RAFAELITO M. GARAYBLAS, PETITIONER, VS. JOSE L. ATIENZA, JR., MAYOR OF THE CITY OF MANILA, ATTY. EMMANUEL SISON, SECRETARY TO THE MAYOR, MANILA; CHAIRMAN AND MEMBERS OF THE BOAR...

G.R. NO. 149493. June 22, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court for the nullification of the Order of the Regional Trial Court of Quezon City, Branch 76, in SCA No. Q-00-39944, dismissing the Petition for Injunction filed by petitioner Rafaelito M. Garayblas for lack of jurisdiction, as well as the Order dated May 28, 2001, dismissing the petition for being moot and academic.

The Antecedents

Rafaelito M. Garayblas was a part-time Professorial Lecturer in the College of Law of the Pamantasan ng Lungsod ng Maynila (PLM) since November 17, 1992. Raul I. Goco had been appointed by then Manila City Mayor Alfredo S. Lim as a member of the Board of Regents representing the PLM faculty, whose term was to expire on August 13, 1998. His appointment was confirmed by the City Council on November 12, 1992.[1]

In 1996, however, Goco was appointed Philippine Ambassador to Canada. Thus, on September 30, 1996, Mayor Lim appointed petitioner as representative of the PLM Faculty to the Board of Regents "effective September 24, 1996 up to August 13, 1998 representing the unexpired term of xxx Goco."[2] On January 5, 1998, Mayor Lim extended petitioner's appointment up to August 13, 2004.[3]

Meantime, then Vice-Mayor Jose L. Atienza, Jr. was elected as City Mayor of Manila. On April 26, 1999, Mayor Atienza appointed Goco as member of the Board of Regents to represent the PLM faculty for a term of six (6) years effective April 26, 1999 to April 25, 2005.[4] However, based on the records of the Office of the Secretary, the representative of the PLM faculty to the Board was petitioner as his appointment was to expire on August 13, 2004.[5]

When apprised of Goco's appointment to the position, petitioner, through counsel, sent a letter[6] to Manila Vice-Mayor Danilo V. Lacuna requesting that "the appointment of Atty. Goco to the questioned position be not confirmed by the City Council," considering that petitioner had been rightfully appointed thereto.

The matter was referred to the Office of the City Mayor for appropriate action, pursuant to Section 454(d) of Republic Act No. 7160, otherwise known as the Local Government Code.[7] Petitioner, through counsel, thereafter sent a letter[8] addressed to Mayor Atienza dated October 5, 1999, inquiring on the action taken relative to the confirmation of Goco's appointment to the Board.

On December 15, 1999, Mayor Atienza issued a Special Order[9] temporarily designating his Secretary, Atty.

Emmanuel R. Sison, as Acting PLM President. In a special meeting held on January 17, 2000, the Board of Regents approved Resolution No. 2233[10] confirming the designation of Atty. Sison as Acting PLM President. Thereafter, in its regular meeting on January 28, 2000, the Board, by a majority vote, resolved to recognize Goco as board member of the Board of Regents.

On February 10, 2000, petitioner filed a Petition[11] for Injunction with Prayer for Preliminary Injunction and Temporary Restraining Order with Damages against Mayor Atienza; Atty. Sison, the Chairman; as well as the Members of the Board of Regents; and PLM officers as respondents. Petitioner alleged that:

> 15) The act of respondent Atienza in appointing respondent Raul I. Goco as a Member of the Board of Regents of PLM is illegal, arbitrary, whimsical, capricious and oppressive amounting to grave abuse of discretion. It is null and void, and patently illegal because:a) Petitioner, by explicit and clear mandate of law, enjoys a fixed term of office beginning August 14, 1998 up to August 13, 2004. Thus, respondent Atienza cannot legally abbreviate or shorten the term of office of the petitioner as the same is fixed by law. Respondent Atienza's shortcircuiting petitioner's term as a Member of the Board of Regents is despotic, tyrannical and in total disregard of due process.
>
> b) Petitioner has still the absolute right to remain as Member of the Board of Regents of PLM because the word "term" connotes entitlement to hold the office as a matter of right.
>
> x x x
>
> c) Respondent Atienza's act of appointing respondent Goco as Member of the Board of Regents is null and void because there is no vacant position to which he may be appointed. Petitioner is still the rightful and legitimate occupant of the position as a Member of the Board of Regents representing the faculty up to 2004.
>
> x x x

Since the position of Member of the Board of Regents representing the faculty is currently occupied by petitioner, the same cannot be considered vacant, hence, no valid appointment can be made thereto. It is, therefore, a superfluity to state that the appointment of respondent Goco as Member of the Board of Regents of PLM representing the faculty is invalid, irregular, ineffective and void from the very beginning.

16) Even assuming that there is a vacant position in the membership of the Board of Regents representing the faculty, still respondent Goco may not be validly appointed thereto because he has not assumed the position of a faculty since 1993 or thereabouts up to the present.

> 16.1) R.A. 4196 explicitly provides that one member must come from the faculty and, respondent Goco, not being an active member of the PLM faculty, is not qualified to become a member of the Board of Regents representing the faculty. Admittedly, the appointment of respondent Goco runs counter to the clear command of R.A. 4196.

Board of Regents devoid
of authority to oust or
remove petitioner

17) The Board of Regents is without authority to remove or oust petitioner as Member of the Board of Regents representing the faculty because vacancy occurs:

> "x x x by reason of resignation, death or other incapacity of one or more of its members, such vacancy shall be filled by appointment by the Mayor of the City of Manila, x x x." (Section 4, R.A. 4196) (Underscoring ours)17.1) Republic Act 4196 categorically states that vacancy in the membership of the Board of Regents occur only when a member thereof resigns, dies or otherwise becomes incapacitated to perform the duties and

functions of the office.
17.2) Thus, the petitioner, not having voluntarily relinquished his position as Member of the Board of Regents nor is he incapacitated to discharge the duties thereof, thus he may not be validly removed or ousted by the Board of Regents.
17.3) So also, the Board of Regents is not clothed with the authority to oust or remove a Member thereof. Section 6 of R.A. 4196 enumerates the powers and functions of the Board of Regents and the authority to oust or remove a member of the Board is not included therein.
17.4) The removal or ouster of the petitioner is highly irregular because the PLM Charter provides three (3) valid causes for the removal or ouster from the Board's membership - resignation, death or incapacity. Petitioner, therefore, may not be validly removed by the majority votes of the Members of the Board of Regents as it [is] not one of the grounds enumerated in the law creating the PLM.[12]

Petitioner anchored his action for damages on the following allegations:

18) Because respondents acted in evident bad faith with deliberate intention to ridicule, humiliate, dishonor, embarrass and place petitioner in a shameful predicament, sustained untold sufferings, sleepless nights, serious anxiety, wounded feelings and tarnished reputation as a member of the academe of good standing.18.1) The net effect of respondents' scheming act of removing petitioner without cause and in serious violation of law, is contrary to law, morals, good customs and public policy for which petitioner is entitled to recover damages from respondents, their agents and representatives, jointly and severally, as follows:a) Exemplary damages in the amount of one million pesos (P1,000,000.00), by way of example against persons, respondents included, who in their personal and public capacities exceeded or abused their authority coupled with grave disregard of human and property rights;
b) Moral damages in the amount of one million pesos (P1,000,000.00) arising from the embarrassment, humiliation, sleepless nights, anxiety and besmirched reputation as a consequence of [respondents'] illegal and tortious acts, all in violation of petitioner's rights.
c) Attorney's fees in the amount of one hundred thousand pesos (P100,000.00); and
d) Cost of litigation and other incidental expenses.[13]

Petitioner prayed, likewise, that he be granted the following reliefs:

1) to issue upon receipt of this petition a temporary restraining order directing the respondents, agents and/or representatives to cease, desist and/or refrain from implementing the resolution of the Board of Regents ousting or removing the petitioner as Member thereof and from implementing the appointment of Mr. Raul I. Goco as Member of the Board of Regents until the merits of this case shall have been finally and judicially resolved;

2) to maintain the status quo by declaring petitioner to continue discharging his functions and duties as Member of the Board of Regents until the case is finally adjudicated; and

3) after due hearing, judgment be issued:

a) to declare the appointment of petitioner still valid and subsisting until its expiration in 2004 and that the resolution ousting petitioner be declared null and void having been made without legal authority;

b) to declare the appointment of Mr. Raul I. Goco as null and void ab initio.

4) to order the respondents to pay, jointly and severally, to the petitioner:

a) Exemplary damages - P1,000,000.00

b) Moral damages - P1,000,000.00

c) Attorney's fees - P 100,000.00

which will be duly proved during the trial in the amounts particularly specified herein.

5) to make the preliminary injunction heretofore issued final and permanent.

Such other reliefs which this Honorable Court may deem just and equitable.[14]

Respondents filed a Motion to Dismiss[15] the petition on the following grounds: (1) the RTC had no jurisdiction to issue a writ of injunction to enjoin the acts complained of, considering that the jurisdiction of regional trial courts is limited to acts committed within the territorial boundaries of their respective provinces and districts; (b) the allegations in the petition make out a case for quo warranto; hence, petitioner has no cause of action for injunction; and (c) the petition had been rendered moot and academic by the lapse of petitioner's six-year term.

On February 29, 2000, the RTC issued an Order[16] granting petitioner's plea for a temporary restraining order.

Respondents filed a Supplement to Motion to Dismiss[17] where they averred that (a) the petitioner's appointment was a mere "extension of services," which is beyond the power of the City Mayor to issue; (b) petitioner's appointment as member of the Board of Regents is invalid because the same was not confirmed by the City Council; and (c) petitioner forfeited his office as member of the Board of Regents upon his appointment as Department of Interior and Local Government (DILG) Undersecretary because he is barred from simultaneously holding two offices.

Petitioner opposed the motions, contending that (1) his petition for injunction was the proper remedy; (2) the court had jurisdiction to issue a writ of injunction within the National Capital Region; (3) he was not barred from holding the two positions as they are not incompatible offices; and (3) contrary to the allegation of respondents, the extension of his appointment as member of the Board of Regents had been confirmed by the City Council.

Respondents filed a Motion for Reconsideration[18] of the trial court's Order issuing the TRO dated February 29, 2000. They stressed that Mayor Lim had appointed Goco as member of the Board of Regents to represent the PLM faculty for a six-year term, to expire in 1998, and that his appointment was confirmed by the City Council on November 12, 1992. Mayor Lim appointed petitioner on September 30, 1996, even prior to the expiration of Goco's term as Board Member. The motion was, likewise, opposed by petitioner.

The parties adduced testimonial and documentary evidence during the hearing of the petition for a writ of preliminary injunction. On March 21, 2000, respondents filed an Urgent Motion to Resolve [the Motion to Dismiss],[19] reiterating that the petition had been mooted by the appointment of the petitioner as DILG Undersecretary.

On March 22, 2000, the court issued an Order[20]granting petitioner's Prayer for a Writ of Preliminary Injunction on a bond of P200,000.00. Petitioner posted the required bond, upon which a writ of preliminary injunction was issued on March 28, 2000.[21] Respondents filed a motion for reconsideration.

On October 24, 2000, the court issued an Order[22] granting the Motion to Dismiss and the Supplement filed by respondents. The RTC ruled that under Presidential Decree No. 902-A, it is the Securities and Exchange Commission (SEC) that has exclusive jurisdiction over the petition, thus:

> It bears emphasis that matters on appointment of the members of the Board of Regents, their term of office, the grounds for loss thereof and the meetings of the board are covered or provided for in the Code of PLM, the

> by-laws of the said educational institution, which appears to have been violated. The Board of Regents is the governing body of the PLM, exercising powers and duties enumerated in the Code, the general powers set out in Section 13 of Act 1459 (Corporation Law) and such other functions which are necessary to carry out the purposes of the corporation and administration of the university. Pamantasan ng Lungsod ng Maynila is a non-stock, non-profit corporation created for education purpose by R.A. No. 4196. Suffice it to state that the above controversy can be resolved through reference to the charter and by-laws of the PLM. Evidently, the prayers for injunction and damages are predicated on corporate matters.[23]

Petitioner filed a Motion for Reconsideration,[24] alleging that the SEC had no jurisdiction over the case because the PLM is a chartered institution and not a private corporation. Respondents opposed the motion and alleged in their Rejoinder[25] dated February 8, 2001 that since petitioner had not been reappointed as Professorial Lecturer in the PLM College of Law, he was no longer qualified to become a member of the Board of Regents; consequently, the case had become moot and academic.

In his Sur-Rejoinder,[26] petitioner alleged that the non-renewal of his appointment was a devious tactic of respondents to effectively oust him from his membership in the Board of Regents. He insisted that he remained a Board Member despite the non-renewal of his appointment, especially since the RTC had issued a writ of preliminary injunction in his favor.

On May 28, 2001, the court issued an Order[27] denying petitioner's Motion for Reconsideration and its supplements, as well as respondents' opposition and their supplements. The court ruled that the petition for injunction had become moot and academic since petitioner's appointment as PLM faculty member had not been renewed. The court concluded that he was not qualified to remain a member of the Board of Regents representing the PLM faculty.

Petitioner thus filed the instant Petition for Review on Certiorari under Rule 45 of the Rules of Court in which he raises the following issues:

> 1) Whether or not the petitioner is entitled to his position as Member of the Board of Regents representing the faculty until the expiration of his term on August 13, 2004.
>
> Corollarily, may respondent Goco be validly appointed to a position which is not vacant?
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> 2) Whether or not respondent Mayor Atienza committed grave abuse of authority in appointing respondent Goco as Member of the Board of Regents representing the faculty knowing that the position is presently occupied by the petitioner.
>
> 3) Whether or not respondent Chairman and Members of the Board of Regents is clothed with authority to oust or remove petitioner as Member of the Board of Regents.[28]

The threshold issues before the Court are whether the present recourse of petitioner under Rule 45 of the Revised Rules of Court is proper, and whether the court a quo erred in dismissing his petition for injunction on the sole ground that it had been mooted by the non-renewal of his appointment as a Professorial Lecturer at the PLM College of Law.

Petitioner admits that his appointment as professor in the College of Law had not been renewed. Nevertheless, he avers, this did not automatically discharge him as member of the Board of Regents representing the PLM faculty because under Section 4 of R.A. No. 4196, one need not remain to be a member of the faculty after his appointment to the Board of Regents. What the law requires is membership in the faculty roster at the time of appointment and the term of said member being fixed for six (6) years. Petitioner further claims that the non-renewal of his appointment as professorial lecturer was a devious ploy of PLM officials to oust him from the

Board.

Petitioner insists that his petition for injunction has not been mooted, as he has the right to pursue and regain the position from which he was ousted, and that the case remained justiciable and proper for judicial action. Moreover, there was a continuing violation of his right to security of tenure as a member of the Board of Regents. He reminds the Court that the RTC had issued a Temporary Restraining Order, as well as a writ of preliminary injunction. Furthermore, the court had yet to reconsider his claims for moral and exemplary damages, and attorney's fees which he had yet to prove during trial. Petitioner cites the ruling of this Court in Ticzon v. Video Post Manila, Inc.,[29] to buttress his contention.

For their part, respondents aver that petitioner's recourse is inappropriate because he raised factual issues in his petition. They insist that petitioner should have appealed, by writ of error, to the Court of Appeals instead of filing the instant petition for review on certiorari under Rule 45 of the Rules of Court. On the merits of the petition, respondents assert that, under the 1997 Rules of Civil Procedure, as amended, there is no rule governing injunction as a cause of action. They aver that injunction is merely an ancillary remedy to a principal action, and that the proper remedy of the petitioner in the RTC was to file a petition for quo warranto. Thus, the issue of whether he is entitled to damages has, likewise, become moot and academic. Respondents further contend that petitioner cannot rely on the ruling of this Court in Ticzon because the cause of action in that case was for damages with a plea for injunctive relief as an ancillary remedy. While petitioner contends that he was illegally ousted as member of the Board of Regents and thus entitled to injunctive relief, respondents insist that the petition had been rendered moot and academic by the non-renewal of petitioner's appointment as professor in the PLM College of Law.

The petition is meritorious.

We agree with respondents' contention that the May 28, 2001 Order of the trial court dismissing the petition for injunction for being moot and academic is a final order. The Order finally disposed of the case so that nothing more can be done with it in the trial court. In fine, the Order ended the litigation.[30]

As a rule, the remedy from a final order is by writ of error to the Court of Appeals or a petition for review on certiorari to this Court under Rule 45 of the Revised Rules of Court where only questions of law are raised or involved.[31] The test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.[32]

Applying the test to this case, it is clear that the issue raised by petitioner is one of law: whether the trial court erred in dismissing the petitioner's complaint for being moot and academic merely because he had not been reappointed as Professorial Lecturer at the PLM College of Law. Thus, the Court needs only to review the records, more particularly, the material allegations of the petition and the pleadings of the parties, to determine whether the issues had become moot and academic necessitating its dismissal solely on that ground.

The Court has ruled that an issue becomes moot and academic when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value. In such cases, there is no actual substantial relief to which the plaintiff would be entitled to and which would be negated by the dismissal of the complaint.[33] However, a case should not be dismissed simply because one of the issues raised therein had become moot and academic by the onset of a supervening event, whether intended or incidental, if there are other causes which need to be resolved after trial. When a case is dismissed without the other substantive issues in the case having been resolved would be tantamount to a denial of the right of the plaintiff to due process. It must be stressed that the material allegations in the complaint and the character of the relief sought determine the nature of

an action. The designation of the nature of an action, or its title, is not meaningless or of no effect in the determination of its purpose and object.[34]

A review of the allegations in the petition for injunction and the reliefs prayed for therein will readily show that petitioner had two causes of action: (1) for injunction; and (2) for moral and exemplary damages, and attorney's fees.

Injunction is a judicial writ, process or proceeding whereby a party is ordered to do or refrain from doing a certain act. It may be the main action or merely a provisional remedy for and as an incident in the main action.[35] The Court has distinguished the main action for injunction from the provisional or ancillary remedy of preliminary injunction, thus:

> The main action for injunction is distinct from the provisional or ancillary remedy of preliminary injunction which cannot exist except only as part or an incident of an independent action or proceeding. As a matter of course, in an action for injunction, the auxiliary remedy of preliminary injunction, whether prohibitory or mandatory, may issue. Under the law, the main action for injunction seeks a judgment embodying a final injunction which is distinct from, and should not be confused with, the provisional remedy of preliminary injunction, the sole object of which is to preserve the status quo until the merits can be heard. A preliminary injunction is granted at any stage of an action or proceeding prior to the judgment or final order. It persists until it is dissolved or until the termination of the action without the court issuing a final injunction.[36]

By praying for injunctive relief, petitioner did not intend to correct a wrong of the past, for redress of injury already sustained, but to prevent his ouster from membership in the Board. By his action for injunction, petitioner sought to preserve the status quo of things, to prevent actual or threatened acts which would violate the rules of equity and good conscience as would consequently afford him a cause of action resulting from the failure of the law to provide for an adequate or complete relief.[37]

Petitioner sought to enjoin the respondents from enforcing the appointment of respondent Goco as member of the Board of Regents representing the PLM faculty. He claimed that he was the lawfully appointed member of the Board, and that respondent Goco should not be allowed to assume the post and perform the duties and responsibilities appurtenant thereto. Petitioner prayed that after hearing, the RTC render judgment declaring respondent Goco's appointment as null and void, and declaring his (petitioner) appointment as valid and subsisting until its expiration in 2004.

As petitioner claimed in his petition, respondent Mayor Atienza's appointment of respondent Goco as member of the Board was illegal, and that respondents acted "with evident bad faith, with deliberate intention to ridicule, humiliate, dishonor, embarrass and place him in a pitiful predicament causing him untold sufferings, sleepless nights, serious anxiety, wounded feelings and tarnished reputation as a member of the academe of good moral standing, for which he is entitled to moral and exemplary damages." Petitioner's cause of action for moral and exemplary damages was for redress for injury allegedly caused by respondents' acts.

It must be stressed that the non-renewal of the petitioner's appointment as Professional Lecturer at the PLM College of Law in the year 2001 did not render the petition in the RTC and the issues raised therein moot and academic. For one thing, petitioner alleged that the yearly reappointment of professional lecturers in the PLM was a matter of policy. Moreover, petitioner had yet to adduce evidence to prove his claim that the non-renewal by respondent Mayor Atienza was a devious ploy to oust him from his membership in the Board of Regents and to violate the then still effective writ of preliminary injunction issued against respondents. The issue of whether respondents acted contrary to law and in evident bad faith in appointing respondent Goco as member of the Board of Regents representing the PLM faculty despite the absence of any vacancy in the office, and the issue of whether the respondents Chairman and members of the Board acted in evident bad faith in recognizing respondent

Goco as the lawful member of the Board of Regents during its January 28, 2000 meeting are valid issues which the court a quo should have resolved. Also not to be ignored is petitioner's claim that respondent Goco had not taught at the PLM College of Law while serving as Philippine Ambassador to Canada, and yet was appointed by respondent Mayor Atienza to the position occupied by petitioner.

It may be alleged by respondents that the issue of the validity of petitioner's appointment has become moot and academic considering that petitioner's appointment as member of the Board of Regents expired on August 13, 2004. However, another issue has not been so mooted, that is, the issue of whether petitioner is entitled to moral, exemplary damages, and attorney's fees because of his alleged illegal ouster as member of the Board of Regents. This is a substantial issue that needs to be resolved by the trial court after trial.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The Order of the RTC dated May 28, 2001 is SET ASIDE. The records of the instant case are hereby REMANDED to the trial court for further proceedings, conformably with the Court's ruling. No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1] Records, Vol. 1, p. 114.

[2] Id. at 115.

[3] Id. at 31.

[4] Id. at 33.

[5] Id. at 32.

[6] Id. at 35-36.

[7] Id. at 37.

[8] Id. at 38.

[9] Id. at 40.

[10] Id. at 43.

[11] Id. at 1-23.

[12] Id. at 10-15.

[13] Id. at 15-17.

[14] Id. at 20-21.

[15] Id. at 58-64.

[16] Id. 65-66.

[17] Id. at 71-78.

[18] Id. at 108-115.

[19] Id. at 140-142.

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[20] Id. at 145-146.

[21] Id. at 170-171.

[22] Records, Vol. II, pp. 292-295.

[23] Id. at 294.

[24] Id. at 298-305.

[25] Id. at 330-335.

[26] Id. at 337-347.

[27] Id. at 357-360.

[28] Rollo, pp. 328-329.

[29] 389 Phil. 20 (2000).

[30] Madrigal Transport, Inc. v. Lapanday Holdings Corporation, G.R. No. 156067, August 11, 2004, 436 SCRA 123, 132.

[31] Rule 41, Section 2 in relation to Rule 45 of the Rules of Court.

[32] China Road and Bridge Corporation v. Court of Appeals, 401 Phil. 590, 602 (2000).

[33] Vda. de Dabao v. Court of Appeals, G.R. No. 116526, March 23, 2004, 426 SCRA 91, 97.

[34] International Flavors and Fragrances (Phil.), Inc. v. Argos, 417 Phil. 281, 287 (2001).

[35] Bacolod City Water District v. Labayen, G.R. No. 157494, December 10, 2004, 446 SCRA 110, 122.

[36] Id.

[37] Paramount Insurance Corporation v. Court of Appeals, 369 Phil. 641, 648 (1999).

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