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MIRIAM COLLEGE FOUNDATION, INC., PETITIONER, VS. HON. COURT OF APPEALS, JASPER BRIONES, JEROME GOMEZ, RELLY CARPIO, ELIZABETH VALDEZCO, JOSE MARI RAMOS, CAMILLE PORTUGAL, JOEL T...

G.R. No. 127930. December 15, 2000

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

"Obscene," "vulgar," "indecent," "gross," "sexually explicit," "injurious to young readers," and devoid of all moral values."[1] This was how some members of the Miriam College community allegedly described the contents of the September-October 1994 issue (Vol. 41, No. 14) of Miriam College's school paper (Chi-Rho), and magazine (Ang Magasing Pampanitikan ng Chi-Rho). The articles in the Chi-Rho included:

> xxx a story, clearly fiction, entitled `Kaskas' written by one Gerald Garry Renacido xxx.
>
> Kaskas, written in Tagalog, treats of the experience of a group of young, male, combo players who, one evening, after their performance went to see a bold show in a place called "Flirtation". This was the way the author described the group's exposure during that stage show:
>
> "Sige, sa Flirtation tayo. Happy hour na halos.... he! he! he! sambit ng kanilang bokalistang kanina pa di maitago ang pagkahayok sa karneng babae na kanyang pinananabikan nuong makalawa pa, susog naman ang tropa.
>
> "x x x Pumasok ang unang mananayaw. Si `Red Raven' ayon sa emcee. Nakasuot lamang ng bikining pula na may palamuting dilaw sa gilid-gilid at sa bandang utong. Nagsimula siya sa kanyang pag-giling nang tumugtog na ang unang tono ng "Goodbye" ng Air Supply. Dahan-dahan ang kanyang mga malalantik at mapang-akit na galaw sa una. Mistulang sawa na nililingkis ang hangin, paru-parong padapo-dapo sa mga bulaklak na lamesa, di-upang umamoy o kumuha ng nektar, ngunit para ipaglantaran ang sariling bulaklak at ang angkin nitong malansang nektar.
>
> "Kaskas mo babe, sige ... kaskas."
>
> Napahaling ang tingin ng balerinang huwad kay Mike. Mistulang natipuhan, dahil sa harap niya'y nagtagal. Nag-akmang mag-aalis ng pangitaas na kapirasong tela. Hindi nakahinga si Mike, nanigas sa kanyang kinauupuan, nanigas pati ang nasa gitna ng kanyang hita. Ang mga mata niya'y namagnet sa kayamanang ngayo'y halos isang pulgada lamang mula sa kanyang naglalaway na bunganga. Naputol-putol ang kanyang hininga nang kandungan ni `Red Raven' ang kanyang kanang hita. Lalo naghingalo siya nang kabayuhin ito ng dahan-dahan... Pabilis ng pabilis.'

The author further described Mike's responses to the dancer as follows (quoted in part):

> x x x Nagsimulang lumaban na ng sabayan si Mike sa dancer. Hindi nagpatalo ang ibong walang pakpak, inipit ng husto ang hita ni Mike at pinag-udyukan ang kanyang dibdib sa mukha nito.

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> "Kaskas mo pa, kaskas mo pa!"
>
> Palpakan at halagpakan na tawanan ang tumambad sa kanya ng biglang halikan siya nito sa labi at iniwang bigla, upang kanyang muniin ang naudlot niyang pagtikim ng karnal na nektar. Hindi niya maanto kung siya ay nanalo o natalo sa nangyaring sagupaan ng libog. Ang alam lang niya ay nanlata na siya."

After the show the group went home in a car with the bokalista driving. A pedestrian happened to cross the street and the driver deliberately hit him with these words:

> "Pare tingnan natin kung immortal itong baboy na ito. He! He! He! He! Sabad ng sabog nilang drayber/bokalista."

The story ends (with their car about to hit a truck) in these words: ... "Pare... trak!!! Put....!!!!

Ang Magasing Pampanitikan, October, 1994 issue, was in turn, given the cover title of "Libog at iba pang tula."

In his foreword which Jerome Gomez entitled "Foreplay", Jerome wrote: "Alam ko, nakakagulat ang aming pamagat." Jerome then proceeded to write about previous reactions of readers to women-writers writing about matters erotic and to gay literature. He justified the Magazine's erotic theme on the ground that many of the poems passed on to the editors were about "sekswalidad at iba't ibang karanasan nito." Nakakagulat ang tapang ng mga manunulat... tungkol sa maselang usaping ito xxx at sa isang institusyon pang katulad ng Miriam!"

Mr. Gomez quoted from a poem entitled "Linggo" written by himself:

may mga palangganang nakatiwangwang -
mga putang biyak na sa gitna,
`di na puwedeng paglabhan,
`di na maaaring pagbabaran..."

Gomez stated that the poems in the magazine are not "garapal" and "sa mga tulang ito namin maipagtatanggol ang katapangan (o pagka-sensasyonal) ng pamagat na "Libog at iba pang Tula." He finished "Foreplay" with these words: "Dahil para saan pa ang libog kung hindi ilalabas?"

The cover title in question appears to have been taken from a poem written by Relly Carpio of the same title. The poem dealt on a woman and a man who met each other, gazed at each other, went up close and "Naghalikan, Shockproof." The poem contained a background drawing of a woman with her two mamaries and nipples exposed and with a man behind embracing her with the woman in a pose of passion-filled mien.

Another poem entitled `Virgin Writes Erotic' was about a man having fantasies in his sleep. The last verse said: "At zenith I pull it out and find myself alone in this fantasy." Opposite the page where this poem appeared was a drawing of a man asleep and dreaming of a naked woman (apparently of his dreams) lying in bed on her buttocks with her head up (as in a hospital bed with one end rolled up). The woman's right nipple can be seen clearly. Her thighs were stretched up with her knees akimbo on the bed.

In the next page (page 29) one finds a poem entitled "Naisip ko Lang" by Belle Campanario. It was about a young student who has a love-selection problem: "...Kung sinong pipiliin: ang teacher kong praning, o ang boyfriend kong bading." The word "praning" as the court understands it, refers to a paranoid person; while the word "bading" refers to a sward or "bakla" or "badidang". This poem also had an illustration behind it: of a young girl with large eyes and sloping hair cascading down her curves and holding a peeled banana whose top the illustrator shaded up with downward-slanting strokes. In the poem, the girl wanted to eat banana topped by peanut butter. In line with Jerome's "Foreplay" and by the way it was drawn that banana with peanut butter top was meant more likely than not, to evoke a spiritedly mundane, mental reaction from a young audience.

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Another poem entitled "Malas ang Tatlo" by an unknown author went like this:

"Na picture mo na ba
no'ng magkatabi tayong dalawa
sa pantatluhang sofa--
ikaw, the legitimate asawa
at ako, biro mo, ang kerida?
tapos, tumabi siya, shit!
kumpleto na:
ikaw, ako at siya
kulang na lang, kamera."

A poem "Sa Gilid ng Itim" by Gerald Renacido in the Chi-Rho broadsheet spoke of a fox (lobo) yearning for "karneng sariwa, karneng bata, karneng may kalambutan.... isang bahid ng dugong dalaga, maamo't malasa, ipahid sa mga labing sakim sa romansa' and ended with `hinog na para himukin bungang bibiyakin."[2]

Following the publication of the paper and the magazine, the members of the editorial board,[3] and Relly Carpio, author of Libog, all students of Miriam College, received a letter signed by Dr. Aleli Sevilla, Chair of the Miriam College Discipline Committee. The Letter dated 4 November 1994 stated:

> This is to inform you that the letters of complain filed against you by members of the Miriam Community and a concerned Ateneo grade five student have been forwarded to the Discipline Committee for inquiry and investigation. Please find enclosed complaints.
>
> As expressed in their complaints you have violated regulations in the student handbook specifically Section 2 letters B and R, pages 30 and 32, Section 4 (Major offenses) letter j, page 36 letters m, n, and p, page 37 and no. 2 (minor offenses) letter a, page 37.
>
> You are required to submit a written statement in answer to the charge/s on or before the initial date of hearing to be held on November 15, 1994, Tuesday, 1:00 in the afternoon at the DSA Conference Room.[4]

None of the students submitted their respective answers. They instead requested Dr. Sevilla to transfer the case to the Regional Office of the Department of Education, Culture and Sports (DECS) which under Rule XII of DECS Order No. 94, Series of 1992, supposedly had jurisdiction over the case.[5]

In a Letter dated 21 November 1994, Dr. Sevilla again required the students to file their written answers.

In response, Atty. Ricardo Valmonte, lawyer for the students, submitted a letter[6] to the Discipline Committee reiterating his clients' position that said Committee had no jurisdiction over them. According to Atty. Valmonte, the Committee was "trying to impose discipline on [his clients] on account of their having written articles and poems in their capacity as campus journalists." Hence, he argued that "what applies is Republic Act No. 7079 [The Campus Journalism Act] and its implementing rules and regulations." He also questioned the partiality of the members of said Committee who allegedly "had already articulated their position" against his clients.

The Discipline Committee proceeded with its investigation ex parte. Thereafter, the Discipline Board, after a review of the Discipline Committee's report, imposed disciplinary sanctions upon the students, thus:

> 1. Jasper Briones
>
> Expulsion. Briones is the Editor-in-Chief of Chi-Rho and a 4th year student;
>
> 2. Daphne Cowper

suspension up to (summer) March, 1995;

3. Imelda Hilario

suspension for two (2) weeks to expire on February 2, 1995;

4. Deborah Ligon

suspension up to May, 1995. Miss Ligon is a 4th year student and could graduate as summa cum laude;

5. Elizabeth Valdezco

suspension up to (summer) March, 1995;

6. Camille Portugal

graduation privileges withheld, including diploma. She is an Octoberian;

7. Joel Tan

suspension for two (2) weeks to expire on February 2, 1995;

8. Gerald Gary Renacido

Expelled and given transfer credentials. He is a 2nd year student. He wrote the fiction story "Kaskas";

9. Relly Carpio

Dismissed and given transfer credentials. He is in 3rd year and wrote the poem "Libog";

10. Jerome Gomez

Dismissed and given transfer credentials. He is in 3[rd] year. He wrote the foreword "Foreplay" to the questioned Anthology of Poems; and

11. Jose Mari Ramos

Expelled and given transfer papers. He is a 2nd year student and art editor of Chi-Rho.[7]

The above students thus filed a petition for prohibition and certiorari with preliminary injunction/restraining order before the Regional Trial Court of Quezon City questioning the jurisdiction of the Discipline Board of Miriam College over them.

On 17 January 1995, the Regional Trial Court, Branch CIII, presided by Judge Jaime N. Salazar, Jr., issued an order denying the plaintiffs' prayer for a Temporary Restraining Order. It held:

> There is nothing in the DECS Order No. 94, S. 1992 dated August 19, 1992 that excludes school Administrators from exercising jurisdiction over cases of the nature involved in the instant petition. R.A. 7079 also does not state anything on the matter of jurisdiction. The DECS undoubtedly cannot determine the extent of the nature of jurisdiction of schools over disciplinary cases. Moreover, as this Court reads that DECS Order No. 94, S. of 1992, it merely prescribes for purposes of internal administration which DECS officer or body shall hear cases arising from R.A. 7079 if and when brought to it for resolution. The said order never mentioned that it has exclusive jurisdiction over cases falling under R.A. 707.[8]

The students thereafter filed a "Supplemental Petition and Motion for Reconsideration." The College followed with its Answer.

Subsequently, the RTC issued an Order dated 10 February 1995 granting the writ of preliminary injunction.

> ACCORDINGLY, so as not to render the issues raised moot and academic, let a writ of preliminary injunction issue enjoining the defendants, including the officers and members of the Disciplinary Committee, the Disciplinary Board, or any similar body and their agents, and the officers and members of the Security Department, Division, or Security Agency securing the premises and campus of Miriam College Foundation, Inc. from:
>
> 1. Enforcing and/or implementing the expulsion or dismissal resolutions or orders complained of against herein plaintiffs (a) Jasper Briones; (b) Gerald Gary Renacido; (c) Relly Carpio; (d) Jerome Gomez; and (e) Jose Mari Ramos, but otherwise allowing the defendants to impose lesser sanctions on aforementioned plaintiffs; and
>
> 2. Disallowing, refusing, barring or in any way preventing the herein plaintiffs (all eleven of them) from taking tests or exams and entering the Miriam campus for such purpose as extended to all students of Miriam College Foundation, Inc.; neither should their respective course or subject teachers or professors withhold their grades, including final grades, if and when they meet the requirements similarly prescribed for all other students, this current 2nd Semester of 1994-95.
>
> The sanctions imposed on the other plaintiffs, namely, Deborah Ligon, Imelda Hilario, Elizabeth Valdezco, Camille Portugal and Daphne Cowper, shall remain in force and shall not be covered by this Injunction: Provided, that Camille Portugal now a graduate, shall have the right to receive her diploma, but defendants are not hereby prevented from refusing her the privilege of walking on the graduation stage so as to prevent any likely public tumults.
>
> The plaintiffs are required to post an injunction bond in the sum of Four Thousand Pesos (P4,000.00) each.
>
> SO ORDERED.[9]

Both parties moved for a reconsideration of the above order. In an Order dated 22 February 1995, the RTC dismissed the petition, thus:

> 4. On the matter raised by both parties that it is the DECS which has jurisdiction, inasmuch as both parties do not want this court to assume jurisdiction here then this court will not be more popish than the Pope and in fact is glad that it will have one more case out of its docket.
> ACCORDINGLY, the instant case is hereby DISMISSED without prejudice to the parties going to another forum.
>
> All orders heretofore issued here are hereby recalled and set aside.
>
> SO ORDERED.[10]

The students, excluding Deborah Ligon, Imelda Hilario and Daphne Cowper, sought relief in this Court through a petition for certiorari and prohibition of preliminary injunction/restraining order[11] questioning the Orders of the RTC dated 10 and 24 February 1995.

On 15 March 1995, the Court resolved to refer the case to the Court of Appeals (CA) for disposition.[12] On 19 May 1995, the CA issued a resolution stating:

> The respondents are hereby required to file comment on the instant petition and to show cause why no writ of preliminary injunction should be issued, within ten (10) days from notice hereof, and the petitioners may file reply thereto within five (5) days from receipt of former's comment.
>
> In order not to render ineffectual the instant petition, let a Temporary Restraining Order be issued enjoining the public respondents from enforcing letters of dismissal/suspension dated January 19, 1995.
>
> SO ORDERED.[13]

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In its Decision dated 26 September 1996, respondent court granted the students' petition. The CA declared the RTC Order dated 22 February 1995, as well as the students' suspension and dismissal, void.

Hence, this petition by Miriam College.

We limit our decision to the resolution of the following issues:

(1) The alleged moot character of the case.

(2) The jurisdiction of the trial court to entertain the petition for certiorari filed by the students.

(3) The power of petitioner to suspend or dismiss respondent students.

(4) The jurisdiction of petitioner over the complaints against the students.

We do not tackle the alleged obscenity of the publication, the propriety of the penalty imposed or the manner of the imposition thereof. These issues, though touched upon by the parties in the proceedings below, were not fully ventilated therein.

I

Petitioner asserts the Court of Appeals found the case moot thus:

> While this petition may be considered moot and academic since more than one year have passed since May 19, 1995 when this court issued a temporary restraining order enjoining respondents from enforcing the dismissal and suspension on petitioners....[14]

Since courts do not adjudicate moot cases, petitioner argues that the CA should not have proceeded with the adjudication of the merits of the case.

We find that the case is not moot.

It may be noted that what the court issued in 19 May 1995 was a temporary restraining order, not a preliminary injunction. The records do not show that the CA ever issued a preliminary injunction.

Preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency or a person to perform to refrain from performing a particular act or acts.[15] As an extraordinary remedy, injunction is calculated to preserve or maintain the status quo of things and is generally availed of to prevent actual or threatened acts, until the merits of the case can be heard.[16] A preliminary injunction persists until it is dissolved or until the termination of the action without the court issuing a final injunction.

The basic purpose of restraining order, on the other hand, is to preserve the status quo until the hearing of the application for preliminary injunction.[17] Under the former §5, Rule 58 of the Rules of Court, as amended by §5, Batas Pambansa Blg. 224, a judge (or justice) may issue a temporary restraining order with a limited life of twenty days from date of issue.[18] If before the expiration of the 20-day period the application for preliminary injunction is denied, the temporary order would thereby be deemed automatically vacated. If no action is taken by the judge on the application for preliminary injunction within the said 20 days, the temporary restraining order would automatically expire on the 20th day by the sheer force of law, no judicial declaration to that effect being necessary.[19] In the instant case, no such preliminary injunction was issued; hence, the TRO earlier issued automatically expired under the aforesaid provision of the Rules of Court.[20]

This limitation as to the duration of the temporary restraining order was the rule prevailing when the CA issued its

TRO dated 19 May 1995.[21] By that time respondents Elizabeth Valdezco and Joel Tan had already served their respective suspensions. The TRO was applicable only to respondents Jasper Briones, Jerome Gomez, Relly Carpio, Jose Mari Ramos and Gerald Gary Renacido all of whom were dismissed, and respondent Camille Portugal whose graduation privileges were withheld. The TRO, however, lost its effectivity upon the lapse of the twenty days. It can hardly be said that in that short span of time, these students had already graduated as to render the case moot.

Either the CA was of the notion that its TRO was effective throughout the pendency of the case or that what is issued was a preliminary injunction. In either case, it was error on the part of the CA to assume that its order supposedly enjoining Miriam from enforcing the dismissal and suspension was complied with. A case becomes moot and academic when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits.[22] To determine the moot character of a question before it, the appellate court may receive proof or take notice of facts appearing outside the record.[23] In the absence of such proof or notice of facts, the Court of Appeals should not have assumed that its TRO was enforced, and that the case was rendered moot by the mere lapse of time.

Indeed, private respondents in their Comment herein[24] deny that the case has become moot since Miriam refused them readmission in violation of the TRO. This fact is unwittingly conceded by Miriam itself when, to counter this allegation by the students, it says that private respondents never sought readmission after the restraining order was issued.[25] In truth, Miriam relied on legal technicalities to subvert the clear intent of said order, which states:

> In order not to render ineffectual the instant petition, let a Temporary Restraining Order be issued enjoining the public respondents from enforcing letters of dismissal/suspension dated January 19, 1995.

Petitioner says that the above order is "absurd" since the order "incorrectly directs public respondent, the Hon. Jaime Salazar, presiding judge of the Regional Trial Court of Quezon City not to dismiss or suspend the students."[26]

We do not agree. Padua vs. Robles[27]lays down the rules in construing judgments. We find these rules to be applicable to court orders as well:

> [T]he sufficiency and efficacy of a judgment must be tested by its substance rather than its form. In construing a judgment, its legal effects including such effects that necessarily follow because of legal implications, rather than the language used, govern. Also, its meaning, operation, and consequences must be ascertained like any other written instrument. Thus, a judgment rests on the intent of the Court as gathered from every part thereof, including the situation to which it applies and attendant circumstances. (Underscoring supplied.)

Tested by such standards, we find that the order was indeed intended for private respondents (in the appellate court) Miriam College, et al., and not public respondent Judge. In dismissing the case, the trial judge recalled and set aside all orders it had previously issued, including the writ of preliminary injunction. In doing so, the trial court allowed the dismissal and suspension of the students to remain in force. Thus, it would indeed be absurd to construe the order as being directed to the RTC. Obviously, the TRO was intended for Miriam College.

True, respondent-students should have asked for a clarification of the above order. They did not. Nevertheless, if Miriam College found the order "absurd," then it should have sought a clarification itself so the Court of Appeals could have cleared up any confusion. It chose not to. Instead, it took advantage of the supposed vagueness of the order and used the same to justify its refusal to readmit the students.

As Miriam never readmitted the students, the CA's ruling that the case is moot has no basis. How then can Miriam

argue in good faith that the case had become moot when it knew all along that the facts on which the purported moot character of the case were based did not exist? Obviously, Miriam is clutching to the CA's wrongful assumption that the TRO it issued was enforced to justify the reversal of the CA's decision.

Accordingly, we hold that the case is not moot, Miriam's pretensions to the contrary notwithstanding.

II

"To uphold and protect the freedom of the press even at the campus level and to promote the development and growth of campus journalism as a means of strengthening ethical values, encouraging critical and creative thinking, and developing moral character and personal discipline of the Filipino youth,"[28] Congress enacted in 1991 Republic Act No. 7079.

Entitled "AN ACT PROVIDING FOR THE DEVELOPMENT AND PROMOTION OF CAMPUS JOURNALISM AND FOR OTHER PURPOSES,"[29] the law contains provisions for the selection of the editorial board[30] and publication adviser,[31] the funding of the school publication,[32] and the grant of exemption to donations used actually, directly and exclusively for the promotion of campus journalism from donor's or gift tax.[33]

Noteworthy are provisions clearly intended to provide autonomy to the editorial board and its members. Thus, the second paragraph of Section 4 states that "(o)nce the publication is established, its editorial board shall freely determine its editorial policies and manage the publication's funds."

Section 7, in particular, provides:

> A member of the publication staff must maintain his or her status as student in order to retain membership in the publication staff. A student shall not be expelled or suspended solely on the basis of articles he or she has written, or on the basis of the performance of his or her duties in the student publication.

Section 9 of the law mandates the DECS to "promulgate the rules and regulations necessary for the effective implementation of this Act."[34] Pursuant to said authority, then DECS Secretary Armand Fabella, issued DECS Order No. 94, Series of 1992, providing under Rule XII that:

> GENERAL PROVISIONS
>
> SECTION 1. The Department of Education, Culture and Sports (DECS) shall help ensure and facilitate the proper carrying out of the Implementing Rules and Regulations of Republic Act No. 7079. It shall also act on cases on appeal brought before it.
>
> The DECS regional office shall have the original jurisdiction over cases as a result of the decisions, actions and policies of the editorial board of a school within its area of administrative responsibility. It shall conduct investigations and hearings on the these cases within fifteen (15) days after the completion of the resolution of each case. (Underscoring supplied.)

The latter two provisions of law appear to be decisive of the present case.

It may be recalled that after the Miriam Disciplinary Board imposed disciplinary sanctions upon the students, the latter filed a petition for certiorari and prohibition in the Regional Trial Court raising, as grounds therefor, that:

> I
>
> DEFENDANT`S DISCIPLINARY COMMITTEE AND DISCIPLINARY BOARD OF DEFENDANT SCHOOL HAVE NO JURISDICTION OVER THE CASE.[35]

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> II
>
> DEFENDANT SCHOOL'S DISCIPLINARY COMMITTEE AND THE DISCIPLINARY BOARD DO NOT HAVE THE QUALIFICATION OF AN IMPARTIAL AND NEUTRAL ARBITER AND, THEREFORE THEIR TAKING COGNIZANCE OF THE CASE AGAINST PLAINTIFFS WILL DENY THE LATTER OF THEIR RIGHT TO DUE PROCESS.[36]

Anent the first ground, the students theorized that under Rule XII of the Rules and Regulations for the Implementation of R.A. No. 7079, the DECS Regional Office, and not the school, had jurisdiction over them. The second ground, on the other hand, alleged lack of impartiality of the Miriam Disciplinary Board, which would thereby deprive them of due process. This contention, if true, would constitute grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the trial court. These were the same grounds invoked by the students in their refusal to answer the charges against them. The issues were thus limited to the question of jurisdiction - a question purely legal in nature and well within the competence and the jurisdiction of the trial court, not the DECS Regional Office. This is an exception to the doctrine of primary jurisdiction. As the Court held in Phil. Global Communications, Inc. vs. Relova.[37]

> Absent such clarity as to the scope and coverage of its franchise, a legal question arises which is more appropriate for the judiciary than for an administrative agency to resolve. The doctrine of primary jurisdiction calls for application when there is such competence to act on the part of an administrative body. Petitioner assumes that such is the case. That is to beg the question. There is merit, therefore, to the approach taken by private respondents to seek judicial remedy as to whether or not the legislative franchise could be so interpreted as to enable the National Telecommunications Commission to act on the matter. A jurisdictional question thus arises and calls for an answer.

However, when Miriam College in its motion for reconsideration contended that the DECS Regional Office, not the RTC, had jurisdiction, the trial court, refusing to "be more popish than the Pope," dismissed the case. Indeed, the trial court could hardly contain its glee over the fact that "it will have one more case out of its docket." We remind the trial court that a court having jurisdiction of a case has not only the right and the power or authority, but also the duty, to exercise that jurisdiction and to render a decision in a case properly submitted to it.[38] Accordingly, the trial court should not have dismissed the petition without settling the issues presented before it.

III

Before we address the question of which between the DECS Regional Office and Miriam College has jurisdiction over the complaints against the students, we first delve into the power of either to impose disciplinary sanctions upon the students. Indeed, the resolution of the issue of jurisdiction would be reduced to an academic exercise if neither the DECS Regional Office nor Miriam College had the power to impose sanctions upon the students.

Recall, for purposes of this discussion, that Section 7 of the Campus Journalism Act prohibits the expulsion or suspension of a student solely on the basis of articles he or she has written.

A.

Section 5 (2), Article XIV of the Constitution guarantees all institutions of higher learning academic freedom. This institutional academic freedom includes the right of the school or college to decide for itself, its aims and objectives, and how best to attain them free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint.[39] The essential freedoms subsumed in the term "academic freedom" encompasses the freedom to determine for itself on academic grounds:

(1) Who may teach,

(2) What may be taught,

(3) How it shall be taught, and

(4) Who may be admitted to study.[40]

The right of the school to discipline its students is at once apparent in the third freedom, i.e., "how it shall be taught." A school certainly cannot function in an atmosphere of anarchy.

> Thus, there can be no doubt that the establishment of an educational institution requires rules and regulations necessary for the maintenance of an orderly educational program and the creation of an educational environment conducive to learning. Such rules and regulations are equally necessary for the protection of the students, faculty, and property.[41]

Moreover, the school has an interest in teaching the student discipline, a necessary, if not indispensable, value in any field of learning. By instilling discipline, the school teaches discipline. Accordingly, the right to discipline the student likewise finds basis in the freedom "what to teach."

Incidentally, the school not only has the right but the duty to develop discipline in its students. The Constitution no less imposes such duty.

> [All educational institutions] shall inculcate patriotism and nationalism, foster love of humanity, respect for human rights, appreciation of the role of national heroes in the historical development of the country, teach the rights and duties of citizenship, strengthen ethical and spiritual values, develop moral character and personal discipline, encourage critical and creative thinking, broaden scientific and technological knowledge, and promote vocational efficiency.[42]

In Angeles vs. Sison, we also said that discipline was a means for the school to carry out its responsibility to help its students "grow and develop into mature, responsible, effective and worthy citizens of the community."[43]

Finally, nowhere in the above formulation is the right to discipline more evident than in "who may be admitted to study." If a school has the freedom to determine whom to admit, logic dictates that it also has the right to determine whom to exclude or expel, as well as upon whom to impose lesser sanctions such as suspension and the withholding of graduation privileges.

Thus, in Ateneo de Manila vs. Capulong,[44] the Court upheld the expulsion of students found guilty of hazing by petitioner therein, holding that:

> No one can be so myopic as to doubt that the immediate reinstatement of respondent students who have been investigated and found guilty by the Disciplinary Board to have violated petitioner university's disciplinary rules and standards will certainly undermine the authority of the administration of the school. This we would be most loathe to do.
>
> More importantly, it will seriously impair petitioner university's academic freedom which has been enshrined in the 1935, 1973 and the present 1987 Constitution.[45]

Tracing the development of academic freedom, the Court continued:

> Since Garcia vs. 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 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 the rules governing university-student relations, particularly those pertaining to student discipline, may be regarded as vital, 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 the concomitant duty, and that is, their duty to learn under the rules laid down by the school.
>
> xxx. It must be borne in mind that universities are established, not merely to develop the intellect and skills of the studentry, but to inculcate lofty values, ideals and attitudes; may, the development, or flowering if you will, of the total man.
>
> In essence, education must ultimately be religious -- not in the sense that the founders or charter members of the institution are sectarian or profess a religious ideology. Rather, a religious education, as the renowned philosopher Alfred North Whitehead said, is 'an education which inculcates duty and reverence.' It appears that the particular brand of religious education offered by the Ateneo de Manila University has been lost on the respondent students.
>
> Certainly, they do not deserve to claim such a venerable institution as the Ateneo de Manila University as their own a minute longer, for they may foreseeably cast a malevolent influence on the students currently enrolled, as well as those who come after them.
>
> Quite applicable to this case is our pronouncement in Yap Chin Fah v. Court of Appeals that: "The maintenance of a morally conducive and orderly educational environment will be seriously imperilled, if, under the circumstances of this case, Grace Christian is forced to admit petitioner's children and to reintegrate them to the student body." Thus, the decision of petitioner university to expel them is but congruent with the gravity of their misdeeds.[46]

B.

Section 4 (1), Article XIV of the Constitution recognizes the State's power to regulate educational institution:

> The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

As may be gleaned from the above provision, such power to regulate is subject to the requirement of reasonableness. Moreover, the Constitution allows merely the regulation and supervision of educational institutions, not the deprivation of their rights.

C.

In several cases, this Court has upheld the right of the students to free speech in school premises. In the landmark case of Malabanan vs. Ramento,[47] students of the Gregorio Araneta University Foundation, believing that the merger of the Institute of Animal Science with the Institute of Agriculture would result in the increase in their tuition, held a demonstration to protest the proposed merger. The rally however was held at a place other than that specified in the school permit and continued longer than the time allowed. The protest, moreover, disturbed the classes and caused the stoppage of the work of non-academic personnel. For the illegal assembly, the university

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suspended the students for one year. In affirming the students' rights to peaceable assembly and free speech, the Court through Mr. Chief Justice Enrique Fernando, echoed the ruling of the US Supreme Court in Tinker v. Des Moines School District.[48]

> Petitioners invoke their rights to peaceable assembly and free speech. They are entitled to do so. They enjoy like the rest of the citizens the freedom to express their views and communicate their thoughts to those disposed to listen in gatherings such as was held in this case. They do not, to borrow from the opinion of Justice Fortas in Tinker v. Des Moines Community School District, 'shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.' While, therefore, the authority of educational institutions over the conduct of students must be recognized, it cannot go so far as to be violative of constitutional safeguards. On a more specific level there is persuasive force to this Fortas opinion. "The principal use to which the schools are dedicated is to accommodate students during prescribed hours for the purpose of certain types of activities. Among those activities is personal intercommunication among the students. This is not only inevitable part of the educational process. A student's rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions, even on controversial subjects like the conflict in Vietnam, if he does so without 'materially and substantially interfer[ing] with the requirements of appropriate discipline in the operation of the school' and without colliding with the rights of others. * * * But conduct by the student, in class or out of it, which for any reason - whether it stems from time, place, or type of behavior -- materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech.[49]

The Malabanan ruling was followed in Villar vs. Technological Institute of the Philippines,[50] Arreza vs. Gregorio Araneta University Foundation,[51] and Non vs. Dames II.[52]

The right of the students to free speech in school premises, however, is not absolute. The right to free speech must always be applied in light of the special characteristics of the school environment.[53] Thus, while we upheld the right of the students to free expression in these cases, we did not rule out disciplinary action by the school for "conduct by the student, in class or out of it, which for any reason - whether it stems from time, place, or type of behavior - which materially disrupts classwork or involves substantial disorder or invasion of the rights of others."[54] Thus, in Malabanan, we held:

> 6. Objection is made by private respondents to the tenor of the speeches by the student leaders. That there would be a vigorous presentation of view opposed to the proposed merger of the Institute of Animal Science with the Institute of Agriculture was to be expected. There was no concealment of the fact that they were against such a move as it confronted them with a serious problem ('isang malaking suliranin.") They believed that such a merger would result in the increase in tuition fees, an additional headache for their parents ('isa na naman sakit sa ulo ng ating mga magulang.") If in the course of such demonstration, with an enthusiastic audience goading them on, utterances extremely critical at times, even vitriolic, were let loose, that is quite understandable. Student leaders are hardly the timid, diffident types. They are likely to be assertive and dogmatic. They would be ineffective if during a rally they speak in the guarded and judicious language of the academe. At any rate, even a sympathetic audience is not disposed to accord full credence to their fiery exhortations. They take into account the excitement of the occasion, the propensity of speakers to exaggerate, the exuberance of youth. They may give the speakers the benefit of their applause, but with the activity taking place in the school premises and during the daytime, no clear and present danger of public disorder is discernible. This is without prejudice to the taking of disciplinary action for conduct, which, to borrow from Tinker, "materially disrupts classwork or involves substantial disorder or invasion of the rights of others."[55]

It is in the light of this standard that we read Section 7 of the Campus Journalism Act. Provisions of law should be construed in harmony with those of the Constitution; acts of the legislature should be construed, wherever possible, in a manner that would avoid their conflicting with the fundamental law.[56] A statute should not be

given a broad construction if its validity can be saved by a narrower one.[57] Thus, Section 7 should be read in a manner as not to infringe upon the school's right to discipline its students. At the same time, however, we should not construe said provision as to unduly restrict the right of the students to free speech. Consistent with jurisprudence, we read Section 7 of the Campus Journalism Act to mean that the school cannot suspend or expel a student solely on the basis of the articles he or she has written, except when such articles materially disrupt class work or involve substantial disorder or invasion of the rights of others.

IV.

From the foregoing, the answer to the question of who has jurisdiction over the cases filed against respondent students becomes self-evident. The power of the school to investigate is an adjunct of its power to suspend or expel. It is a necessary corollary to the enforcement of rules and regulations and the maintenance of a safe and orderly educational environment conducive to learning.[58] That power, like the power to suspend or expel, is an inherent part of the academic freedom of institutions of higher learning guaranteed by the Constitution. We therefore rule that Miriam College has the authority to hear and decide the cases filed against respondent students.

WHEREFORE, the decision of the Court of Appeals is REVERSED and SET ASIDE.Petitioner Miriam College is ordered to READMIT private respondent Joel Tan whose suspension has long lapsed.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Pardo, and Ynares-Santiago, JJ., concur.
Puno, J., no part, knows some parties.

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[1] Rollo, p. 66.

[2] CA Rollo, pp. 41-44.

[3] Jasper Briones, Editor-in-Chief; Jerome Gomez, Associate Editor, Deborah Ligon, Business Manager; Imelda Hilario, News Editor Elizabeth Valdezco, Lay-Out Editor; Jose Mari Ramos, Art Editor; Camille Portugal, Asst. Art Editor; Joel Tan, Photo Editor; Gerald Gary Renacido, a member of the literary staff; and Daphne Cowper, Asst. Literary Editor.

[4] CA Rollo, p. 59.

[5] Id., at 60.

[6] Id., at 62.

[7] Rollo, pp. 19-20.

[8] CA Rollo, p. 29.

[9] Id., at 48-49.

[10] Rollo, p. 89-90.

[11] Docketed herein as G.R. No. 119027.

[12] CA Rollo, p. 76.

[13] Id., at 78.

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[14] Rollo, p. 24.

[15] Golangco vs. Court of Appeals, 283 SCRA 493 (1997).

[16] Cagayan de Oro City Landless Residents Asso., Inc. vs. Court of Appeals, 254 SCRA 220 (1996).

[17] Asset Privatization Trust vs. Court of Appeals, 214 SCRA 400 (1992).

[18] Carbungco vs. Court of Appeals, 181 SCRA 313 (1990).

[19] Board of Transportation vs. Castro, 125 SCRA 411 (1983).

[20] Johannesburg Packaging Corporation vs. Court of Appeals, 216 SCRA 439 (1992).

[21] Under §5, Rule 58 of the present Rules of Court, a TRO issued by the Court of Appeals or a member thereof shall be effective for sixty (60) days from notice to the party or person sought to be enjoined.

[22] Philippine National Bank vs. Court of Appeals and Romeo Barilea, 291 SCRA 271 (1998).

[23] 4 C.J.S. Appeal and Error §40.

[24] Rollo, p. 125. In their Rejoinder, private respondents attached a "Joint Affidavit" stating:

> xxx
>
> 4. That the claim of the petitioner, that we have not employed the TRO issued by the Court of Appeals in filing for reinstatement or gaining entry into the campus premises, is completely false and misleading. The truth of the matter being that members of our group had initially tried to gain admittance into the school premises but were barred from doing so by the guards who claimed it was for security reasons, as mandated on them [sic] by the petitioners.
>
> xxx
>
> 6. Except for the two [referring to Jose Mari Ramos and Elizabeth Valdezco], we have stopped schooling and we are waiting for the case to be resolved to continue our studies and finish the courses we started. We need only a year or two to do it.
>
> xxx
>
> 8. We respectfully petition the court to admit this affidavit as proof against the petitioners' [sic] false manifestation. We hope that the facts we have provided will help clear the cloud of confusion intentionally raised by the petitioners through their allegations. We also hope that they be held in contempt of their attempt to intentionally mislead the honorable court. And we also pray that the court grant the speedy resolution of the case in our favor, thereby facilitating in [sic] our long-awaited vindication.
>
> On October 21, 1998, the Court resolved to require the petitioner to file a Sur-Rejoinder within ten (10) days from notice, directing the petitioner to address in particular the above statements of private respondents in their "Joint Affidavit." Petitioner, however, never filed the required Sur-Rejoinder and we resolve to dispense with the same.

[25] Id., at 157.

[26] Reply, p. 2.

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[27] 66 SCRA 485 (1975).

[28] Section 2, Republic Act No. 7079.

[29] Also known as the "Campus Journalism Act of 1991." (Section 1, Id.)

[30] Sec. 4. Student Publication.-- A student publication is published by the student body through an editorial board and publication staff composed of students selected by fair and competitive examinations.

Once the publication is established, its editorial board shall freely determine its editorial policies and manage the publication's funds.

[31] Sec. 6 Publication Adviser.- The publication adviser shall be selected by the school administration from a list of recommendees submitted by the publication staff. The function of the adviser shall be limited to one of technical guidance.

[32] Sec. 5. Funding of Student Publication.- Funding for the student publication may include the savings of the respective school's appropriations, student subscriptions, donations, and other sources of funds.

[33] Sec. 10. The Tax Exemption.- Pursuant to paragraph 4, Section 4, Article XIV of the Constitution, all grants, endowments, donations, or contributions used actually, directly and exclusively for the promotion of campus journalism as provided for in this Act shall be exempt from donor's or gift tax.

[34] Sec. 9.

[35] Id., at 95.

[36] Id., at 96-97.

[37] 100 SCRA 254 (1980).

[38] 20 Am Jur 2d, Courts §93.

[39] Tangonan vs. Pan, 137 SCRA 245, 256-257 (1985).

[40] Isabelo, Jr. vs. Perpetual Help College of Rizal, Inc. 227 SCRA 591, 595 (1993), Ateneo de Manila University vs. Capulong, 222 SCRA 643, 660 (1993), Garcia vs. the Faculty Admission Committee, Loyola School of Tehology, 68 SCRA 277, 285 (1975). The above formulation was made by Justice Felix Frankfurter in his concurring opinion is Sweezy v. New Hampshire, 354 U.S. 234, 263.

[41] Angeles vs. Sison, 112 SCRA 26, 37 (1982).

[42] Section 3 (2), Article XIV Constitution.

[43] Supra, at 37.

[44] 222 SCRA 643 (1993).

[45] Id., at 659-660.

[46] Id., at 663-665.

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[47] 129 SCRA 359 (1984).

[48] 393 U.S. 503 (1968).

[49] Id., at 367-368.

[50] 135 SCRA 706 (1985).

[51] 137 SCRA 94 (1985).

[52] 185 SCRA 523 (1990).

[53] Healy vs. James, 408 US 169, 33 L Ed 2d 266, 92 S Ct 2338, citing Tinker vs. Des Moines, supra.

[54] Malabanan vs. Ramento, supra, at 368. See also Arreza vs. Gregorio Araneta University Foundation, supra, at 97-98, and Non vs. Dames II, supra, at 535.

[55] Id., at 369; Underscoring supplied.

[56] Herras Teehankee vs. Rovira, 75 Phil. 634, at 643 (1945).

[57] Bernhardt v. Polygraphic Co., 350 US 198, 202, 100 L ed 199, 76 Ct 273 (1955).

[58] Angeles vs. Sison, 112 SCRA 26, 37 (1982).

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