

**UNIVERSITY OF THE PHILIPPINES, CHANCELLOR ROGER POSADAS,  
VICE CHANCELLOR ROLANDO P. DAYCO, VICE CHANCELLOR  
MARTIN GREGORIO, PROF. ARTURO BALBASTRO, PROF. CECILIA  
FLORENCIO, AN...**

*G.R. No. 121863. May 05, 1997*

Ponente: DAVIDE, JR., J.

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**DAVIDE, JR., J.:**

The petitioners avail of the special civil action for certiorari and prohibition under Rule 65 of the Rules of Court to secure the nullification of the four orders issued by the respondent judges in Civil Case No. Q-94-22364[1] pending before the Regional Trial Court (RTC) of Quezon City, Branch 85, to wit:

(1) Orders dated 1 February and 24 April 1995, issued by the then presiding judge, respondent Judge Elpidio M. Catungal, Jr.; and

(2) Orders dated 14 July and 18 August 1995, issued by the succeeding presiding judge, respondent Judge Oscar C. Herrera, Jr.

Petitioners' motion for reconsideration of the Order of 1 February 1995 was denied, thus affirming the issuance of a writ of preliminary injunction prayed for by private respondent Salvador Carlos.

Petitioner University of the Philippines (UP) is a state university created by virtue of Act No. 1870. Petitioner Posadas is the Chancellor of UP Diliman. Petitioners Dayco and Gregorio are Vice Chancellors for Administration and Community Affairs, respectively, of UP Diliman. Petitioners Balbastro, Florencio, and Peñaño-Ho are UP Diliman faculty members and members of the UP Administrative Disciplinary Tribunal (Tribunal), the administrative body created to try the administrative case filed by UP against the private respondent.

Private respondent Carlos is a UP Diliman faculty member and the petitioner in Civil Case No. Q-94-22364 before Branch 85 of the RTC of Quezon City. Said court is now presided by respondent Judge Pedro Areola, who has since replaced respondent Judge Herrera, Jr.

On 5 October 1994, the RTC of Quezon City, Branch 217, issued an Order[2] granting the application filed by the Quezon City Central Police District Command for the issuance of a search warrant against Carlos. The favorable action of the court was based on the testimonies and sworn statements of three complaining witnesses, namely, Jessica Romblon, Amy Fallorina, and Ferline Alaan. They alleged that on different occasions they were brought by a certain Rea to the residence of Carlos to have themselves photographed for publication in a magazine. Instead, Carlos threatened them with a gun and ordered them to strip naked. Nude photos of them were taken, and they were forced to have sex with him.

With the cooperation of the UP Diliman police, the search warrant was immediately served upon Carlos on the

same date at his residence in UP Campus, Quezon City. The search, conducted in his presence and that of the barangay chairman, Victor Isunza, resulted in the seizure and confiscation of the following items:

- (1) One 38 caliber revolver, Smith & Wesson W/Sn 88659 with six live ammunition (unlicensed);
- (2) One Ansco 1090 AFS camera;
- (3) Twenty-nine live bullets for 38 caliber revolver;
- (4) Six spent shells for 38 caliber revolver;
- (5) Two pictures of nude women;
- (6) One artificial rubberized penis about 8 inches in length;
- (7) One artificial rubberized penis about 2.5 inches in length; and
- (8) One rubber suction pump.[3]

Carlos was arrested and detained at the Quezon City jail for illegal possession of firearm. The UP Diliman police filed with the Quezon City Central Police District the following documents: (1) the investigation report of the search and seizure,[4] (2) the sworn statements of the three complaining witnesses, (3) the medico-legal report of the Philippine National Police Crime Laboratory Service, (4) the investigation report of Inspector Zoilo Mendoza, and (5) the court order of 5 October 1994. The Office of the Chancellor was provided with copies thereof.

On 6 October 1994, petitioner Dayco ordered a preliminary investigation of the matter and designated Atty. Marichu C. Lambino of the UP Diliman Legal Office to conduct the investigation.[5] Dayco cited Administrative Order No. 120, series of 1982, issued by the President of the University as the basis for his order.

On 7 October 1994, Atty. Lambino submitted her Preliminary Investigation Report[6] wherein she confirmed that a prima facie case existed against Carlos and recommended that Carlos be charged with grave misconduct and placed under preventive suspension for ninety days.

On 7 October 1994, the Office of the Chancellor, UP Diliman, through petitioner Dayco as officer-in-charge, filed a Formal Charge for grave misconduct[7] against Carlos, which was docketed as Administrative Case No. UPD-94-01. It also constituted the Tribunal, composed of petitioners Balbastro,[8] Florencio, and Peñaño-Ho, to conduct the investigation, with Balbastro as Chairman.[9] Carlos was granted seventy-two hours to file his answer.

That same day, petitioner Dayco issued an Order of Preventive Suspension[10] against Carlos. The order likewise required the latter's appearance before the Tribunal when warranted. The charge and order of suspension were served upon Carlos while in detention.

On 10 October 1994, petitioner Dayco filed an Amended Formal Charge against Carlos. The accusatory portion thereof reads as follows:

That while you were employed as a faculty member of the U.P. San Fernando and teaching some units at the Philosophy Department of the College of Social Sciences and Philosophy, U.P. Diliman, you committed acts amounting to Grave Misconduct, specifically described as follows:

1. That on October 5, 1994, after a lawful search of your house at No. 27 Luna Street, U.P. Campus, Diliman, Quezon City conducted by elements of the Central Police District and the U.P. Diliman Police in accordance with a search warrant issued by Judge Gil Fernandez, Sr. of RTC Branch 217, the following unlicensed firearms and ammunition, and pornographic materials and sexual paraphernalia, were found in your possession:

- a. One (1) 38 Cal. Revolver, Smith and Wesson W/Sn 88659 with six (6) live ammunition (Unlicensed)
- b. One (1) ANSCO 1090 AFS Camera
- c. Twenty-nine (29) live bullets for 38 Cal.
- d. Six (6) spent shells (cal. 38)
- e. Two (2) pieces, picture [sic] of nude women
- f. One (1) artificial rubberized penis about eight (8) inches
- g. One (1) rubberized artificial penis measuring 2 1/2 inches
- h. One (1) rubber suction pump.

2. That on different occasions, you caused the following minors: Jessica Romblon, 13 years old, single, and a native of Romblon; Ferline Alaan, 15 years old, single, and a native of Iloilo City, Amy Fallorina, 16 years old, single, and a native of Pasay City; to be brought to your house at said address and, on separate instances, by means of intimidation or deceit or by giving monetary consideration, goods, or other pecuniary benefit to said minors, succeeded in having sexual intercourse with said minors, and took photographs of them while they were naked after having sexual intercourse with them.

All such acts amount to Grave Misconduct punishable under University Rules and Regulations in the Discipline of Faculty Members and the Civil Service Law and Rules.[11]

Carlos was required to answer the charge in writing within seventy-two hours from receipt thereof and to indicate in his answer whether he would elect to undergo a formal investigation or waive his right to such investigation. He was likewise advised that he was entitled to the assistance of counsel.

Carlos moved for the dismissal of the Amended Formal Charge,[12] citing that (1) no complaint had been filed against him pursuant to Section 1 of the Rules,[13](2) the 90-day preventive suspension imposed against him was beyond the 60-day period allowed by Section 19 of the Rules, (3) only the UP President had the power to impose a preventive suspension, and (4) the charges against him outside of UP could not be made the basis of an administrative complaint.

The Tribunal did not act on the motion but set the preliminary hearing of the case wherein the parties agreed on the place and the dates of hearings, where pleadings are to be filed, the resolution of the question on procedure, and the manner of presenting the witnesses. Carlos was represented by his lawyer, Atty. Salvador S. Panelo, who questioned the validity of the complaint on the ground that it was not properly filed with the Office of the President as required by the Rules, and raised the matter as a prejudicial question.[14] The matters discussed and agreed upon were contained in the Tribunal's preliminary conference order of 20 October 1994.[15]

After consideration of the pleadings[16]filed by both Carlos and the UP prosecutor, the Tribunal issued on 9 November 1994 an order[17] (1) reserving the resolution of the motion to dismiss, since the grounds raised by Carlos were not indubitable and the proceedings were administrative in nature; (2) directing Carlos to file his answer to the Amended Formal Charge; (3) ordering the prosecution to start the presentation of its evidence on 14 November 1994; and (4) fixing four more days for the hearing, viz., 18, 21, 22, and 28 November 1994, at 9:30 a.m.

The UP prosecutor presented as witnesses Lt. Amado Bragais, a UP Diliman police officer; Philipson Docabo, a messenger of the UP Diliman Legal Office; and the three complainants, all minors, who claimed to have been raped by private respondents.

In the initial hearing, Atty. Panelo orally moved for the reconsideration[18] of the order reserving the resolution of Carlos' motion to dismiss and directing Carlos to file his answer. The hearing proceeded with the testimony of Lt. Bragais, whose cross-examination was also concluded. Carlos' motion was denied[19] that same day after submitting his written motion for reconsideration.[20]

The records are bereft of any indication that Carlos complied with the order requiring him to answer the Amended Formal Charge.

In the next hearing, Atty. Panelo, despite due notice, failed to appear due to an alleged emergency matter involving another case in Lipa, Batangas. Carlos requested the postponement of said hearing, which the UP prosecutor opposed due to the difficulty in locating her witness, the complainant Jessica Romblon, whose security could not be guaranteed due to the death threats she had been receiving. It was proposed that the hearing should proceed without prejudice to Carlos' counsel to cross-examine the witness. Carlos objected to the suggested arrangement and walked out of the proceedings. Thus, the direct examination of Jessica began and terminated in his absence.[21]

The succeeding hearing was postponed upon the request of Carlos.[22] Atty. Panelo also formally withdrew his appearance as Carlos' counsel after having been asked to cross-examine Jessica Romblon notwithstanding the unavailability of the transcript of the stenographic notes of the previous hearing.

In the subsequent hearing, Carlos and his counsel failed to appear. Instead, that same morning Carlos, on his own behalf, filed a motion for postponement[23] and a complaint for oppression and grave misconduct[24] against petitioner Balbastro as Chairman of the Tribunal. The UP prosecutor denied receipt of both pleadings and objected to another postponement, considering that Carlos was already granted a week's postponement to secure another lawyer. Notwithstanding the objection, the Tribunal issued another order granting the postponement and setting the hearings on 12-14 December 1994, beyond the ten days asked by Carlos.[25]

In a letter-motion[26] addressed to petitioner Posadas, Carlos sought the dissolution of the Tribunal for lack of jurisdiction. He likewise requested that his preventive suspension be lifted and his Christmas bonus and cash gift be released. Petitioner Posadas denied the requests.[27]

In the hearing of 12 December 1994, which Carlos and his counsel did not attend, the UP prosecutor presented the remaining three witnesses, namely, Philipson Docabo, who testified that on 8 December 1994 he served on Carlos a copy of the order of 28 November 1994,[28] and the two other complainants, Amy Fallorina and Ferline Alaan. The prosecutor then concluded the presentation of testimonial evidence and offered the documentary exhibits earlier identified.

The pleadings disclose that Carlos thrice sought the postponement of the hearings,[29] and the Tribunal granted all his requests.[30]

Unknown to the Tribunal and the UP prosecutor, Carlos filed on 8 December 1994 a complaint for injunction[31] before the RTC of Quezon City. The case was docketed as Civil Case No. Q-94-11264 and assigned to Branch 85 thereof. In the complaint Carlos prayed for (1) the issuance of a temporary restraining order against the petitioners, (2) the issuance of a writ of preliminary injunction for the Tribunal to cease and desist from proceeding with the administrative case during the pendency of the case, and (3) his reinstatement and payment of his withheld salary and Christmas bonus. In support thereof Carlos alleged that he was compelled to submit himself to the Tribunal when there never was a proper complainant; that the proceedings were used as a fishing expedition and were conducted in violation of the Constitution and the Rules; and that he opted to seek immediate judicial redress, since the doctrine of exhaustion of administrative remedies was inapplicable to him, considering

that any appeal before the Tribunal would have been futile.

The trial court issued a temporary restraining order against the petitioners in its order of 12 December 1994.[32] The following day, the Tribunal issued an order[33] granting the request of Carlos for the resetting of the presentation of his evidence, subject to the outcome of the hearing on the preliminary injunction in Civil Case No. Q-94-22364.

Pending the hearing for the issuance of a writ of preliminary injunction, the petitioners moved to dismiss[34] the said civil action.

On 6 January 1995, after the lapse of the effectivity of the restraining order, the Tribunal issued another order[35] setting the administrative case for the presentation of Carlos' evidence. Carlos was warned that failure on his part to present his evidence would constitute a waiver and the case would be submitted for resolution.

That same week, petitioner Posadas issued an order[36] clarifying and reiterating the 90-day preventive suspension of Carlos by holding that pursuant to the Administrative Code, his suspension shall not include the 56-day period of delay caused by his numerous postponements and the filing of Civil Case No. Q-94-22364.

On 27 January 1995, Carlos, represented by his new counsel, Atty. Leandro Veloria, presented his evidence before the Tribunal by adopting his motion to dismiss[37] as his affidavit[38]; asking Carlos some questions; are requesting that the prosecution's witnesses be presented anew for cross-examination.

On 1 February 1995, the trial court issued the assailed order[39] which granted a writ of preliminary injunction. The petitioners were directed to refrain from proceeding with the administrative case against Carlos.

The petitioners sought a reconsideration[40] of the order. This was followed by a motion to resolve the motion for reconsideration and the motion to dismiss.[41]

In the order of 24 April 1995,[42] the trial court denied for lack of merit the motion for reconsideration and the motion to dismiss. Two subsequent orders were issued setting the case for pre-trial[43] on 31 August 1995 and resetting[44] it on 5 October 1995.

Prior to the scheduled pre-trial, the petitioners filed the instant special civil action with application for the issuance of a temporary restraining order and writ of preliminary injunction. They pray that (1) the trial court be enjoined from enforcing the four assailed orders, (2) the said orders be declared null and void, (3) the trial court's writ of preliminary injunction be dissolved, and (4) Civil Case No. Q-94-22364 be dismissed. In justification therefor, they alleged that public respondents gravely abused its discretion in (1) enjoining petitioner UP from exercising its authority to discipline its faculty members and employees, (2) ruling that petitioner UP violated administrative due process because the service of the charge was effected while private respondent was in jail and the conduct of the preliminary investigation in the administrative proceeding was defective, (3) denying petitioners' motion to dismiss without passing upon the issues and grounds therein, and (4) denying petitioners' motion for reconsideration of the order granting the writ of preliminary injunction.

In the resolution[45] of 9 October 1995, this Court issued a temporary restraining order[46] enjoining the respondents from implementing the assailed orders.

In his comment, Carlos asked for the dismissal of the petition; the nullification of the order of suspension of the administrative proceeding; his reinstatement with back wages and all benefits due him; and the continuance of Civil Case No. Q-94-22364.

On 25 October 1995, the Tribunal issued a notice of hearing[47] of the administrative case for 30 October 1995. Neither Carlos nor his new counsel appeared despite due notice. Instead, Carlos submitted his objection[48] to the

continuation of the said case, invoking the writ of preliminary injunction issued by the trial court.

In its order[49] of 30 October 1995, the Tribunal ruled that Carlos had waived his right to present his evidence and considered the case submitted for decision. The UP prosecutor and Carlos then filed their respective memoranda in Administrative Case No. UPD-94-01.

In the report submitted to petitioner Posadas, the Tribunal found private respondent guilty of grave misconduct and recommended the penalty of dismissal, thus:

The acts committed by the respondent, in particular having sexual intercourse with minors by means of intimidation or deceit, deserve the strongest condemnation. These acts constitute violation of the law, specifically Republic Act No. 7610 and Article 335 of the Revised Penal Code. Section 5(b) of R.A. No. 7610 imposes the penalty of reclusion temporal in its medium period to reclusion perpetua to “[t]hose who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse.” Likewise, Article 335 of the Revised Penal Code provides that rape is committed by having carnal knowledge of a woman, among others, “by using force or intimidation.” Respondent’s acts, therefore, clearly constitute Grave Misconduct.

The Tribunal recommends, unanimously and without reservation, the penalty of DISMISSAL.

The respondent’s acts violate all standards of ethics in public service, including the specific standards set in Republic Act No. 6773, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees,” Section 4 of which enjoins all public officials to “respect the rights of others” and “refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interests.”

The respondent’s acts cannot also be tolerated in the country’s premier university where among others, young men and women are supposed to be taught how to become good and productive citizens. The respondent’s acts, in particular the blatant abuse of his power and position (including the house leased to him by the university) to commit these acts, run counter to the example expected of faculty members.

Above all the respondent’s acts are not acceptable in a university where many of its students are minors. To do otherwise would be to subject its students to the danger of being inflicted the same sexual abuse suffered by Jessica Romblon, Ferlin Alaan and Amy Fallorina in the hands of the respondent. Indeed, failure of the university to act and to ensure that such danger is removed permanently can render it liable in future civil and criminal actions arising from future incidents involving the respondent. Under the law, the university has the responsibility to take the necessary steps to ensure that sexual abuse and sexual harassment do not occur in its premises.

Hence, the penalty of DISMISSAL is strongly recommended.[50]

As to the charge of possession of unlicensed firearms and pornographic materials, the Tribunal ruled that it was not clear whether the gun and ammunition were unlicensed, and that possession of the nude pictures and other sexual paraphernalia did not by itself constitute grave misconduct.[51]

On 23 February 1996, petitioner Posadas issued an Order[52] adopting in toto the findings and recommendation of the Tribunal.

On 18 March 1996, we gave due course to the petition and required the parties to file their respective memoranda within twenty days from notice.

The petitioners filed a Reply and Memorandum on 20 June 1996. We granted Carlos’ five motions for extension of time to file Memorandum, but denied the sixth motion considering that his third to fifth motions for extension

(for a total of 60 days) had been granted with a warning that no further extension[53] would be granted.

The petition is impressed with merit.

The challenged order of 1 February 1995 is outstanding for its sweeping conclusion that Carlos has a "right" and that said right was "violated." After making a brief summary of the evidence offered by Carlos and noting that the adverse party merely submitted documentary exhibits (Exhibits "1" to "25") to show that due process was observed, Judge Catungal concluded:

After a careful evaluation and consideration of the evidence so far adduced by both parties, the Court is convinced that the plaintiff has shown at least prima facie that he has a right and which right has been violated by the defendants who were performing acts which are derogatory to said right and is therefore entitled to a writ of preliminary injunction.

Among others, the Court notes the precipitate service of the formal charge and notice of preventive suspension upon the plaintiff while he was in jail. It appears that someone was earlier designated as a preliminary investigator who conducted the preliminary investigation and that someone came out with his report on the finding of a prima facie case for grave misconduct against plaintiff and further recommended that preventive suspension be imposed. The identity of such person, however, is a mystery considering the absence of any evidence regarding his designation when the preliminary investigation was conducted and his preliminary investigation report which will show who is the complainant and other persons/witnesses investigated by him including a documentary evidence, if any. Where are the documents which will show that the preparation of the formal charge has legal basis? The same question may be asked in connection with the amended formal charge which was alleged to be the result of another preliminary investigation.

The foregoing questions, unanswered or unexplained, are but a few of several circumstances which tend to support the prayer for a writ of preliminary injunction.[54]

Section 3 of Rule 58 of the Rules of Court provides for the following as grounds for the grant of a preliminary injunction:

- (a) That the plaintiff is entitled to the relief demanded and the whole or part of such relief consists in restraining the commission or continuance of the acts complained of, or in the performance of an act or acts, either for a limited period or perpetually;
- (b) That the commission or continuance of some act complained of during the litigation or the non-performance thereof would probably work injustice to the plaintiff; or
- (c) That the defendant is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.

The court must state its own findings of fact and cite the particular law to justify the grant of preliminary injunction. Utmost care in this regard is demanded, and it has been truly said:

There is no power the exercise of which is more delicate which requires greater caution, deliberation, and sound discretion, or (which is) more dangerous in a doubtful case than the issuing of an injunction; it is the strong arm of equity that never ought to be extended unless to cases of great injury, where courts law cannot afford an adequate or commensurate remedy in damages.[55]

Since injunction is the strong arm of equity, he who must apply for it must come with equity or with clean hands. This is so because among the maxims of equity are (1) he who seeks equity must do equity, and (2) he who comes into equity must come with clean hands.[56] The latter is a frequently stated maxim which is also expressed in the principle that he who has done inequity shall not have equity. It signifies that a litigant may be denied relief by a

court of equity on the ground that his conduct has been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue.[57]

We are convinced that Carlos did not come to court for equitable relief with equity or with clean hands. It is patently clear from the above summary of the facts and from that made by the trial court in its order of 1 February 1995 that the conduct of Carlos and his counsel before the Tribunal can by no means be characterized as nobly fair, just, and reasonable. The various strategies adopted by them could lead rational minds to only one conclusion: they were intended to unduly delay the investigation, if not to gain time to prevent the witnesses from testifying. Carlos has not refuted the petitioner's claim that at one hearing when Carlos moved for postponement of the hearing because his counsel was in Lipa, Batangas, the UP prosecutor opposed the motion because of the difficulty in locating the witness (complainant Jessica Romblon), whose security could not be guaranteed due to the death threats she had been receiving. It may also be stressed that Carlos and his counsel attended the preliminary conference conducted by the Tribunal on 20 October 1994. In that conference the prosecutor and Carlos' counsel agreed on the following:

1. The hearing will be held at the Justice Labrador Moot Court, Third Floor, Malcolm Hall, College of Law, U.P. Diliman, Quezon City.
2. For purposes of filing pleadings and other matters involving this case, the Office of the Chancellor, U.P. Diliman, Quezon Hall, shall serve as Secretariat for the Committee.
3. Direct examination of all witnesses to be presented in the case shall be in the form of an affidavit, without prejudice to additional questions, when proper, subject to cross-examination by the opposite party. The affidavits shall be served personally on the opposite party at least two (2) days prior to the presentation of such witness/es.
4. The question on procedure raised by respondent's counsel at the preliminary conference shall first be resolved before any further proceeding should be taken in this case.
5. Subject to the next preceeding paragraph, the dates for the presentation were set on November 4, 1994 at 10:00 o'clock and on November 9, 10 and 18, 1994, at 9:30 o'clock in the morning.[58]

Then, too, Carlos' counsel even cross-examined witness Lt. Bragais. Having failed to get all what he wanted from the Tribunal, Carlos first sought to oust the Chairman of the Tribunal by filing against him a complaint for oppression and grave misconduct; then his counsel, Atty. Panelo, after having been given the opportunity to cross-examine Jessica Romblon, withdrew as counsel presumably because he could not be provided the transcripts of the stenographic notes of the previous hearing. To us, however, this withdrawal of counsel was another ploy not so much to express his disgust at the manner he felt he was treated by the Tribunal as to gain more time to achieve the ends of his dilatory strategy. Indeed, if he were serious of his withdrawal he would not have appeared as counsel for Carlos in Civil Case No. Q-94-22364. Atty. Panelo signed the complaint dated 7 December 1994.[59]

Clearly, it could hardly be said that Carlos and his counsel came to the court below with clean hands.

Finally, the trial court should have considered the fact that Carlos did not exhaust administrative remedies, which were available, as he admitted in paragraph 25 of his complaint in Civil Case No. Q-94-22364. His claim that the rule on exhaustion of administrative remedies does not apply to his case is nothing more than a self-serving conclusion and is speculative. Said paragraph 25 reads as follows:

25. Plaintiff did not appeal the denial of the Motion to Dismiss, as well as the denial of the Letter-motion to dismiss, to the President and the Board of Regents of defendant UP, and instead opted to ask for relief before

the Honorable Court considering that the instant case is not covered by the doctrine of Exhaustion of Administrative Remedies as it is obvious by now to the Honorable Court that such appeal is fruitless as demonstrated by the despotic and oppressive demeanors of the defendant officials of the defendant UP - and unless Plaintiff goes to the Honorable Court irreparable damage or injury to him is continuing considering that he is presently under preventive suspension and his salary and Christmas bonus are being withheld by defendant UP in violation of law and due process.

Furthermore, the doctrine of Exhaustion of Administrative Remedies will not apply when the question to be resolved is purely legal one (as in the instant case) or when the administrative action from which relief is sought is patently illegal, arbitrary and oppressive (as obtaining in the present case) or when the exhaustion of administrative remedies would result in irreparable damage (as present in the instant case).[60]

Having in fact participated at the preliminary conference, agreed to the matters therein taken up, attended the hearings and cross-examined a witness, Carlos had waived any legal issue which he initially raised. If the Tribunal acted in the manner it did in proceeding with the hearings, Carlos and his counsel had themselves to blame for their unfair maneuvers. In no way can the Tribunal's action be characterized as illegal, arbitrary or oppressive. That Carlos was under preventive suspension and that his salary and Christmas bonus were withheld could not cause "irreparable" injury. He himself delayed the lifting of the suspension because of the postponements of the case at his request, and his unpaid salary and Christmas bonus are of fixed amounts which would be paid him depending on the outcome of the case. In *Social Security System v. Bayona*[61] we held:

Damages are irreparable within the meaning of the rule relative to the issuance of injunction where there is no standard by which their amount can be measured with reasonable accuracy (*Crouc vs. Central Labor Council*, 83 ALR, 193). "An irreparable injury which a court of equity will enjoin includes that degree of wrong of a repeated and continuing kind which produce hurt, inconvenience, or damage that can be estimated only by conjecture, and not by any accurate standard of measurement" (*Phipps vs. Rogue River Valley Canal Co.*, 7 ALR, 741). An irreparable injury to authorize an injunction consists of "a serious charge of, or is destructive to the property it affects, either physically or in the character in which it has been held and enjoined, or when the property has some peculiar quality or use, so that its pecuniary value will not fairly recompense the owner of the loss thereof (*Dunker v. Field and Tub Club*, 92, P., 502).

Indisputably then, Carlos' immediate recourse to the court was effectively barred by his failure to exhaust administrative remedies. The underlying principle of the rule on exhaustion of administrative remedies rests on the presumption that the administrative agency, if afforded a complete chance to pass upon the matter, will decide the same correctly.[62] There are both legal and practical reasons for the principle. The administrative process is intended to provide less expensive and more speedy solutions to disputes. Where the enabling statute indicates a procedure for administrative review and provides a system of administrative appeal or reconsideration, the courts -- for reasons of law, comity, and convenience -- will not entertain a case unless the available administrative remedies have been resorted to and the appropriate authorities have been given an opportunity to act and correct the errors committed in the administrative forum.[63]

As to the issues of whether petitioner Dayco, as officer-in-charge of the Office of the Chancellor of UP Diliman, could validly file the Formal Charge and Amended Formal Charge against Carlos and whether the Tribunal could likewise be validly constituted to investigate the complaint, the same have been rendered moot and academic by the following developments: (1) the further proceedings on the case (2) the submission by Carlos and his new counsel to the Tribunal's authority by presenting evidence on behalf of Carlos, (3) the submission by the Tribunal of its Report to Chancellor Roger Posadas of UP Diliman, and (4) the rendition by the latter on 23 February 1996 of an Order[64] adopting in toto the findings and recommendation of the Tribunal and accordingly declaring Carlos guilty of grave misconduct and imposing upon him the penalty of dismissal from the service. It may be

recalled that in view of the Temporary Restraining Order we issued on 9 October 1995 the public respondents were enjoined from implementing the assailed orders.[65] Accordingly, the Tribunal no longer suffered from any legal impediment to proceed, until terminated, with the investigation of the administrative case against Carlos.

WHEREFORE, the instant petition is GRANTED. The challenged Orders of 1 February and 24 April 1995, which granted the writ of preliminary injunction; and of 14 July and 18 August 1995, which set the case for pre-trial in Civil Case No. Q-94-22364 before the Regional Trial Court, Branch 85, Quezon City, are hereby NULLIFIED and SET ASIDE. The Temporary Restraining Order issued on 9 October 1995 is hereby made permanent, and the court below is ordered to DISMISS forthwith Civil Case No. Q-94-22364.

Costs against private respondent.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ.,concur.

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[1] Entitled Salvador L. Carlos v. University of the Philippines; Roger Posadas, Chancellor, U.P. Diliman; Rolando P. Dayco, Vice Chancellor, U.P. Diliman; Martin Gregorio, Vice Chancellor, U.P. Diliman; Arturo Balbastro, Cecilia Florencio, and Leticia Peñaño-Ho as members of the Administration Tribunal.

[2]Annex "E" of Petition; Rollo, 74.

[3] Annex "CC" of Petition; Rollo, 616-617.

[4] Id.

[5] Annex "F" of Petition; Rollo, 76.

[6] Annex "G" of Petition, Id., 77-82.

[7] Annex "H" of Petition; Rollo, 83-84.

[8] Upon his retirement, petitioner Arturo Balbastro was replaced by Professor Antonio G.M. La Viña as Chairman of the Administrative Disciplinary Tribunal.

[9] Annex "I" of Petition; Rollo, 85.

[10] Annex "K" of Petition; Id., 88.

[11] Annex "J" of Petition; Rollo, 86-87.

[12] Annex "II" of Petition; Id., 642-648.

[13] The pertinent provisions of the Rules provide:

Section 1. Administrative proceeding, how commenced - Administrative proceedings may be commenced against any member of the teaching staff, officer or employee of the University by filing specific written charges with the President either directly or through his channels.

Section 2. Who may file complaint - Where the charges are made by anyone other than the immediate supervisor of the employee or faculty member concerned, the same must be subscribed under oath by the complainant; Provided, however, that if the charges are not or cannot be sworn to by the complainant, the President may, in his discretion, take action thereon if the interest of the University or the special circumstances require.

[14]TSN, 20 October 1994, 4-5, 16.

- [15] Annex "HH" of Petition; Rollo, 640-641.
- [16] Viz., Motion to Dismiss, *supra*, note 12; Opposition to the Motion to Dismiss, Annex "JJ" of Petition, Rollo, 649-662; and Rejoinder to Opposition to the Motion to Dismiss, Annex "KK" of Petition, Rollo, 663-679.
- [17] Annex "L" of Petition; *Id.*, 90-91.
- [18] TSN, 14 November 1994, 1-3, 8-24.
- [19] Order of 14 November 1994, Annex "MM" of Petition; *Id.*, 712.
- [20] Annex "LL" of Petition, *Id.*, 680-711.
- [21] TSN, 18 November 1994, 1-7.
- [22] TSN, 28 November 1994, 8.
- [23] Annex "R" of Petition; Rollo, 372.
- [24] Annex "C" of Comment; *Id.*, 852-855.
- [25] TSN, 28 December 1994, 1-2, 8-9.
- Annex "E" of Comment; Rollo, 857.
- [27] Annex "F" of Comment; *Id.*, 858-860.
- [28] TSN, 12 December 1994, 2-7.
- [29] TSN, 28 November 1994, 8; Annexes "R" and "S" of the Petition; Rollo, 372, 373, respectively.
- [30] *Id.*; Order of 13 December 1994; *Id.*, 713.
- [31] Annex "T" of Petition, Rollo, 377-399.
- [32] Annex "U" of Petition; *Id.*, 401.
- [33] Annex "NN" of Petition; *Id.*, 713.
- [34] Annex "V" of Petition; *Id.*, 402-419.
- [35] Annex "OO" of Petition; *Id.*, 714.
- [36] Annex "V" of Comment; *Id.*, 902-904.
- [37] Annex "II" of Petition, *supra*, note 12.
- [38] TSN, 27 January 1995, 1, 4-8; Rollo, 1137, 1140-1144.
- [39] Annex "A" of Petition; *Id.*, 66-68.
- [40] Annex "Z" of Petition; *Id.*, 572-604.
- [41] Annex "AA" of Petition; *Id.*, 695-608.
- [42] Annex "B" of Petition; *Id.*, 69-71.
- [43] Order of 14 July 1995, Annex "C" of Petition; *Id.*, 72.
- [44] Order of 18 August 1995, Annex "D" of Petition; *Id.*, 73.

[45] Rollo, 715.

[46] Id., 717-718.

[47] Annex "LL" of Comment; Id., 886. The order was issued by Prof. Antonio La Viña, the succeeding Chairman of the Tribunal upon the retirement of petitioner Atty. Arturo Balbastro.

[48] Annex "M" of Comment; Id., 887.

[49] Annex "O" of Comment; Id., 889.

[50] Embodied in the Order of 23 February 1996 of petitioner Chancellor Posadas, Rollo, 1009-1023, 1021-1022.

[51] Id., 1020.

[52] Supra, note 51.

[53] Resolution of 28 August 1996, Rollo, 1163.

[54] Rollo, 67-68.

[55] IV-A VICENTE J. FRANCISCO, *The Revised Rules of Court in the Philippines* 179 (1971).

[56] 27 AM JUR 2d Equity §129, 131, 136 (1966).

[57] Id., Sec. 136.

[58] Rollo, 640-641.

[59] Id., 399.

[60] Rollo, 387.

**[61] 5 SCRA 126, 130-131 [1962].**

[62] *De los Santos v. Limbaga*, 4 SCRA 224, 226 [1962].

[63] IRENE R. CORTES, *Philippine Administrative Law, Cases and Materials* 394 (Rev. 2nd ed., 1984). See *Carale v. Hon. Abarintos*, G.R. No. 120704, 3 March 1997.

[64] Rollo, 1122-1134.

[65] Id., 717-718.

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