that is, their duty to learn under the rules laid down by the school." (Underscoring supplied.)

On the second issue presented for adjudication, the Court finds that the lower court gravely abused its discretion in issuing the writ of preliminary injunction of May 29, 1993. The issuance of the said writ was based on the lower court's finding that the implementation of the disciplinary sanction of suspension on Nadal "would work injustice to the petitioner as it would delay him in finishing his course, and consequently, in getting a decent and good paying job." Sadly, such a ruling considers only the situation of Nadal without taking into account the circumstances, clearly of his own making, which led him into such a predicament. More importantly, it has completely disregarded the overriding issue of academic freedom which provides more than ample justification for the imposition of a disciplinary sanction upon an erring student of an institution of higher learning.

From the foregoing arguments, it is clear that the lower court should have restrained itself from assuming jurisdiction over the petition filed by Nadal. Mandamus is never issued in doubtful cases, a showing of a clear and certain right on the part of the petitioner being required.[38] It is of no avail against an official or government agency whose duty requires the exercise of discretion or judgment.[39]

Hence, by issuing the writ of preliminary injunction, the lower court dared to tread upon legally forbidden grounds. For, by virtue of the writ, the University's exercise of academic freedom was peremptorily curtailed. Moreover, the door was flung wide open for Nadal to do exactly what the decision of the BOR prohibited him from doing and that is, to violate the suspension order by enrolling for the first semester of 1993-1994. It must have been with consternation that the University officials helplessly watched him complete his academic requirements for taking the Bar.[40] In the event that he be allowed to continue with his studies, he would, in effect render moot and academic the disciplinary sanction of suspension legally imposed upon him by the BOR's final decision of March 29, 1993. What is to prevent other aspirants for STFAP scholarships from misleading the University authorities by misrepresenting certain facts or as in instant case, withholding vital information and stating downright falsehoods, in their application forms with impunity? Not only would this undermine the authority of the U.P. to discipline its students who violate the rules and regulations of the institution but, more importantly, subvert the very concept and lofty intent to give financial assistance to poor but deserving students through the STFAP which, incidentally, has not ceased refining and modifying its operations.

WHEREFORE, the instant petition is GRANTED and the lower court is hereby ordered to DISMISS the petition for mandamus.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

[1] Rollo, p. 72.

[2] Ibid, pp. 133-134.

[3] Ibid, p. 74.

[4] Ibid, pp. 75-76.

[5] Ibid, p. 39.

- [6] Composed of Fedor E. Santos as Chairman and Emmanuel J. de Guzman and Quintin R. Resurreccion as Members.
- [7] Antonio was a dentistry student at the UERM while Federico was an economics student at the De la Salle University (Rollo, p. 85).
- [8] Rollo, pp. 130, 150-151.
- [9] Ibid, pp. 153-154.
- [10] Ibid, p. 155.
- [11] Minutes of the 1057th Meeting of the BOR, Rollo, pp. 157-158.
- [12] Petition, p. 10; Rollo, p. 11.
- [13] Minutes of the 1061st (special) meeting of the BOR, Rollo, pp. 184-186.
- [14] TSN of the May 25, 1993 hearing at the lower court in SP. Civil Case No. Q-93-15655; Rollo, p. 192.
- [15] Petition, p. 13; Rollo, p. 14.
- [16] Rollo, p. 214.
- [17] Petition, p. 14; Rollo, p. 15.
- [18] Ibid, pp. 15-16 or pp. 16-17.
- [19] Presided by Judge Elsie Ligot-Telan.
- [20] Rollo, p. 241.
- [21] Comment, pp. 2-3; Rollo, pp. 244-245.
- [22] Republic v. Sandiganbayan, G.R. No. 90667, November 5, 1991, 203 SCRA 310, 324; Gan Hock v. Court of Appeals, G.R. No. 70648, May 20, 1991, 197 SCRA 223, 230.
- [23] Annex "T" to Petition; Rollo, p. 217.
- [24] Eden v. Ministry of Labor and Employment, G.R. No. 72145, February 28, 1990, 182 SCRA 840 citing Baguio v. Rodriguez, 105 Phil. 1323 (1959).
- [25] G.R. No. 99327, May 27, 1993.
- [26] Comment, p. 14; Rollo, p. 256.
- [27] G.R. No. 89317, May 20, 1990, 185 SCRA 523.
- [28] Comment, p. 10; Rollo, p. 252.
- [29] Comment, p. 10; Rollo, p. 252.
- [30] TSN, May 25, 1993, p. 3; Rollo, p. 189.
- [31] TSN, May 25, 1993, p. 16; Rollo, p. 294.
- [32] Ibid, at p. 18 or p. 203.
- [33] Ibid, at p. 6 or p. 192.

[34] Ibid, at pp. 8 or 194.

[35] Lansang v. Garcia, G.R. No. L-33964, December 11, 1971, 42 SCRA 480.

[36] L-40779, November 28, 1975, 68 SCRA 277.

[37] Supra.

[38] University of Pangasinan Faculty Union v. NLRC, G.R. No. 64821-23, January 29, 1993.

[39] Calderon v. Solicitor General, G.R. Nos. 103752-53, November 25, 1992, 215 SCRA 876, 882.

[40] Reply, pp. 17-18; Rollo, pp. 422-423.

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