

**CARMELO A. ARREZA, LONESTO G. OIDEM, JACOB F. MEIMBAN, AND
EDGARDO S. FERNANDO, PETITIONERS, VS. THE GREGORIO
ARANETA UNIVERSITY FOUNDATION, TOMAS B. MESINA, IN HIS
CAPACITY AS ...***G.R. No. 62297. June 19, 1985*

Ponente: FERNANDO, C.J.

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Student militancy manifested through rallies and demonstrations characterized by condemnatory language in speeches and leaflets led respondent Gregorio Araneta University[1] to refuse enrollment to petitioners. Hence, this mandamus proceeding filed by Carmelo Arreza, Lonesto G. Oidem, Jacob F. Meimban, and Edgardo S. Fernando, officers and members of the Supreme Student Council of said university. There was a plea by petitioners for a preliminary mandatory injunction to allow them to enroll. This Court issued a temporary mandatory restraining order against the enforcement of such ban imposed by respondent University. The fact that they were seniors strengthened their plea.

As the principal issue involved, the respect to be accorded the cognate rights of free speech and peaceable assembly, is likewise that raised in *Malabanan v. Ramento*,[2] not to mention the fact that the respondent is likewise the same University, the Second Division of this Court transferred it to the Court en banc. There is this difference. The principal respondent in *Malabanan* was Director Anastacio Ramento of the Ministry of Education, Culture and Sports, who affirmed the action taken by respondent Araneta Foundation University finding petitioners guilty of illegal assembly and suspending them for one academic year. Here the action is directed only against respondent University. Nonetheless, insofar as the issue involved relates to the right of students to free speech and peaceable assembly, such distinction is of no significance. As we ruled in *Malabanan*, so we rule now. Petitioners, as all other students, may freely exercise such rights. "They enjoy like the rest of the citizens the freedom to express their views and communicate their thoughts to those disposed to listen"[3] in rallies and demonstrations.

According to the version of petitioners, they were either leaders or participants in what respondent University referred to as a rally/demonstration held on September 28, 1982, in front of the Life Science Building of the respondent University, but which for them, could be more accurately described as "a continuation of the General Assembly of the student body held the day before — one authorized by the School Administration." [4] Its purpose was to register the opposition of the students to the abolition of the school's Institute of Animal Science, as those taking courses therein would not be able to graduate.[5] Such exercise of their right to peaceable assembly was visited by respondent University with a refusal to let them enroll after what for petitioners was a sham investigation of their alleged violation of school rules and regulations.[6]

Respondent University denied granting the authorization to hold such general assembly, or student rally on September 28, 1982, alleging that the students on said date through the use of battery-operated megaphones

criticized and lambasted the school administration, specifically the decision of the Board of Trustees of respondent University to merge its Institute of Animal Science with its Institute of Agriculture, ignoring the fact that the aforementioned merger of the above-named Institutes — intended as a cost-saving measure — would not deprive the students enrolled in the former Institute of Animal Science from earning their degrees.[7] Moreover, there were other rallies, according to respondent, held on September 8, 27 and 29, 1982, for the purpose of sympathizing with the suspension of five (5) student leaders who conducted an illegal assembly on August 27, 1982, causing additional disturbance on the campus, not only by the disorderly conduct observed but also by the resulting boycott of classes.[8]

There is, therefore, relevance to this excerpt from the decision in the companion case of *Malabanan v. Ramento*:^[9] "Objection is made by private respondents to the tenor of the speeches by the student leaders. That there would be a vigorous presentation of views 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.'"^[10]

There is no need, therefore, to inquire into the allegations of respondent University as to the non-peaceable character of the rally or demonstration. As made clear from the above excerpt, infractions of University rules or regulations by petitioner-students justify the filing of appropriate charges. What cannot be justified is the infliction of the highly-disproportionate penalty of denial of enrollment and the consequent failure of senior students to graduate, if in the exercise of the cognate rights of free speech and peaceable assembly, improper conduct could be attributed to them.

One last word. In the even more recent case of *Villar v. Technological Institute of the Philippines*,^[11] reference was made to Article 26 of the Universal Declaration of Human Rights: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally accessible to all on the basis of merit."^[12] Then came this relevant paragraph: "It is quite clear that while the right to college education is included in the social, economic, and cultural rights, it is equally manifest that the obligation imposed on the State is not categorical, the phrase used being 'generally available' and higher education, while being 'equally accessible to all should be on the basis of merit.' To that extent, therefore, there is justification for excluding three of the aforementioned petitioners because of their marked academic deficiency."^[13] It is quite clear then that an educational institution may drop a student with failing grades, under standards set by it and made to apply to all similarly situated.

WHEREFORE, the petition for mandamus is granted. The restraining order issued by this Court in the resolution of November 15, 1982 is made permanent. No costs.

Teehankee, Makasiar, Concepcion, Jr., Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Aquino, J., no part.

[1] The other respondents are as follows: Tomas B. Mesina, in his capacity as the Dean for Student Affairs of the Gregorio Araneta University Foundation, Jose B. Laloy, in his capacity as the Officer-in-Charge of the Student Affairs (Evening) and Rodosendo Galvante, in his capacity as the Registrar of the Gregorio Araneta University Foundation.

[2] G.R. No. 62270, May 21, 1984, 129 SCRA 359.

[3] Ibid, 367.

[4] Petition, pars. 3 and 4.

[5] Ibid, par. 4.

[6] Ibid, pars. 8-17.

[7] Answer, par. 3.

[8] Ibid, par. 4.

[9] 129 SCRA 359.

[10] Ibid, 369.

[11] G.R. No. 69198, April 17, 1985.

[12] Article 26, par. (1) Universal Declaration of Human Rights.

[13] G.R. No. 69198, 4.

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