

**EMMANUEL S. LICUP, NOEL F. TABASA, AND JOEL MARC CAIRO,
PETITIONERS, VS. THE UNIVERSITY OF SAN CARLOS (USC), FR.
RODERICK SALAZAR, JR., SVD, IN HIS CAPACITY AS PRESIDENT OF
USC,...**

G.R. No. 85839. October 19, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In April, 1988 the University of San Carlos (USC) announced an increase in tuition and other school fees by nine percent (9%) effective the first semester of the school year 1988-1989. According to the USC, the increase was necessary to enable the school to comply with R.A. No. 6640. Under the said law, schools were required to give a mandatory salary increase of P11.00 per day to teachers and non-academic personnel earning below P100.00 daily.

Student leaders Emmanuel S. Licup, Noel F. Tabasa and Joel Marc Cairo were in the forefront of the students protesting the tuition fee hike. They made a research in the Finance Department of the USC and allegedly found out that the USC could increase the salaries of teachers without necessarily increasing the tuition fees. The Supreme Student Government of the University led by said three made representations with the USC officials to reconsider their stand but they refused to roll back the tuition fees. Thus they led a mass protest of students. Demonstrations were held. The protesters blockaded the entrance and exit gates for students in the university. Posters and wall statements expressing student demands were displayed.

By reason thereof, Fr. Gregorio Favia, SVD, vice president for academic affairs, issued a memorandum to all Deans and Chairmen of the different colleges of the USC instructing them not to allow the student leaders to campaign against the tuition fee increase inside the classrooms. On the other hand, President Fr. Roderick Salazar, Jr., SVD of the USC initiated the appropriate administrative actions against several students including Licup, Tabasa and Cairo for alleged violation of the rules and regulations of the university and the Bureau of Public Schools.

A Formal Inquiry Committee was created by Pres. Salazar composed of former Associate Justice Mariano Zosa of the Court of Appeals, Dean Expedito Bugarin of the College of Law, Dr. Aurelio Tiro, former DECS regional director, and Engineer Roger Bajarias of the College of Engineering - all members of the faculty of the University.

The respondents-students questioned the impartiality of the said Committee and its authority to charge them for violation of the university handbook which was allegedly issued without consultation with the student government. Nevertheless, they submitted themselves to the investigation after which, on November 15, 1988, the Committee submitted a report to the Disciplinary Board, through its chairman, Fr. Eduardo R. Rocha, SVD, finding Licup, Tabasa and Cairo guilty of the offense as charged in the administrative complaint.[1]

On November 16, 1988, Fr. Rocha wrote said three that the Board unanimously voted to impose on them the penalty of non-readmission in the USC effective the second semester of the academic year 1988-89 and that such decision is final.[2]

On November 21, 1988, they filed an appeal and/or petition for review with the Office of the Department of Education, Culture and Sports (DECS), Region VII, Cebu City, pursuant to Bureau of Private Schools Memorandum No. 4, Series of 1970.[3] On the same day, the Regional Director wrote them that said office (DECS) had no authority over the case and suggested instead that they file a request for reconsideration with the USC President.[4]

In the meanwhile said students were prevented from entering any of the campuses of the University by armed security guards due to the said decision.

Believing that the filing of a Motion for reconsideration with the USC President would serve no useful purpose as he had already pre-judged the case, Licup, Tabasa and Cairo filed this petition for certiorari with injunction alleging that irreparable injury have been inflicted on them as students; that what they held was a peaceful demonstration; that while standing at the Talamban campus petitioners and some student leaders were dragged by janitors and security guards causing injuries to petitioners; that their posters were removed; that they were not suffering from academic deficiencies; that the investigation conducted for alleged violation of the disciplinary regulations was done without fairness or fair play and thereby violated the ideals of due process; that the penalty that was imposed on them was harsh and brutal and not commensurate with the offense allegedly committed; that the USC had violated their property rights without due process of law. They also disputed the statement of Fr. Rocha that the decision was unanimous when the coordinator of the student disciplinary committee Mr. Orlando Tabasa and the student representative coming from the Supreme Student Government were not allowed to participate in the deliberation as members of the Disciplinary Board; that petitioners exhausted all administrative remedies and attempted to register and enroll with the USC for the second semester but they were barred on the ground that their expulsion was final; and that the penalty of non-readmission is tantamount to expulsion because at said point and time, no other school or university would enroll the petitioners. While the petitioners admit that they were barricading and blockading the school premises during their protest action they state that there was no actual violence that occurred. Finally, petitioners invoke their right to continue their course and to due process.

In their comment on the petition, the respondents admitted having increased the tuition fees by 9% but asserted that the text and guidelines on the tuition fee increases allowed schools to increase the same up to 15% without consultation with students and parents. Such increase was necessary, otherwise the USC could not have increased the salaries of its employees. Respondents aver that the student demonstrations were far from peaceful but was an illegal strike where the students utilized barricades and blockades to prevent a great majority of the non-striking students from attending their classes; that physical force, threat, intimidation, and destruction were employed to disrupt the classes and prevent the non-striking students from entering the campuses; that far from denying the rights of the students to freedom of speech and assembly, they were allowed the use of the stadium and audio visual rooms for their meetings but they preferred to mass at the entrances and exits of the USC to prevent non-striking students from attending their classes; that speeches were not allowed in classrooms as it would disturb ongoing classes and would be violative of the academic freedom likewise enjoyed by other students; that the placing of posters indiscriminately on university walls was prohibited as the same should have the stamp of approval of the Student Affairs Office; they deny that the University security guards employed physical force on student demonstrators; and they allege that some students may have been injured when they threw themselves on the ground to prevent the school bus from entering the University campus. Respondents also aver that the administrative charges against the students were initiated to determine the truth and to afford the petitioners the

opportunity to give their side; that a full-dress trial was conducted where petitioners were represented by counsel; that the members of the Formal Inquiry Committee were chosen for their unquestionable competence and impartiality; that the University handbook was given to the students upon enrollment and they were made to understand that they are subject to the rules and regulations therein provided; and that, finally, the investigation was conducted in a fair and impartial manner.

As to the Disciplinary Board they pointed out that there is a student representative in the person of the President of the Graduate School Organization; that the Supreme Student Government refused to send their representative to the Board as they allegedly did not want to participate "in a farce"; and that Mr. Orlando Tabasa, Coordinator of the Student Discipline, was not invited to sit in the Board as petitioner Tabasa who was one of the respondents is his son.

Respondents aver that the penalty of non-readmission in the second semester of the school year 1988-89 was justified and in accordance with the rules and regulations of the University handbook; that they were most lenient in determining the penalty that should be imposed under the circumstances; that the act of petitioners of barricading and blocking the university entrances and exits should have merited the outright expulsion of petitioners but the Board decided on a less severe penalty. Respondents deny that the substantial and constitutional rights of the petitioners have been violated. Besides, respondents point out that petitioners Cairo and Licup had academic deficiencies for the school year 1988-89 as follows:

"CAIRO, JOEL MARC B.

1ST SEM 1988-89

FINAL GRADE

ELECTRONICS SERVICING 11

LABORATORY

1C

MACHINE FOUNDATION

1C

REWINDING & REPAIR WIRE &

WIRELESS COMMUNICATION

SYSTEM

5.0

INDUSTRIAL ELECTRONICS

1C

THERMO DYNAMICS II

DR

HYDRAULIC MACHINERIES

1E

ELECTRONICS SERVICING II

1C

EE LABORATORY ii

1C

REWINDING & REPAIR LABORATORY

CIRCUITS LABORATORY

INDUSTRIAL ELECTRONICS LABORATORY

DR

LICUP, EMMANUEL S.

1ST SEMESTER 1988-89

FINAL GRADE

PHILIPPINE LITERATURE

DR

COMPUTER SCIENCE

DR

RIZAL COURSE

DR

HISTORY OF MODERN PHILOSOPHY

1E

INTRODUCTION TO PHILOSOPHY

DR"[5]

They state that said academic deficiencies are sufficient in themselves to justify the non-readmission of petitioners.

After careful evaluation of the petition, the Court finds the same to be devoid of any merit. There can be no question that petitioners were among the leaders of the student demonstrations arising from the increase of tuition fee of the USC aforesated. In the course thereof, they blockaded and barricaded the entrances and exits of the University and prevented the students from attending their classes. The demonstrations were far from peaceful. It was, therefore, within the right of the USC to initiate the appropriate administrative investigation of the petitioners for violation of the rules and regulations of USC.

The investigation was conducted by a committee wherein petitioners were present and duly represented by counsel and wherein they were able to adduce their evidence. After the investigation, the committee submitted to the Disciplinary Board its report recommending the non-readmission of the petitioners in the University. This recommendation was unanimously indorsed by the Disciplinary Board and was implemented by the University authorities.

The Court finds no cogent basis for the protestations of petitioners that they were deprived due process of law and that the investigation conducted was far from impartial and fair. On the contrary, what appears in the record is that the charges against petitioners were adequately established in an appropriate investigation. The imputation of bias and partiality is not supported by the record. The sanction that was imposed on the petitioners for their infraction appear to be the most lenient under the University handbook. Instead of expulsion the penalty imposed was non-readmission.

While it is true that the students are entitled to the right to pursue their education, the USC as an educational institution is also entitled to pursue its academic freedom and in the process has the concomitant right to see to it that this freedom is not jeopardized.

True, an institution of learning has a contractual obligation to afford its students a fair opportunity to complete the course they seek to pursue. However, when a student commits a serious breach of discipline or fails to maintain the required academic standard, he forfeits his contractual right; and the court should not review the discretion of university authorities.[6]

WHEREFORE, the petition is DISMISSED for lack of merit. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex C to Petition.

[2] Annexes F, G, and H to Petition.

[3] Annex I to Petition.

[4] Annex J to Petition.

[5] Page 7, Comment of respondents.

[6] *Magtibay vs. Garcia*, 120 SCRA 370 (1983); See also *Ateneo de Manila University vs. Court of Appeals*, 145 SCRA 100 (1986).

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