

NORMA V. MANALO, MARIETTA S. DIAZ, OFELIA BASALO, ERLINDA J. FAMADOR, GEMMA U. PADDY, RUSTICO ALIWANAG, AMPARO B. SAMSON, EDITHA SUAREZ, LEAH A. CHIONG, NICASIA YPIL, SONIA ADO...

G.R. No. 124204. April 20, 2001

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal via certiorari seeking to set aside the decision of the Court of Appeals[1] affirming that of the Regional Trial Court, Cebu City, Branch 10 dismissing petitioners' complaint for "Declaration of Nullity of a Memorandum of Agreement with Prayer for Preliminary Injunction on the ground of res judicata.[2] The facts are as follows:

On June 10, 1983, Congress enacted Batas Pambansa Blg. 412, converting the Cebu School of Arts and Trade into the Cebu State College of Science and Technology (CSCST) with an extension system that included Sudlon Agricultural College in Cebu; Abellana National School, Cebu City; Danao Vocational School, Danao City; Tuburan Vocational School, Tuburan, Cebu; Moalboal School of Fisheries, Moalboal, Cebu; Argao Agro-Industrial School, Argao, Cebu; Quirino School of Fisheries, Carmen, Cebu; Manuel A. Roxas Memorial School of Fisheries, Daanbantayan, Cebu; and Magsaysay School of Fisheries, San Francisco, Cebu.

Under Section 3 of B.P. Blg. 412, the Cebu State College of Science and Technology System shall offer courses in higher technological education leading to the degrees of Bachelor of Science in Civil Engineering, Electrical and Mechanical Engineering, Electronics Engineering, Industrial Engineering, Forestry, Fishery, Nautical, and the physical and natural sciences, in addition to its present curricular offerings in elementary (laboratory school), four-year secondary trade curriculum, two-year technical education curriculum, evening opportunity trade classes, degree courses leading to the degrees of Bachelor of Science in Industrial Education, Bachelor of Science in Industrial Technology, and other graduate degrees in science and technology.

On May 26, 1988, Congress enacted Republic Act No. 6655, otherwise known as the "Free Public Secondary Education Act of 1988". It vests in the Department of Education, Culture and Sports (DECS) the establishment, renaming, conversion, integration, separation, administration, supervision and control of all public secondary schools and public secondary teachers and other school personnel, including the payment of their salaries, allowances and other fringe benefits as well as those provided by local government.

On January 16, 1989, Secretary Lourdes R. Quisumbing issued DECS Order No. 5, Series 1989, setting forth the guidelines and procedures in the implementation of Section 7 of R.A. No. 6655.

On April 21, 1989, plaintiff Romeo R. Reyes filed with the Regional Trial Court, Branch 24, Cebu City a complaint[3] for temporary restraining order enjoining defendants from enforcing or implementing DECS Order No. 5, and after hearing, declaring DECS Order No. 5 ultra vires for being issued not in accordance with law.

In the meantime, on February 14, 1992, DECS, represented by Regional Director Eladio C. Dioko, entered into a Memorandum of Agreement (MOA) with the then CSCST President Atanacio Elma. The MOA provided for the transfer of the secondary education program of Abellana College of Arts and Trade (ACAT) and its personnel and facilities, as well as the funding of its operation, except the State Universities and College (SUC) positions, and gradually phasing out its college offerings or integrating them into the main campus beginning school year 1992-1993. The MOA was conceived on the basis of Section 7 of Republic Act No. 6655 which mandated the nationalization of public secondary schools and their transfer to the DECS, as a consequence of which there was a "turn over" of ACAT to DECS at the Regional Office sometime in the beginning of the school year 1993 and thereby changing the name of the school back to Abellana National School.

On July 20, 1992, the trial court rendered a decision dismissing the complaint and declaring that:

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"Re- the first issue, the plaintiff Romeo Reyes is not the real party in interest who will be prejudiced by the transfer of supervision and administration of the High School Department of CSCST, hence has no personality to sue.

"On the second issue, Can R.A. 6655 amend B.P 412? Plaintiff contends that a special law (BP412) cannot be impliedly repealed by a general law (R.A. 6655).

"The rule of statutory construction that a later general law cannot repeal an earlier special law, i.e. "generalia specialibus non derogant" finds application only when the latter general law does not contain a repealing clause. R.A. 6655 specifically contains a repealing clause which indicates clearly the legislative intent to repeal all prior inconsistent laws on the subject matter whether or not the prior law is a special law. Without a repealing clause, a latter general law will ordinarily not repeal a prior special law on the same subject as the latter is generally regarded as an exception to the former. But if such clause is contained in the subsequent general law, the prior special law will be deemed repealed as the repealing clause is a clear legislative intent to bring about the result.

"In the instant case, Section 11 of R.A. 6655 categorically declares that all laws or parts thereof inconsistent with any provision of R.A. 6655 shall be deemed repealed or modified. Consequently, any pertinent provision of BP 412 inconsistent and irreconcilable with the provision of R.A. 6655, specifically Sec. 7 thereof, is deemed repealed or modified.

xxx xxx xxx

"The memorandum of Agreement by and between the Secretary of the DECS and the President of CSCST is perfectly valid, and legitimate in as much as the same was done and executed in compliance with R.A. 6655.

"WHEREFORE, in view of the foregoing, herein petition is dismissed.

"SO ORDERED.

"Cebu City, Philippines, July 20, 1992.

"(Sgd.)

"PRISCILA S. AGANA

"Judge" [4]

On October 31, 1990, Jesus Bonilla and other superintendents of CSCST filed with the Regional Trial Court, Branch 19, Cebu City, a petition[5] for the issuance of preliminary injunction restraining the DECS from continuing with the implementation of the rules and regulations separating the high schools from CSCST. Petitioners argued that Republic Act No. 6655 is a general law which cannot supersede B.P. Blg. 412, which is a

special law.

On January 28, 1991, respondents filed a motion to dismiss[6] on the ground of no cause of action, lack of jurisdiction over the case and failure to exhaust administrative remedies before resorting to court action.

On June 3, 1991, the trial court issued an order dismissing the petition, which provides:

"Petitioner's argument that Batas Pambansa Blg. 412 prevailed over Republic Act 6655 because the former is a special law, is without merit. A special law remains superior only if the subsequent law contains no repealing clause. If the later law provides for such repealing clause this means that the legislative intent is to repeal the prior special law on the same subject. Section 11 of R.A. 6655 categorically declares that all laws or parts thereof, inconsistent with any provision of R.A. 6655 shall be deemed repealed or modified. Hence, R.A. 6655 should be deemed as having repealed or modified BP 412 regardless of whether or not the legislative intent in the former law runs counter to the historical background and educational objectives of the latter law.

"Consequent to the finding that R.A. 6655 does not exempt from its coverage the secondary schools in Cebu which were previously placed under the operation and control of state colleges, it necessarily follows that the questioned DECS orders implementing Section 9 of R.A. 6655, are valid and legitimate acts of the Secretary of Education and of his sub-alterns, performed by them within the scope of their legal authority. Corollarilly, prohibition and/or injunction will not lie against the herein respondents. Hence, without the need of discussing further the other incidental points, as they have become moot and academic, the Court finds that respondents' motion to dismiss should be given due course.

"WHEREFORE, the herein petition is hereby DISMISSED.

"SO ORDERED.

"Cebu City, Philippines, June 3, 1991.

"(Sgd.)

"LEONCIO P. ABARQUEZ

"Judge"[7]

On May 28, 1992, Bienvenido Abucay and other faculty members of the CSCST filed with the Regional Trial Court, Branch 10, Cebu City, another petition[8] for declaration of nullity of the memorandum of agreement with preliminary injunction and restraining order. Petitioners alleged that the MOA had no basis, legal or factual, and it had the definite effect of separating them from the service, which violated their security of tenure.

On December 9, 1992, the trial court rendered a decision dismissing the petition on the ground of lack of jurisdiction, failure to exhaust administrative remedies and failure to state a cause of action.

On February 4, 1993, petitioners Norma V. Manalo, and other faculty members, registrar, librarian, janitor and other personnel of CSCST filed with the Regional Trial Court of Cebu City, Branch 22, a complaint[9] for "Declaration of Nullity of Memorandum of Agreement with Preliminary Injunction." The petition which was later amended, questioned the validity of the memorandum of agreement entered into by DECS Regional Director Eladio C. Dioko and then President of the CSCST Atanacio Elma, for the transfer of the secondary program of the Abellana College of Arts and Trades and its personnel and facilities as well as funding for its operation and gradual phasing out of its college offerings into the main campus starting school year 1992-1993.

On the same day, the trial court issued a temporary restraining order and set the hearing on the application for a writ of preliminary injunction on February 12, 1993.[10] On February 9, 1993, respondent Marcelo M. Bacalso filed a motion to dismiss[11] the case on the ground of res judicata. Respondent insisted that the case repeated the very same issue already decided three times by the Regional Trial Court of Cebu. The appeal to the Supreme

Court from one of these decisions was dismissed, which dismissal had become final and executory.

On May 31, 1993, the trial court issued an order dismissing the case. The pertinent portion of the order reads:

"First it must be stated that this instant case like the cases above cited are OUTCROPS of the same essential root and issue: the determination of whether or not RA 6655 (specifically Section 7, thereof) had repealed or rendered in Civil Case No. 11735 which incidentally, happens to be almost similar to this case in question, is still pending on APPEAL. It is the stand of this Court too, that Section 11 of RA 6655 which contains the REPEALING CLAUSE must be resorted especially in this case where two provisions of the law appear INCONSISTENT AND REPUGNANT to each other.

"There must be an end to litigation.

"The Court takes judicial notice of the fact that there are teachers and personnel similarly affected by the passage of RA 6655. And unless this Court sustains defendants' claim for the dismissal of this case on ground of LITIS PENDENTIA, chances are they might soon file similar cases, and in effect, it certainly will result in multiplicity of suits.

"Plaintiffs in this instant case went further in their complaint by arguing that: if BP 412 is construed to have been repealed or amended by RA 6655 as defendants construe it to have been so repealed or amended, the latter would be UNCONSTITUTIONAL for being repugnant to, or would subvert, the policy announced in Sec. 9 (1) of Article XV of the 1973 Constitution xxx. CONSEQUENTLY, plaintiffs' prayer further includes a plea that RA 6655 be declared UNCONSTITUTIONAL.

"The constitutionality or the legality of law cannot be a subject of collateral attack. Until then, RA 6655 enjoys the Constitutional presumption. Any and all provisions of law earlier passed and not consistent thereto are deemed repealed.

"IN VIEW OF THE FOREGOING, this case is hereby DISMISSED.

"SO ORDERED." [12]

On June 9, 1993, petitioners filed a motion for reconsideration which the trial court denied in an order [13] dated August 10, 1993, for lack of sufficient merit. [14] On August 18, 1993, petitioners filed a notice of appeal. [15] On February 2, 1996, the Court of Appeals promulgated its decision affirming that of the trial court dismissing petitioner's complaint. [16] Hence, this petition. [17] The sole issue presented is whether or not the case is barred by res judicata.

Petitioners allege that the order of dismissal in CEB-11735 did not constitute res judicata because the order was not an adjudication on the merits as it dismissed the complaint for failure to state a cause of action; failure to exhaust administrative remedies; and lack of jurisdiction.

The petition is without merit.

Literally, res judicata means a matter adjudged, a thing judicially acted upon or decided; a thing or matter settled by judgment. In res judicata, the judgment in the first action is considered conclusive as to every matter offered and received therein, as to any other admissible matter which might have been offered for that purpose, and all other matters that could have been adjudged therein. Res judicata is an absolute bar to a subsequent action for the same cause; and its requisites are: (a) the former judgment or order must be final; (b) the judgment or order must be one on the merits; (c) it must have been rendered by a court having jurisdiction over the subject matter and parties; (d) there must be between the first and second actions, identity of parties, of subject matter and of causes of action. [18] All these requisites were present in this case. The parties in Civil Case No. CEB-11735 and in Civil Case No. 13562 were faculty members and personnel of the CSCST. They represented the same interest in both

actions which referred to the nullity of the MOA. As observed by the appellate court, there is substantial identity in the cause of action and relief sought.

As to the contention that the order in Civil Case No. CEB-11735 was not a judgment on the merits, we find such contention not enable. A judgment is on the merits when it determines the rights and liabilities of the parties based on the disclosed facts, irrespective of formal, technical or dilatory objections. It is not necessary, however, that there be a trial.[19] The order in Civil Case No. CEB-11735 ruled on the issues raised by the petitioners in their complaint. Relevant portions of the order read as follows:

"Corollary to DECS Order Nos. 60 and 89, the questioned Memorandum of Agreement was inked by the DECS and the CSCST. The DECS Orders and the MOA, hand in hand, are implementations of R.A. No. 6655. The MOA, therefore has legal and factual basis.

"It is striking to note that petitioners are not questioning the entire MOA, but only a specific provision thereof, particularly, par. II-2, which is the gradual phasing out of the college offerings or integrating them in the main campus.

"The assailed proviso, however, is part of the covenant (MOA) implementing Sec. 7 of R.A. No. 6655 and in consonance with the DECS Orders, which petitioners are not questioning. In fact, the phasing out clause is the legitimate push-button in carrying out the objectives of R.A. No. 6655 and in prosecuting the promulgated rules and guidelines of the education department.

"Petitioners' apprehension of dismissal is without foundation. The phasing out of the college courses is not abolition of those courses but phasing out only as regards venue, for they will ultimately be offered in the main campus (CSCST). It is stressed that phasing out of the college courses from its present venue and transferring them to the main campus are administrative management decisions which this Court is not in a position to interfere.

"Petitioners harped that the phasing out proviso is ambiguous. Such being the case, they should have first exhausted administrative remedies by submitting clarificatory inquest with the Board of Trustees of the CSCST and if unsatisfied, with the Secretary of the Department of Education, Culture and Sports, and eventually, to the Office of the President of the Philippines. In other words, petitioners still have plain, speedy and adequate remedies within the Executive Department of the government. Failure to exhaust the procedure of administrative remedies is a ground for dismissal of their petition for lack of cause of action.

"Anent the allegation that public respondent Elma was not authorized to sign the MOA, Sec. 6 of BP Blg. 412 which enumerates the powers and duties of the Board of Trustee, does not require as a condition sine qua non that the President of the CSCST must first be authorized by the Board before he can sign an agreement, in complying with the issued DECS Orders.

"At any rate, the Board of Trustees has confirmed the MOA as the official act of the Board of Trustees of the Cebu State College of Science and Technology in a Resolution No. 92 which it passed on August 27, 1992.

"It is further argued by the petitioners that RA No. 6655 is a general law and therefore, cannot repeal BP Blg. 412 which is a specific charter creating the CSCST.

"As a rule, a later general law cannot repeal an earlier specific law. However, when the later general law contains a repealing clause which indicates clearly the legislative intent to repeal all prior inconsistent laws on the subject matter, then the aforesaid rule no longer applies. Stated otherwise, the exception to the rule sets in.

"Sec. 11 of RA No. 6655 contains a repealing clause, categorically declaring that all laws or parts thereof inconsistent with any provision of RA No. 6655 shall be deemed repealed. A fortiori, any provision of BP Blg. 412 which is inconsistent and irreconcilable with RA No. 6655, specifically Sec. 7 thereof, is deemed repealed or modified.

"All told, the Court finds public respondents' Motion to be meritorious

"WHEREFORE, the Petition is hereby DISMISSED and accordingly, the writ of injunction is dissolved. No pronouncement as to costs.

"Serve copy of this Order to all concerned.

"SO ORDERED.

"Cebu City, Philippines.

"December 9, 1992.

"(Sgd.)

"LEONARDO B. CAÑARES

"Judge" [20]

The order is conclusive on the validity of the Memorandum of Agreement, which will bar a subsequent action on the same subject matter. If allowed, it would result in the re-litigation of the same cause involving the same issues, parties, and subject matter.

The judgment of either court will constitute a bar to the other. It has been held that where a litigant sues the same party against whom the same action or actions, for the alleged violation of the same right, and the enforcement of the same relief are still pending, the defense of *litis pendentia* in one case is a bar to the other; and a final judgment in one would constitute *res judicata* and thus, would cause the dismissal of the rest.[21] "Under the principle of *res judicata*, the Court and the parties are bound by such final decision, otherwise, there will be no end to litigation. It is to the interest of the public that there should be an end to litigation by the parties over a subject fully and fairly adjudicated, and an individual should not be vexed twice for the same cause." [22] WHEREFORE, the petition is hereby DENIED and the appealed decision of the Court of Appeals is AFFIRMED.

No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G.R. CV No. 43874, promulgated on February 21, 1996, Torres, Jr., J., ponente, Verzola and Agcaoili, JJ., concurring, Rollo, pp. 70-75.

[2] In Civil Case No. CEB-11735, dated December 9, 1992, Judge Leonardo B. Cañares, presiding.

[3] Docketed as CEB-7790, Folder I, Exhibit "1-a".

[4] [In Civil Case No. CEB-7790, Folder I, Exhibit "1-d".]

[5] Docketed as CEB-9594, Folder II, Exhibit "2-a".

[6] Folder II, Exhibit "2-b".

[7] Folder II, Exhibit "2-c".

[8] Docketed as CEB-11735, Annex "A", Petition, Rollo, pp. 28-33.

[9] Docketed as CEB-13562, Original Record, pp. 1-7.

- [10] Original Record, p. 11.
- [11] Original Record, pp. 13-15.
- [12] Judge Pampio A. Abarintos, presiding. Original Record, pp. 160-162.
- [13] Ibid., pp. 189-190.
- [14] Ibid., pp. 164-173.
- [15] Ibid., p. 192.
- [16] Rollo, pp. 70-75.
- [17] Filed on April 10, 1996, Rollo, pp. 10-27. On August 23, 1999, we gave due course to the petition. Rollo, pp. 140-141.
- [18] *Mirpuri vs. Court of Appeals*, 318 SCRA 516, 518 [1999].
- [19] *Mendiola vs. Court of Appeals*, 327 Phil. 1156, 1157 [1996].
- [20] [Rollo], pp. 34-37, Annex "B" of the petition.]
- [21] *Quinsay vs. Court of Appeals*, G.R. No. 127058, August 31, 2000.
- [22] *Calusin vs. Court of Appeals*, G.R. No. 128405, June 21, 2000.

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