

ST. JOSEPH'S COLLEGE, PETITIONER, VS. ST. JOSEPH'S COLLEGE WORKERS' ASSOCIATION (SAMAHAN), RESPONDENT.

G.R. No. 155609. January 17, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The law allows an increase in school tuition fees on the condition that 70 percent of the increase shall go to the payment of personnel benefits. Plainly unsupported by the law or jurisprudence is petitioner's contention that the payment of such benefits should be based not only on the rate of tuition fee increases, but also on other factors like the decrease in the number of enrollees; the number of those exempt from paying the fees, like scholars; the number of dropouts who, as such, do not pay the whole fees; and the bad debts incurred by the school. The financial dilemma of petitioner may deserve sympathy and support, but its remedy lies not in the judiciary but in the lawmaking body.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the June 14, 2002 Decision[2] and the October 9, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 69268. The assailed Decision disposed as follows:

“WHEREFORE, premises considered, the present petition is hereby GIVEN DUE COURSE, and the writ prayed for, accordingly GRANTED. The DECISION dated December 27, 2001 and Resolution dated January 31, 2002 issued by the Panel of Voluntary Arbitrators composed of Aniano G. Bagabaldo, Angel A. Ancheta and Norberto M. Alensuela in Case No. AGB-AVA-2001-01 are hereby ANNULLED and SET ASIDE. Consequently, this case is hereby remanded to it (Panel of Voluntary Arbitrators) for re-computation of the disputed incremental proceeds for School Year 2000-2001 in accordance with the foregoing discussion with utmost deliberate dispatch.

“No pronouncement as to costs.”[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

The appellate court summarized the facts[5] as follows:

“Petitioner is a non-stock, non-profit Catholic educational institution while respondent is a legitimate labor organization which is currently the official bargaining representative of all employees of petitioner except the faculty and consultants of the Graduate School, managerial employees and those who occupy confidential positions. Respondent has an existing Collective Bargaining Agreement (CBA) with petitioner for the period from June 1, 1999 to May 31, 2004.

“For the school year 2000-2001, petitioner increased its tuition fees for all its departments. Thus, in accordance with Article VII, Section 1 of its CBA with respondent, which reads:

“Sec. 1. Tuition Fee Increases. – The SCHOOL shall allocate eighty-five percent (85%) of incremental proceeds from every tuition fee increase solely and expressly for adjustments in employee salaries and benefits, including those that will be legally mandated during the lifetime of this CBA.’

“[P]etitioner computed the incremental proceeds from the said tuition fees increase using the following formula:

“ $Y2 - Y1 = \text{Incremental Proceeds}$

“ $Y2 = \text{year 2 tuition fee income}$

$= (\text{Y2 increased tuition fee}) \times (\text{Y2 number of enrollees})$

$= \text{total tuition fee collection for SY 2000-2001}$

“ $Y1 = \text{year 1 tuition fee income}$

$= (\text{Y1 tuition fee}) \times (\text{Y1 number of enrollees})$

$= \text{total tuition fee collection for SY 1999-2000}$

“Based on petitioner’s computation, the incremental proceeds from the tuition fees increase for school year 2000-2001 is P1,560,942.74, eighty-five percent (85%) of which is equivalent to P1,326,801.33. On January 31, 2001, petitioner provided respondent with the results of its computation with the request that it be advised on how its members would like the school to implement the aforesaid increase, whether as part of their basic salary or as allowances.

“On February 1, 2001, respondent presented to petitioner its computations of the incremental proceeds which greatly differed from the amount stated by the latter. The incremental proceeds, as computed by respondent amounted to P4,906,307.58 having been arrived at using the following formula:

“ $IP = N (TF2 - TF1)$

“where:

IP = Incremental Proceeds Per Level

N = Net Number of Students of Present School Year

TF2 = Tuition Fee (Present School Year)

TF1 = Tuition Fee (Previous School Year)

“The Total Incremental Proceeds (TIP) is then computed by adding the incremental proceeds of all levels in all departments.

“ $TIP = TIP$

“where:

“IP = Incremental Proceeds Per Level

“Consequently, respondent averred that eighty-five percent (85%) of P4,906,307.58, which is P4,170,360.59 should have been released to its members as provided for in their CBA effective June 1, 2000.

“Thereafter, petitioner informed respondent that the computation it (respondent) submitted was erroneous as the tuition fee income for School Year 1999-2000 was understated when it used as base figure the expected number of enrollees instead of the actual number of enrollees for said School Year.

“Respondent refused to accept the results of petitioner’s computation. Petitioner, on the other hand, likewise rejected respondent’s computation of the incremental proceeds from the tuition fees increases. Hence, the parties resorted to voluntary arbitration.

“Petitioner asseverated that in computing the incremental proceeds from the tuition fees increase, whereby eighty-five percent (85%) of which is to be given to the members of respondent, the base figure for computing

the previous school year's income should be the previous school year's number of enrollees and not that of the current year. In other words, the income for the School Year 1999-2000 should be computed based on the figures for that year. Thus, if the tuition fee income for the previous year be smaller than the current year, then there would be incremental proceeds that will be released to the employees. However, if the tuition fee income for the previous year is higher than the current year, then despite the tuition fee increase, no incremental proceeds will be distributed or at least only a minimal amount would only be subject for distribution.

"In refutation, respondent claimed that for the past several school years (1996-1997; 1997-1998; 1998-1999; 1999-2000), petitioner has been using the formula it used in computing the incremental proceeds for the year 2000-2001. To use a revised formula, as petitioner did, a sharp reduction of the incremental proceeds would result. Moreover, respondent emphasized that if the formula adopted by petitioner is used to compute the incremental proceeds whereby the decrease in number of students enrolling in the current year is taken into consideration, the same would run counter to the ruling of the Supreme Court in the case of *Cebu Institute of Technology v. Ople* (156 SCRA 633) as it would[,] in effect[,] charge from the reserved incremental proceeds for the wages and benefits of the employees the losses sustained by the school in the current year.

"After the parties hereto were heard and their supporting documentary evidence presented, the Panel of Voluntary Arbitrators, composed of Aniano G. Bagabaldo, Angel A. Ancheta and Norberto M. Alensuela rendered a Decision dated December 27, 2001, the dispositive portion of which reads:

'WHEREFORE, all foregoing premises considered, this Panel of Voluntary Arbitrators Rules and Orders:

'1. That the formula of computation used in the case of tuition fee increases for the School Years 1997-1998; 1998-1999; 1999-2000 to be more correct and realistic formula and the same should be used and applied in computing the 85% portion of the incremental proceeds of the tuition fee increase collected by the school for the School Year 2000-2001 which should be allocated for the employees salaries and benefits under Section 1, Article VIII of the existing CBA;

'2. The respondent school to pay the teachers and other school employees concerned of their backwages, allowances and other benefits out of the tuition fee increase for the School Year 2000-2001 retroactively effective on June 1, 2000 based on the above-said formula of computation;

'3. The parties to use and apply the same scheme of allocation and distribution they used before in determining the amount of backwages and allowances, other benefits that teachers and other qualified employees should receive out of the incremental proceeds of tuition increase for the School Year 2000-2001;

'4. The respondent school to pay the additional amount equivalent to ten percent (10%) of the employees backwages, allowances, and other benefits for the service of fees of the Labor Relations Adviser of the Union inclusive for expenses incurred by the Union in this litigation.

'5. The respondent school to strictly effect compliance with the Monetary Awards within ten (10) days from receipt of this Decision.

'SO ORDERED.'

"Displeased by the above ruling, petitioner moved for reconsideration thereof which was denied by AVA Ancheta and AVA Alensuela in a Resolution dated January 31, 2002." [6]

Consequently, respondent appealed to the CA the Decision and the Resolution of the Panel of Arbitrators. [7]

Ruling of the Court of Appeals

The Court of Appeals ruled that the proper computation for the incremental proceeds should be as follows:

"Increased Tuition Fee (rate) - Previous Tuition Fee (rate) =

Tuition Fee Increase for Current Year

X

[Number] of Actual Enrollees for Current Year =

Incremental Proceeds for Current Year

“NOTE: The computation of the incremental proceeds for the tertiary level will be on a per unit basis as the number of units taken by an enrollee may differ from another enrollee notwithstanding the fact that they are on the same level/year.”[8]

The CA, in effect, agreed with the computation presented by respondent.[9] To determine the meaning of incremental proceeds, the appellate court cited Section 5 of Republic Act 6728 (the “Government Assistance to Students and Teachers in Private Education Act”), which states that seventy percent (70%) of the proceeds from the tuition fee increase must be given to the teaching and the nonteaching personnel of the school in the form of increases in salaries and benefits.[10]

The CA reasoned that the above computation attains the objective of the law.[11] Thus, it remanded the case to the panel for re-computation of the incremental proceeds.[12]

Hence, this Petition.[13]

The Issue

In its Memorandum,[14] petitioner states the issue in the following manner:

“This petition respectfully asks this Honorable Court to settle once and for all the meaning of ‘incremental proceeds’ from tuition fee increases x x x.

“Specifically, petitioner submits the question of whether or not there are ‘incremental proceeds from a tuition fee increase’ to be distributed as mandated by Republic Act No. 6728 when a school increases tuition fees for a succeeding school year but actually ends up with a lower income than the previous school year because some of its students can no longer afford the higher tuition and are forced to drop out or transfer to another school, public or private, which charges a lower tuition fee they can afford.

“Petitioner x x x submit[s] that in this situation, though there is a ‘tuition fee increase’, there is no ‘incremental proceeds’ that is derived from the tuition fee increase, and therefore there is nothing to distribute to the employees. Put in another way, it submits that because there is no ‘increment’ income, there are no ‘incremental proceeds’ to distribute to the employees.”[15]

Simply put, the issue before us is the proper computation of the “incremental proceeds” from a tuition fee increase.

The Court’s Ruling

The Petition has no legal merit.

Sole Issue: Incremental Proceeds from Tuition Fee Increase

Petitioner argues that “incremental proceeds” should be determined on the basis of the school’s income, not merely on the categorical increase in tuition fee as determined by the CA.[16] Petitioner explains that if the present year’s income is less than that of the previous year due to a lesser number of current enrollees, then there may be no gain or “incremental proceeds,” but a loss or “decreased proceeds.”[17] To capture its position more accurately, we quote from its Memorandum:[18]

“When a school applies for a tuition fee increase, it is not for the sake of raising tuition fee rates; it is for the specific purpose of increasing tuition fee income so that the school would have the means to increase the salaries and benefits of its employees (up to at least 70% thereof; in this case, up to 85% thereof), to improve physical plant and facilities (up to 20% thereof) and to give a return on the capital or equity of the school (up to 10% thereof).

“For lack of a better guide, the school when applying for a tuition fee increase ASSUMES that the enrollment of the coming year will be the same as that of the previous year. On this basis (estimate or guess), the school informs the Department of Education or the Commission on Higher Education that it expects to have so much of income to pay increased salaries and benefits, improve facilities and if there is still something left over, to apply it as return on investment or equity.

“Unfortunately, what the school expects to receive as increased tuition fee income from the tuition fee increase (rate per student) is not always realized. If the parents of the students cannot afford the increased tuition fee for the following year, they simply transfer their children to a school charging a tuition fee they can afford, or better still, to a public high school or public elementary school which does not charge any tuition or other fees.

“Hence, if a school that has ten (10) students paying P10,000.00 a year in tuition fee in Year 1 (and therefore a tuition fee income of P100,000.00) should increase tuition fees in Year 2 to P12,000.00 a year, it is with the intention or purpose of raising tuition fee income to P120,000.00, which in turn will enable them to pay its employees at 70% of the ‘incremental proceeds.’

“But if four (4) students cannot afford the increased tuition fee of P12,000.00 and transfer to another school, the school will have only six (6) students paying P12,000 in Year 2 which means a tuition fee income of P72,000 instead of the expected or projected income of P120,000.00. Based on this example, the tuition fee increase clearly did not result in any ‘gain’ or ‘addition’ or ‘incremental proceeds’ but in a ‘loss’ or ‘decreased proceeds’. In this example, undoubtedly, there was a ‘tuition fee increase’ BUT this ‘tuition fee increase’ DID NOT RESULT in any ‘incremental proceeds’ which can be distributed to the employees mandated by the law.

“The bottom line in determining ‘incremental proceeds’ is tuition fee income that takes into account all relevant factors, such the rate of increase of tuition fees, the number of students, the number of scholars (those who are exempted from paying the whole or part of the tuition fee), the number of students who drop out during the year (and therefore do not pay the whole tuition fee for the year, and the actual bad debts (the amount of tuition fee that some students do not pay because of financial inability).

“And it is this net increase in tuition fee INCOME (not the rate or amount of increase in tuition fees charged) that enables the school to ‘DISTRIBUTE’ increase in salaries and benefits of the employees. The law says the school must ‘DISTRIBUTE.’ This means cash, not estimates, hopes and dreams that have not been realized.” (Emphasis in original)

In the above simplified example, petitioner maintains that the school’s gross income from tuition fees in Year 2 is only P72,000, which is less than the gross income of P100,000 in Year 1. Hence, despite the tuition fee increase for each student from P10,000 to P12,000, there are no “incremental proceeds” that can be distributed to the teachers and the employees.

Under the CA Decision, the “incremental proceeds” should be determined simply from the additional fees charged per student times the number of students, regardless of the gross income and of the number of enrollees for the period in question. Hence, in the simplified example given, there would still be “incremental proceeds” of P12,000, computed at P2,000 (the amount of increase in tuition fee per student) times 6 (the number of enrollees). The foregoing CA position is mathematically restated thus:

$$IP = N2 \times (TF2 - TF1)$$

$$= 6 \times (12,000 \text{ less } 10,000)$$

$$= 6 \times 2,000$$

$$= 12,000$$

Petitioner insists that the CA's formula actually oppresses the schools, because it would require them to pay increases in employee compensation despite a loss in tuition income. Such situation may eventually lead to their closure, it concludes.

Respondent, on the other hand, contends that petitioner has not cited any law or jurisprudence to support its claim. It submits that the CA's formula is the result of a plain reading of the law.

At the outset, let it be clear that this Court understands the plight of private schools and their need to support their operation from tuition income. We realize their role in educating the youth and in molding them as responsible citizens. In this sense, private schools perform an indispensable task in nation-building. Hence, they deserve the support of the State to help them carry out their sacred mission.

Indeed, this Court sympathizes with the dilemma of petitioner and other educational institutions similarly situated. In their desire to raise teacher compensation and to expand school facilities, they resort to sometimes painful increases in tuition fees, only to find out later that -- despite their good intentions -- their gross revenues actually decrease because of the lesser number of enrollees who can afford the increases. However, the Court cannot agree with their position on the present legal issue because of the following reasons.

First, the judiciary merely applies what the law is, not what it should be.[19] Section 5(2) of Republic Act (RA) 6728 allows a tuition fee increase only under the condition that at least 70 percent of the increase shall be disbursed as salaries, wages, allowances and other benefits for teaching and nonteaching personnel. The law imposes this requirement without exceptions or qualifications:

"2) x x x tuition fees under subparagraph (c) may be increased, on the condition that seventy percent (70%) x x x of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel x x x. At least 20% shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and similar facilities and to the payment of other costs of operation. For this purpose, schools shall maintain a separate record of accounts for all assistance received from the government, any tuition fee increase, and the detailed disposition and use thereof, which record shall be made available for periodic inspection x x x." (Underscoring supplied)

To repeat, the law plainly states that 70 percent of the tuition fee increase shall be allotted for the teaching and the nonteaching personnel; and that the payment of other costs of operation, together with the improvement of the school's infrastructure, shall be taken only from the remaining 30 percent. The law does not speak, directly or indirectly, of the contention of petitioner that in the event that its total tuition income is lesser than that in the previous year, then the whole amount of the increase in tuition fee, and not merely up to 30 percent as provided by law, may be used for the improvement and modernization of infrastructure and for the payment of other costs of operation.

Indeed, in an analogous case promulgated in 1987, this Court has already enunciated its policy of non-interference in deciding on the wisdom of a law (or the lack of it). Such policy is clear in *CIT v. Ople*, [20] in which we said:

"Amidst these opposing forces the task at hand becomes saddled with the resultant implications that the interpretation of the law would bear upon such varied interests. But this Court cannot go beyond what the legislature has laid down. Its duty is to say what the law is as enacted by the lawmaking body. That is not the same as saying what the law should be or what is the correct rule in a given set of circumstances. It is not the

province of the judiciary to look into the wisdom of the law nor to question the policies adopted by the legislative branch. Nor is it the business of this Tribunal to remedy every unjust situation that may arise from the application of a particular law. It is for the legislature to enact remedial legislation if that would be necessary in the premises. But as always, with apt judicial caution and cold neutrality, the Court must carry out the delicate function of interpreting the law, guided by the Constitution and existing legislation and mindful of settled jurisprudence. The Court's function is therefore limited, and accordingly, must confine itself to the judicial task of saying what the law is, as enacted by the lawmaking body.”

Second, the question of whether to increase tuition fees within the parameters of the law lies within the discretion and power of the school, not the personnel thereof. When such a decision is made, it is assumed that the school has undertaken a serious and thorough study of the probable consequences. In this sense, the action on whether to raise these fees becomes an entrepreneurial risk that the owner assumes.[21] In case such action turns out to be unwise or inconvenient, its result should be the primary responsibility of the risk taker. The personnel -- while presumed to be equally interested in the continued financial viability of the school -- had little or no say in that action. Hence, they should not be held responsible for its consequent ill effects. The moral lesson is simply that the school must take all relevant circumstances and precautions in making its decisions, realizing that any misstep or miscalculation or ill effect would be borne by it.

Third, apart from making theoretical calculations, petitioner has not provided the Court with hard evidence on the actual loss it has incurred as a result of the tuition fee increase. Note that a mere decrease in the gross income of a corporation does not necessarily and automatically translate into a negative bottom line.[22] Decreased income may also mean decreased expenses. Petitioner has failed to present evidence showing it actually suffered bottom line losses as a direct and necessary consequence of the tuition fee increase. As it is then, its averments are mere conjectures, sorely insufficient to overturn the CA’s judgment.

Fourth, if the law is indeed disadvantageous to the educational system and grossly harmful to private schools, the remedy lies not in this Court but in Congress which controls not only issues of policy, but also the purse strings of government. We are confident that, given the opportunity to weigh the contentious sides of this question, Congress will find a wise answer.

Damages

In its Memorandum, respondent prays for relief in the form of legal interest from June 1, 2000, the alleged date when the personnel benefits accrued, until the actual payment thereof. However, this Court cannot pass upon this matter, as respondent did not appeal from the Decision of the appellate court.[23]

WHEREFORE, the Petition is DENIED, and the assailed Decision and Resolution AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio Morales, and Garcia, JJ., concur.

[1] Rollo, pp. 11-29.

[2] Id., pp. 34-42. Seventh Division. Penned by Justice Martin S. Villarama Jr., with the concurrence of Justices Conchita Carpio Morales (Division chair and now a member of this Court) and Mariano C. del Castillo (member).

[3] Id., p. 44.

[4] Assailed CA Decision, pp. 8-9; rollo, pp. 41-42.

[5] On pages 6-7, the Petition accepts and quotes the CA's factual summary.

[6] Assailed CA Decision, pp. 1-4 & 34-37.

[7] Id., pp. 4 & 37.

[8] Id., pp. 7 & 40.

[9] Id., pp. 5 & 38.

[10] Id., pp. 6 & 39.

[11] Id., pp. 7 & 40.

[12] Id., pp. 8-9 & 41-42.

[13] The case was deemed submitted for decision on September 8, 2003, upon this Court's receipt of respondent's Memorandum, which was signed by Atty. Francisco A. Mercado Jr. Petitioner's Memorandum, signed by Attys. Sabino Padilla Jr. and Rowena G. Madrid, was received by this Court on September 3, 2003.

[14] Rollo, pp. 137-154.

[15] Petitioner's Memorandum, pp. 10-11; rollo, pp. 146-147.

[16] Id., pp. 14-18 & 150-151.

[17] Id., pp. 14 & 150.

[18] Id., pp. 13-15 & 149-151.

[19] *United Residents of Dominican Hill, Inc. v. Commission on the Settlement of Land Problems*, 353 SCRA 782, March 7, 2001 (citing *Commissioner of Internal Revenue et al. v. Santos et al.*, 277 SCRA 617, 630, August 18, 1997); *Angara v. Electoral Commission*, 63 Phil. 139, July 15, 1936. See also *Tañada v. Angara*, 338 Phil. 546, 590, May 2, 1997.

[20] 156 SCRA 629, 650-651, December 18, 1987, per Cortes, J.

[21] See Atkinson, Banker, Kaplan & Young, *Management Accounting* (2001, 3rd ed.), p. 21.

[22] Weygandt, Kieso & Kell, *Accounting Principles* (1996, 4th ed.), p. 15.

[23] *Radiowealth Finance Company v. Del Rosario*, 335 SCRA 288, July 6, 2000; *Rural Bank of Sta Maria, Pangasinan v. Court of Appeals*, 314 SCRA 255, September 14, 1999 (citing *Policarpio v. Court of Appeals*, 269 SCRA 344, March 7, 1997).

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